

Housing Assistance Public Rental Housing Assistance Program (Rent Rebate - Reassessment of eligibility) Operation Guideline 2008 (No 1)

Notifiable Instrument NI2008- 180

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 - Reassessment of eligibility) 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 the procedure to be adopted when a tenant's entitlement to receive or to continue to receive a rent rebate is reassessed.

The procedure in this guideline is to be adopted where the housing commissioner thinks, for any reason, that the tenant is or was not eligible for a rent rebate or is or was eligible for a different amount of rent rebate.

Relevant provision of the Program

Clause 26 – Rent Rebate – Reassessment of eligibility

1. Clause 26 provides that the housing commissioner may, from time to time, reassess a tenant's entitlement to receive, or to continue to receive, a rent rebate. A tenant who is receiving a rent rebate may be asked to provide further information to enable a reassessment to be undertaken.

If, as a result of the reassessment it is determined that the tenant is, or was not eligible for a rent rebate, or is or was eligible for a different amount of rent rebate, their existing rebate may be suspended, amended or revoked.

In most cases the suspension, amendment, or revocation would take effect from the assessment date. However, subclause 26(6)(c) provides for an earlier date of effect in the following circumstances:

- (i) the tenant failed to provide full and correct information under clause 8 or when asked by the housing commissioner under subclause 26(4);
 - (ii) the tenant failed to advise the housing commissioner of a relevant change in circumstances; or
 - (iii) the housing commissioner considers it appropriate having regard to the circumstances of the case.
2. Also subclause 26(6)(b) specifies circumstances in which a rebate might be backdated by no more than 2 weeks.

Lump sum payment

3. In relation to subclause 26(6)(c)(iii) a typical situation arises where an applicant receives a lump sum payment such as worker's compensation. Where the lump sum payment includes an amount for income lost or foregone during a period for which a rent rebate has already been assessed, a reassessment of the tenant's entitlement for that period is to be undertaken, taking into account the relevant income that has been identified as lost or foregone.

The reassessment would usually result in an adjustment over the relevant period, which could date back to the time the person's income reduced. The reassessment would relate to the period during which the income was lost or foregone.

Further details are available from the general Rent Rebate policy on the departmental website.

Other circumstances

4. Other circumstances in which a date earlier than the assessment date might be appropriate include:
 - (a) provision by an applicant of incorrect or incomplete information intentionally, that is fraudulently;
 - (b) failure of an applicant to provide full and correct information, inadvertently;
 - (c) failure of a tenant to notify Housing ACT of a change of circumstances, such as an addition to their household, which impacts on their entitlement;
 - (d) an assessment error by Housing ACT exacerbated by a failure of a tenant to notify Housing ACT of the error in the calculation of their rebate where the error should be obvious to them, e.g. the non-inclusion of a form of income that has been assessed in all previous rebates; and
 - (e) an assessment error on the part of Housing ACT where the information provided by the applicant is not fully clear, correct or complete even though the assessing officer may not have made appropriate enquiries to clarify the matter.

General provisions

Further information

5. 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

6. 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

7. A decision made under clause 26 of the Program is a reviewable decision in terms of clause 30 of the Program.

8. *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