

Housing Assistance Public Rental Housing Assistance Program (Exceptions and Miscellaneous Matters-prior debt and/or breach of tenancy) Operation Guideline 2008 (No 1)

Notifiable Instrument NI2008- 177

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 (Exceptions and Miscellaneous Matters-prior debt and/or breach of tenancy) Operation Guideline 2008 (No 1).

2 Commencement

This instrument commences on the day after its notification.

3 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 subclause 19(8) - prior debt and/or breach of tenancy, to determine if a discretion should be exercised to provide assistance outside the normal allocation arrangements.

Subclause 19(8) – Prior debt and/or breach of tenancy

1. Subclause 19(8) specifies:

Unless the housing commissioner decides otherwise, an applicant is not eligible for rental housing assistance if, at the time a dwelling is to be allocated, the applicant:

- (a) *owes a debt to the housing commissioner; or*

- (b) *has breached a term or condition of a tenancy agreement to which the housing commissioner is or was a party.*
- 2. Some of the issues to be considered in deciding whether to disregard the prior debt or breach of tenancy would include the following:
 - i. has the applicant signed an agreement to repay the prior debt;
 - ii. if an agreement has been signed:
 - (a) how long has the agreement been in place;
 - (b) have the repayments towards the debt been maintained in line with the agreement;
 - iii. can the applicant demonstrate that they have successfully maintained a tenancy elsewhere; and
 - iv. what is the applicant's current situation.

Residential Tenancies Act 1997 (RTA)

- 3. Section 15(5) of the RTA permits the housing commissioner to require a tenant or prospective tenant to agree to pay an outstanding debt in relation to a previous tenancy in consideration for the offer of a new tenancy. This provision is subject to certain conditions being met.

General provisions

Further information

- 4. If the applicant provides additional information which may further establish their needs, the application can be reassessed.

False or misleading information

- 5. 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

- 6. A decision made under subclause 19(8) of the Program is a reviewable decision in terms of clause 30 of the Program.

7. *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