

Housing Assistance Public Rental Housing Assistance Program (Eligibility criteria for assistance) Operation Guideline 2008 (No 1)

Notifiable Instrument NI2008-170

made under the

Housing Assistance Act 2007 s21(1) Approved housing assistance programs— housing operation guidelines

1 Name of instrument

This instrument is the *Housing Assistance Public Rental Housing Assistance Program (Eligibility criteria for assistance) Operation Guideline 2008 (No 1)*.

2 Commencement

This instrument commences on the day after its notification.

3 Housing Operation Guideline

In accordance with section 21(1) of the *Housing Assistance Act 2007* I issue this housing operation guideline for the *Housing Assistance Public Rental Housing Assistance Program 2007* ("the Program").

Purpose

To provide guidance on the application of clause 9 – Eligibility criteria for assistance - and to ensure that the applicant satisfies each of the eligibility criteria set out at clause 9 of the Program, unless discretion available under the Program has been exercised in favour of the applicant.

Relevant provision of the Program

Subclause 9(1) - Eligibility criteria for assistance

1. The eligibility criteria are specified at clause 9 of the Program. Amongst other criteria, the following criteria must be met:
 - each applicant must be in Australia lawfully and not subject to any time limit imposed by law;

- each applicant must have been a resident in the Territory for a period of 6 months immediately before the assessment date;
 - each of the applicants are at least 16 years of age;
 - none of the applicants has any interest in residential real property in Australia;
 - the combined value of assets of the applicants is not more than the asset eligibility limit;
 - the combined income of the household does not exceed the relevant limits.
2. The requirement that an applicant's presence in Australia must not be subject to any time limit imposed by law should be taken to mean that an applicant must have permanent residence in Australia to be eligible.
 3. However this requirement is subject to subclause 9(2), which allows the housing commissioner to decide that a certain time limit imposed by law is not relevant to eligibility. The housing commissioner has made a Determination under the Program (Notifiable Instrument 2007-370) that time limits in relation to Temporary Protection Visa holders are not relevant in this respect.
 4. The requirement that an applicant must not have an interest in residential property in Australia is also subject to subclause 9(3) specifying circumstances in which this requirement may not apply. This could include a situation where a woman with or without children is escaping domestic violence and is unable to live in the dwelling.
 5. In determining eligibility for rental housing assistance in relation to income and assets, it is necessary to take into account classes of income and assets that have been determined as "not assessable" for the purpose of the Program in accordance with clauses 4 and 11. These are specified in the Determination made by the housing commissioner (Notifiable Instrument 2007-369).

Hardship

6. An applicant must meet all eligibility criteria. The only exception would be where the decision maker decides to exercise the hardship discretion in accordance with clause 10 of the Program.

General provisions

Further information

7. If the applicant provides additional information which may further establish their need to be considered as an eligible applicant, the application can be reassessed.

False or misleading information

8. Under the Program an applicant is not eligible for assistance if the application is false or misleading in any material way or if an applicant has arranged his or her financial affairs to obtain assistance under the Program.

Review

9. A decision made under subclause 9(1) of the Program is a reviewable decision in terms of clause 30 of the Program.
10. *Any reference to "Housing ACT" in an operation guideline is a reference to Housing ACT being a section of the Department of Disability, Housing and Community Services representing the housing commissioner.*

Dated this 24th day of April 2008

Sandra Lambert
Commissioner for Social Housing