

# Housing Assistance Rental Bond Program Operations Guide 2018 (No 1)

Notifiable instrument NI2018-628

made under the

*Housing Assistance Act 2007*, s21(1) Approved housing assistance programs –  
operational guidelines

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## 1 Name of instrument

This instrument is the *Housing Assistance Rental Bond Program Operations Guide 2018 (No 1)*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Operation Guideline

In accordance with section 21(1) of the *Housing Assistance Act 2007*, I make the Rental Bond Program Operations Guide provided at Schedule 1, to facilitate the administration of the Rental Bond Program for eligible applicants establishing a residential tenancy in the Territory.

## 4 Revocation

This instrument revokes –

- (a) *Housing Assistance Rental Bonds Housing Assistance Program (Pre-approval) Operation Guideline 2012 (No 1)* NI2012-258;
- (b) *Housing Assistance Rental Bonds Housing Assistance Program (Eligibility criteria for rental bond assistance) Operation Guideline 2012 (No 1)* NI2012-259;
- (c) *Housing Assistance Rental Bonds Housing Assistance Program (Individuals in a group situation) Operation Guideline 2012 (No 1)* NI2012-260;
- (d) *Housing Assistance Rental Bonds Housing Assistance Program (Hardship) Operation Guideline 2012 (No 1)* NI2012-261
- (e) *Housing Assistance Rental Bonds Housing Assistance Program (Meaning of income) Operation Guideline 2012 (No 1)* NI2012-262; and

(f) *Housing Assistance Rental Bonds Housing Assistance Program (Working out weekly income) Operation Guideline 2012 (No 1) NI2012-263.*

**5 Schedule 1**

Schedule 1 forms part of this instrument.

Jo Wood  
Commissioner for Social Housing  
12 November 2018

## Schedule 1 Rental Bond Program Operations Guide

- Object of Program* 3 The Program is designed to help eligible persons who are establishing, or wanting to establish (pending identification of a suitable home), a residential tenancy in the Territory to meet the rental bond amount sought by a lessor under the *Residential Tenancies Act 1997*, section 20.
- The Program is an approved housing assistance program under the *Housing Assistance Act 2007*, section 19. When making decisions in relation to the program, delegates should have consideration for the objects of this Act and the intent of housing assistance programs administered under it – to help people to meet their emergency, short-term, medium-term and long-term housing needs.
- Rental bond assistance* 6 Rental bond assistance takes the form of an interest-free arrangement whereby an amount is paid by an approved applicant to the housing commissioner in instalments as mutually agreed in a schedule of repayments. To receive a rental bond loan, the applicant is required to:
- apply, and be found eligible for, rental bond assistance (see clause 9 – Eligibility criteria for rental bond assistance); and
  - enter into a rental bond agreement (containing a schedule of repayments) with the housing commissioner.
- The amount to be paid by the applicant to the housing commissioner is equal to the rental bond amount paid by the housing commissioner to the Territory entity responsible for holding a rental bond, on behalf of the tenant under the *Residential Tenancies Act 1997*, section 24.
- Rental bond agreement* 7 Where a rental bond agreement is entered into, the housing commissioner:
- maintains the right to any amount of monies paid to the Territory entity responsible for holding a rental bond (on the applicant’s behalf), equal to the amount that remains unpaid under the rental bond loan.
  - will recover monies directly from the Territory entity responsible for holding a rental bond following the cessation of the tenancy agreement (see clause 13 – Termination of a tenancy agreement).
- Applications for rental bond assistance may be made by a single, or joint (i.e. two) applicants. Only applicants found to be eligible for rental bond assistance may enter into a rental bond loan agreement with the housing commissioner.
- Note: An applicant is not required to have identified a property for rent at the time of application. Rather it is sufficient that they intend to do so, as a rental bond agreement will not be entered into until a property is identified.
- Application for rental bond assistance* 8 An applicant may apply for rental bond assistance using the paper-based or electronic form provided for this purpose by the housing commissioner.

An applicant is required to provide all information that the housing commissioner reasonably requires to assess an application. The housing commissioner will only seek evidence that is sufficient to satisfy:

- the eligibility criteria for rental bond assistance (under clause 9);
- if applicable, that circumstances warranting exemption to the eligibility criteria (under clause 10) exist; and
- to confirm the accuracy of the information provided by the applicant e.g. proof of identity, or requesting confirmation of monies paid through a private custodial arrangement where those payments are to be relied upon in an application.

Where a joint application is made, only two applicants may apply.

Where parties provide the details of more than two applicants in an application, the housing commissioner must determine the most appropriate parties to list as the joint applicants, having regard for:

- the likelihood that the identified persons will satisfy the eligibility criteria for rental bond assistance (or an exemption to that criteria); and
- the identified persons' willingness to assume responsibility for, and enter into an agreement to repay, the rental bond amount.

