

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

HOUSING LEGISLATION AMENDMENT BILL 1995

EXPLANATORY MEMORANDUM

(Circulated by authority of the Deputy Prime Minister and
Minister for Housing and Regional Development,
the Hon. Brian Howe, MP)

THIS MEMORANDUM TAKES ACCOUNT OF AMENDMENTS MADE BY THE HOUSE
OF REPRESENTATIVES TO THE BILL AS INTRODUCED

HOUSING LEGISLATION AMENDMENT BILL 1995

OUTLINE

The purpose of this Bill is to amend the *First Home Owners Act 1983* and related legislation and the *Housing Assistance Act 1989*.

Amendments to the First Home Owners Act 1983 and related legislation

The termination of the First Home Owners Scheme was announced in the 1990 Budget with final payouts of assistance to eligible clients being made in November 1994. The Scheme and its administration are rapidly winding down and after 30 June 1995 there will be ongoing administrative activity only of a minor nature. As part of the winddown of the Scheme the Bill removes the requirement in the *First Home Owners Act 1983* to report to Parliament beyond the 1994/1995 annual report.

The Bill precludes the Secretary to the Department of Housing and Regional Development from re-opening after 31 August 1995, of the Secretary's own volition, decisions under the Act. Additionally, the Bill provides that applicants have until that date to request the Secretary to reconsider a decision under the Act. An exception will allow them a period of 28 days from the date a decision is notified to them to request a reconsideration, where that period would end after 31 August 1995.

The Bill also incorporates equivalent amendments to earlier first home ownership assistance legislation (the *Homes Savings Grant Act 1964*, the *Homes Savings Grant Act 1976* and the *Home Deposit Assistance Act 1982*).

Amendments to the Housing Assistance Act 1989

The Bill amends the *Housing Assistance Act 1989* to permit the Commonwealth Minister to authorise and provide up to the full level of Commonwealth funding in the seventh and expected final grant year (1995-96) of the current Commonwealth-State Housing Agreement in circumstances where a State has been, or will be, unable to meet its obligations under that Agreement to match up to half of untied grants from the value of home loans made under home purchase assistance programs.

FINANCIAL IMPACT STATEMENT

**Amendments to the First Home Owners Act 1983 and
related legislation**

Aside from modest costs associated with a campaign to publicise the cut-off date for appeals, the amendments to the first home ownership assistance legislation have no identifiable financial impact.

Amendments to the Housing Assistance Act 1989

The amendments will not result in any additional Commonwealth outlays.

NOTES ON CLAUSES**Clause 1: Short Title**

This is a formal provision that specifies the short title of the Act as the *Housing Legislation Amendment Act 1995*.

Clause 2: Commencement

This clause provides that the Act will come into operation on the day it receives Royal Assent.

Clause 3: Schedule

This clause provides that the Acts specified in the Schedule are to be amended in accordance with the applicable items in that Schedule, and that the other items in that Schedule are to have effect according to their terms.

Part 1 of the Schedule - Amendments of the First Home Owners Act 1983

Item 1 inserts a new subsection 27(1A) which removes the power of the Secretary to the Department of Housing and Regional Development to reconsider by the Secretary's own volition a decision under that Act after 31 August 1995.

Item 2 provides that a person's right to request a reconsideration of a decision is subject to the new subsection 27(2A) which fixes the times by which persons seeking review of a decision must lodge their written request with the Secretary.

Item 3 omits the current provision from subsection 27(2) allowing prescription of a time within which a person could request a reconsideration of a decision.

Item 4 inserts a new subsection 27(2A) which provides that a request for a review of a decision must be in writing and lodged with the Secretary before 31 August 1995 or, where a primary decision is made after the commencement of the *Housing Legislation Amendment Act 1995*, within a 28 day period of making that primary decision where the end of that period is later than 31 August 1995.

Item 5 makes a consequential amendment to paragraph 28 (1)(a) to include reference to the new subsection 27(2A).

Item 6 inserts a new subsection 41(3) which will discontinue the statutory requirement to furnish an annual report after the 1994-95 report.

Item 7 provides that the new subsection 27(2A) and the amendments made to subsection 27(2) apply to decisions made after the commencement of the *Housing Legislation Amendment Act 1995* and to decisions made before the commencement of that Act where a request for reconsideration has not been made.

**Part 2 of the Schedule - Amendments of the Home
Deposit Assistance Act 1982**

Item 1 amends section 45 to include a reference to the new section 48.

