

1995

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

HOUSING ASSISTANCE BILL 1995

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Housing and Regional Development,
the Honourable Brian Howe MP)



HOUSING ASSISTANCE BILL 1995

OUTLINE

The purpose of the Bill is to authorise financial assistance by the Commonwealth to the States, the Australian Capital Territory and the Northern Territory for the provision of housing assistance for the purpose of ensuring that people can obtain housing that is affordable, secure and appropriate to their needs. Accordingly, the Bill aims to provide people on low incomes with home ownership assistance or affordable and appropriate rental housing of adequate size and amenity which is appropriately located. The Bill specifies that these aims will be achieved by:

- identifying needs for housing assistance;
- providing or arranging for the provision of housing assistance;
- giving the assistance in ways that are effective;
- encouraging the provision of different kinds of housing assistance; and
- ensuring that the rights of people receiving housing assistance are properly protected and due regard is had to their responsibilities.

The main features of the Bill are that it:

- will replace the *Housing Assistance Act 1989* under which the current Commonwealth State Housing Agreement is made and will operate from 1 July 1996;
- provides for the Commonwealth to make agreements with the States and Territories for the provision of housing assistance to assist people on low incomes to obtain housing that is affordable, secure and appropriate to their needs. Those agreements must be substantially in accordance with a form of agreement determined by the Minister and which will be a disallowable instrument for the purposes of Section 46A of the *Acts Interpretation Act 1901*;
- enables the Minister to authorise payments for research, development, demonstration and evaluation in relation to housing; and
- specifies that the Minister must not authorise payments to a State or Territory for an assistance year unless an inter-government housing agreement has been made between the Commonwealth and the State/Territory and the Commonwealth Minister and the State/Territory Minister have agreed on the level of expenditure by the State or Territory from its own resources on housing for that year. (Exceptions apply to the first assistance year and are stipulated in Clause (12) of the Bill.)

FINANCIAL IMPACT STATEMENT

Financial assistance will be paid to those States and Territories who enter into an inter-government agreement in accordance with the proposed Act.

Agreements entered into under the proposed Act will:

- operate for up to three years from 1 July 1996; and
- involve Commonwealth funding of \$1067.763 million in each of those three years, to be distributed on the same (approximately per capita) basis as existing Commonwealth State Housing Agreement (CSHA) funds.

Up to \$100,000.00 will be made available for the purpose of payments for research, development, demonstration and evaluation in relation to housing in each of the three years during which the agreements will operate .

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Notes on Clauses

PREAMBLE

The preamble is a statement of the Parliament's intentions and values in enacting this legislation. It also includes statements of fact in relation to action taken by Australia in pursuing social justice principles, through ratifying Humans Rights Treaties and Parliament's recognition of the need to address poverty by providing housing assistance to people who experience economic and social disadvantage in obtaining access to affordable, secure and appropriate housing. It is recognised in the preamble that those who are most disadvantaged are homeless people, in addition to those on low incomes or who face other barriers in obtaining the housing they need.

The preamble highlights the Parliament's awareness that people who are inadequately housed are more likely to experience other serious disadvantages. Accordingly, the preamble articulates Parliament's intentions in relation to the provision of affordable, secure and appropriate housing for people in need of housing assistance. It also sets out Parliament's intentions regarding the importance of providing housing assistance in a manner which protects consumer rights and clearly articulates their responsibilities.

The preamble recognises the desirability of all levels of government, including local government bodies, working together to plan and deliver housing assistance which contributes to the quality of life of recipients and enhances the cultural and social amenity of Australian cities and towns.

The preamble also recognises the desirability of all Governments working in cooperation with non-government organisations that provide housing and related assistance, including those that provide community and rental housing for Aboriginal and Torres Strait Islander people and organisations that provide services for people who are homeless or at risk of homelessness. This is to take account of the contribution of such organisations to the provision of housing assistance.

Clause 1 Short title

1. This is a formal provision which specifies the short title of the Act as the *Housing Assistance Act 1995*.

Clause 2 Commencement

2. This clause provides that Sections 1, 2, 3, 4, 5, 6, 12, 13, 14, 15, and 16, of the Act will commence on the day on which it receives Royal Assent. The other provisions will commence on 1 July 1996 or the day on which the Act receives Royal Assent if this occurs after 1 July 1996.

Clause 3 Definitions

3. This clause defines certain terms used in subsequent clauses of the Bill.

Clause 4 Objects

4. The objects of the Act are to provide financial assistance to the States and Territories for the provision of housing assistance to people so that they can obtain affordable, secure and appropriate housing and to make payments for research, development, demonstration and evaluation in relation to housing.

Subclause (2) articulates the overall aim of the Act as being to provide housing assistance to enable people to obtain affordable, secure and appropriate housing. Within this Aim the goals are to target housing assistance to those who are most in need; to make available a choice of forms and providers of assistance; and to ensure that rental housing provided is adequate and appropriately located in relation to employment opportunities and necessary services and facilities.

Subclause (3) notes that this aim is to be achieved by provision of needs based housing assistance which is effectively and efficiently delivered and by encouraging diversity of housing assistance whilst also ensuring that the rights of consumers are properly protected and their responsibilities clearly articulated.

