

Housing Assistance Public Rental Housing Assistance Program (Rent Rebate) Operation Guideline 2008 (No 1)

Notifiable Instrument NI2008- 179

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 (Rent Rebate) 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 clause 25—Rent rebate.

Scope of clause 25

1. The provisions specified at Clause 25 of the Program include requirements relating to tenants and lawful occupants, the rent rebate formula, minimum rent, the period of time for which a rent rebate is generally granted, the date of effect and extension of a rent rebate, and circumstances where a tenant or occupant are not entitled to a rent rebate.

Who is eligible for a rent rebate?

2. Subclause 25(1) specifies that the housing commissioner may provide the tenant a rent rebate provided that the tenant satisfies the eligibility criteria in subclause 9(4) and this clause 25. Subclause 9(4) states that the applicant must be receiving rental housing assistance and

must be eligible for a rebate in accordance with clause 25. "Tenant" includes joint tenants as well as an occupant under an occupancy agreement within the meaning of the *Residential Tenancies Act 1997 (RTA)*.

3. *The RTA* defines an occupant as a person who has a right of occupation under an occupancy agreement. Occupancy agreements are subject to "occupancy principles" set out in Section 71E of the RTA.

Weekly rent payable

4. Subclause 25(2) of the Program specifies the rent rebate formula which effectively caps rebated rents at 25% of assessable household income, subject to a minimum rent of \$5 per week. Household income includes the assessable income of the tenant, including joint tenants, and of all other residents who receive income of \$100 or more a week. While rebated rents are assessed at 25% of assessable income generally, the income of residents under 18 years of age is assessed at the rate of 10%. Family tax benefit part A is also assessed at this rate. Additionally, a range of income types is exempt from assessment.

The housing commissioner has made a Determination specifying the classes of income that are to be disregarded for the purposes of the Program (Notifiable Instrument 2007-369). All other income is regarded as assessable income.

Meaning of income

5. Clause 11, in defining income, provides for a range of types of income which do not necessarily "fit" the general income types. For example, deemed income and income derived from a lump sum payment. Deemed income includes a Centrelink benefit for which a person, although entitled, does not apply. Lump sum payments include payments made in settlement of a worker's compensation claim and other payments which include a component of income lost or foregone.
6. Subclause 11(5) specifies that the income of a person (other than an applicant, tenant or domestic partner of a tenant) whose weekly income is less than \$100 is not income for this Program.

Period of time for which a rent rebate is granted

7. Subclause 25(6) of the Program specifies that the housing commissioner may provide a rent rebate to a tenant for a period of 6 months or such other period decided by the housing commissioner. However, this provision should be read in conjunction with subclause 25(7) which specifies that the housing commissioner may, from time to time, extend the period of rent rebate granted by up to 6 months.

In addition, where all income earners in a household receive at least one, or a combination of Centrelink Age Pension, Centrelink Disability Support Pension, Veterans Service Pension, or Superannuation (irrespective of any other income also received from any other source by those persons), general policy provides for a rebate to be granted for 12 months. The same period applies to self-employed persons.

Date of effect

8. Subclause 25(8) specifies the date of effect for granting a rent rebate. This includes provision for a date earlier than would normally apply where particular circumstances exist. These would include circumstances that are unusual or out of the ordinary, such as:
 - where a tenant was unconscious in hospital and could not contact Housing ACT to make them aware of their situation; or
 - where a tenant has been called away unexpectedly because of a death or serious illness of an immediate family member.

No entitlement to a rent rebate

9. Subclause 25(9) of the Program specifies situations where a tenant or occupant is not entitled to rent rebate, including absences from the dwelling for more than 3 months (except where the housing commissioner decides otherwise).

Reassessment of rent rebate

10. Clause 26 of the Program provides for a range of alternatives for the date of effect of a rebate review.

Further details are provided in a separate operation guideline relating to 'Rent rebate - reassessment of eligibility'.

Tenancy commencement rebate

11. Clause 27 of the Program provides for an initial rent-free period of up to 3 weeks to applicants newly allocated from the applicant list. Initial rent is rent for the remainder of the week during which the tenancy is signed, plus one fortnight.

The initial rent-free period does not apply in situations such as a property transfer, tenancy transfer or change of name.