Item 2 inserts a new subsection 46(2) which removes the power of the Secretary to the Department of Housing and Regional Development to reconsider by the Secretary's own volition a decision under that Act after 31 August 1995.

Item 3 provides that a person's right to request a reconsideration of a decision is subject to the new subsection 47(3) which fixes the times by which persons seeking review of a decision must lodge their written request with the Secretary.

Item 4 omits the current provision from subsection 47(1) allowing prescription of a time within which a person could request a reconsideration of a decision.

Item 5 inserts a new subsection 47(3) which provides that a request for a review of a decision must be in writing and lodged with the Secretary before 31 August 1995 or, where a primary decision is made after the commencement of the *Housing Legislation Amendment Act 1995*, within a 28 day period of the making of that primary decision where the end of that 28 day period is later than 31 August 1995.

Item 6 inserts a new section 48 into the Act which sets out procedures for the making and notification of decisions under the Act.

Item 7 provides that the new subsection 47(3) and the amendments made to subsection 47(1) apply to decisions made after the commencement of the *Housing Legislation Amendment Act 1995* and to decisions made before the commencement of that Act where a request for reconsideration has not been made.

**Part 3 of the Schedule - Amendments of the Homes
Savings Grant Act 1964**

Item 1 inserts new subsections 9(2) and 9(3) setting out requirements relating to the making and notification of decisions under the Act.

Item 2 inserts a new subsection 10(2) which removes the power of the Secretary to the Department of Housing and Regional Development to reconsider by the Secretary's own volition a decision under that Act after 31 August 1995.

Item 3 provides that a person's right to request a reconsideration of a decision is subject to the new subsection 11(2) which fixes the times by which persons seeking review of a decision must lodge their written request with the Secretary.

Item 4 omits the current provision from section 11 allowing prescription of a time within which a person could request a reconsideration of a decision. Additionally this item provides that a primary decision of the Secretary may be subject to an appeal.

Item 5 inserts a new subsection 11(2) which provides that a request for a review of a decision must be in writing and lodged with the Secretary before 31 August 1995 or, where a primary decision is made after the commencement of the *Housing Legislation Amendment Act 1995*, within a 28 day period of the making of the primary decision where the end of that 28 day period is later than 31 August 1995.

Item 6 provides that the new subsection 11(2) and the amendments made to section 11 apply to decisions made after the commencement of the *Housing Legislation Amendment Act 1995* and to decisions made before the commencement of that Act where a request for reconsideration has not been made.

Part 4 of the Schedule - Amendments of the Homes Savings Grant Act 1976

Item 1 amends section 37 to include a reference to the new section 39A.

Item 2 inserts a new subsection 38(2) which removes the power of the Secretary to the Department of Housing and Regional Development to reconsider by the Secretary's own volition a decision under that Act after 31 August 1995.

Item 3 provides that a person's right to request a reconsideration of a decision is subject to the new subsection 39(3) which fixes the times by which persons seeking review of a decision must lodge their written request with the Secretary.

Item 4 omits the current provision from section 39(1) allowing prescription of a time within which a person could request a reconsideration of a decision.

Item 5 inserts a new subsection 39(3) which provides that a request for review of a decision must be in writing and lodged with the Secretary before 31 August 1995 or, where a primary decision is made after the commencement of the *Housing Legislation Amendment Act 1995*, within a 28 day period of the making of the primary decision where the end of that 28 day period is later than 31 August 1995.

Item 6 inserts a new section 39A which sets out procedures for the making and notification of decisions under the Act.

Item 7 provides that the new subsection 39(3) and the amendments made to subsection 39(1) apply to decisions made after the commencement of the *Housing Legislation Amendment Act 1995* and to decisions made before the commencement of that Act where a request for reconsideration has not been made.

Part 5 of the Schedule - Amendments to the Housing Assistance Act 1989

Item 1 amends subsection 15(2A) of the Act so it is extended for the seventh grant year (1995-96), in addition to the sixth grant year (1994-95). Subsection 15(2A) enables the Commonwealth Minister to authorise the full level of untied grants to a particular State, even if the Minister cannot ensure that the State can meet up to half of its matching obligation from the value of home loans provided through its home purchase assistance programs in accordance with paragraph 13(2)(b) of the Commonwealth-State Housing Agreement.

Item 2 amends subsection 15A(2) of the Act so it is extended to the seventh grant year (1995-96), in addition to the fifth (1993-94) and sixth grant years (1994-95). Section 15A enables the Minister to make a determination that a State has met its obligation to match up to half of untied assistance from the value of home loans provided through home purchase assistance programs made in a grant year where that State has not been able to meet the level required.