Subclause (4) identifies that assistance is to be implemented through common-form agreements between the Commonwealth and the States.

Clause 5 Form of inter-government housing agreement

5. Subclause (1) enables the Minister to determine a form of agreement for the provision of housing assistance.

Subclause (2) provides that if the form of agreement is varied or revoked the validity of pre-existing inter-government housing agreements will not be affected.

Subclause (3) provides that the form of the agreement is to contain provisions on matters including:

- the making of grants to the States;
- the formula for determining the amounts of grants;
- the obligations of the States in relation to the spending of grants;
- planning of housing assistance by the State;
- expenditure by a State from its own resources;
- the rights and obligations of housing assistance recipients;
- the measurement of performance of the State in carrying out its obligations under an inter-government housing agreement; and
- the reporting by the State of its operations under an inter-government housing agreement and arrangements for the evaluation of such an agreement.

Subclause (4) provides that an instrument determining a form of agreement under subclause (1) is a disallowable instrument for the purposes of Section 46A of the *Acts Interpretation Act 1901*. It will therefore be available for separate scrutiny by the Parliament.

Clause 6 Inter-government housing agreements

6. This clause enables the Commonwealth to make an agreement with a State or Territory in accordance with the form of the agreement determined by the Minister pursuant to clause 5. The clause also allows the making of subsidiary agreements to give effect to an inter-government housing agreement.

Subclause (5) provides that an inter-government housing agreement may not be varied if the agreement as varied would not be substantially in accordance with the form of agreement determined pursuant to clause 5.

Clause 7 Grants to states for housing

7. This clause empowers the Minister, subject to clause 9 which deals with State expenditure from its own resources, and clause 11 which deals with appropriations, to authorise payments, on the terms and conditions specified in an inter-government housing agreement, to a State or Territory for specific housing assistance or any other purpose related to housing which is permitted under that agreement.

Clause 8 Payments for research, development demonstration and evaluation

8. Subclause (1) enables the Minister to authorise payments for research, development, demonstration and evaluation in relation to housing.

Subclause (2) sets out the bodies to which payments may be made. Such payments would, for example, enable the Commonwealth to strategically develop and demonstrate innovative approaches to the provision of housing assistance. This could take the form of time limited demonstration projects aimed at identifying and promoting best practice in the design and delivery of services to, for example, the aged and people with a disability.

Subclause (3) provides that payments are to be made on any terms and conditions that the Minister determines are appropriate.

Clause 9 State expenditure from its own resources

9. Subclause (1) specifies that the Minister must not authorise payments to a State in respect of an assistance year unless the Minister and State Minister have agreed, in accordance with the inter-government housing agreement, to the amount of money to be expended on housing by the State from its own resources for that year.

Subclause (2) stipulates that if the Minister, after consulting with a State Minister, believes that the State will not spend the total amount agreed to under subclause (1) of this clause, the Commonwealth Minister may reduce the amount that would otherwise be payable to the State in respect of that assistance year by the shortfall.

Subclause (3) enables the Minister to authorise payment to States of amounts not paid to other States because of a shortfall in their expenditure.

Subclauses (4) and (5) provide that an authorisation made under subclause (3) shall set out how the payment is to be spent and that such payments are to be made on terms and conditions determined by the Minister.

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

10. Subclauses (1) and (2) provide that if a State has not made a housing agreement with the Commonwealth for the first assistance year, the Minister may authorise payments for that year to the State for housing assistance on such terms and conditions as the Minister determines, having regard to the same provisions which would ordinarily be required to be included in an inter-government housing agreement.

Subclause (3) provides that if after a payment is made to a State under subclause (1), an inter-government housing agreement is subsequently entered into by that State and the Commonwealth, the earlier payment is taken to have been made under that agreement and counted towards the liability of the Commonwealth to make payments under the agreement.

Clause 11 Payments to be made out of money appropriated

11. This clause requires that payments under the Act be made out of money appropriated for that purpose. The clause also provides that the authorisation of a grant or a payment is subject to appropriation of sufficient funds.

Clause 12 Determinations to be in writing

12. This clause provides Ministerial determinations under the Act are to be made in writing.

Clause 13 Delegation

13. This clause enables the Minister to delegate to an officer of, or person employed in, the Australian Public Service, any of the Minister's powers under this Act, apart from the powers under Clause 5 and the power of delegation under this clause.

Clause 14 Annual report by Minister

14. This clause specifies that an annual report is to be tabled in both Houses of Parliament as soon as possible after the end of each assistance year dealing with the operation of inter-government agreements and any other matters the Minister considers relevant.

15. Regulations

15. This clause provides for the Governor-General to make regulations prescribing matters necessary or convenient for carrying out or giving effect to the Act.

16. Amendment of *Housing Assistance Act 1989*

16. Consistent with the intention that a new Commonwealth State Housing Agreement will apply from 1 July 1996, this clause will terminate assistance under the *Housing Assistance Act 1989* at the end of 1995-96 by substituting "1996" for "1999" in the definition of "grant year" in Section 3 of that Act.