Once an applicant is found eligible, their application will remain valid for up to 6 months, allowing the applicant time to apply for a residential tenancy in the Territory, if they have not already done so. If more than 6 months has elapsed, then the application may be reinstated provided the applicant can demonstrate that they continue to satisfy eligibility criteria.

*Eligibility criteria for rental bond assistance*

- 9 An applicant's eligibility is determined by their age, their intent to enter a tenancy agreement in the Territory and to reside in the tenanted residence for the duration of their tenancy; the cash or cash equivalent holdings of the applicants; and the income of the single and/or joint applicants for the financial year.

When assessing eligibility, additional household members will only be considered when determining whether an applicant exceeds the income eligibility threshold AND where the additional household members are:

- dependent children; and
- residing with the applicant (noting that fulltime residence is not required).

For example, a single applicant that earned the equivalent of 160% of AAWE each week for the previous financial year, may still be eligible for a rental bond loan because their two dependent children reside with them regularly on weekends as part of a shared custodial arrangement.

Evidentiary requirements

Housing ACT will only collect sufficient information from an applicant to demonstrate that they meet program eligibility thresholds.

A list of sufficient evidentiary documentation is provided on the approved application form. Additional information will only be sought where the eligibility threshold has not been demonstrated and it is reasonably

necessary to seek additional information for this purpose, consistent with the *Legislation Act 2001*, section 255(6).

#### Circumstances where an applicant may not be eligible

Unless an appropriate delegate determines that an exemption to the eligibility criteria should apply (see clause 10 – Exemptions to eligibility criteria), typically an applicant:

- will only be permitted to hold one rental bond loan under this program at a time (i.e. they cannot apply if they already owe money to the housing commissioner for another rental bond agreement);
- will not be found eligible for rental bond assistance if they provide false or misleading information; and
- will not be found eligible for rental bond assistance if, having regard for the income of the applicant, it is determined that the applicant cannot meet the schedule of repayments contained in the rental bond agreement.

The housing commissioner is not responsible for determining the capacity of an applicant to satisfy any agreement made between the applicant (as a tenant) and a lessor for rent under the *Residential Tenancies Act 1997*.

- Exemptions to eligibility criteria* 10 Exemptions to eligibility criteria may be made in the absolute discretion of the housing commissioner. Such decisions are internally reviewable (see clauses 14 & 15), but are not subject to external review by ACAT (see clause 16 – ACAT review).

The eligibility criteria requiring an applicant to be at least 16 years of age is not subject to this clause.

Examples where exemptions may be applied are contained in the Program instrument. These examples are not exhaustive and are provided for guidance only.

When considering whether an exemption be applied, the delegate should have regard for the object of the Program (see clause 3 – Object of Program), as well as the object of the *Housing Assistance Act 2007*, section 6, including –

- maximising the opportunities for everyone in the ACT to have access to housing that is affordable, secure and appropriate to their needs;
- to facilitate the provision of housing assistance for those most in need;
- to maximise value for money in the provision of housing assistance; and
- to facilitate the provision of an adequate support of affordable home finance for people on low and moderate incomes.

- Meaning of income* 11 Typically any gross earnings made by an applicant are to be considered income for the Program. Income types are provided in the Program.

However, income does not mean monies paid by the commonwealth, territory, state or other government body where the monies are provided for an express non-housing related purpose; or are a one-off special purpose payment unrelated to housing. Non-exhaustive examples are provided in the Program.

When considering whether monies received are income for the purposes of the Program, Housing ACT will have regard for whether the monies received can be used to meet the general cost of living. Where this is the case, the monies will be assessed as income.

*Working out income*

- 12 Income for the previous financial year will be considered when determining whether an applicant meets income eligibility criteria (see clause 9 – Eligibility criteria for rental bond assistance).

Income thresholds are calculated as a proportion of the Australian Average Weekly Earnings and are reported biannually by the ABS.

For example, a single applicant with 1 dependent may earn up to the equivalent of 150% of AAWWE each week *plus* \$200/week for the previous financial year. If the AAWWE is \$1,700/week the income eligibility limit for the applicant is \$98,800 i.e. (\$1,700 + \$200) x 52 weeks.

*Termination of a tenancy agreement*

- 13 It is a condition of the rental bond agreement that the signatory to the agreement notify the housing commissioner in writing of the termination of a tenancy to which the agreement applies, inclusive of the signatory vacating the premises where the tenancy is held.

This clause allows a 7 day window to enable the notification to take place.

Upon receipt of the notification, the housing commissioner is authorised to receive all monies held in trust by the Territory entity responsible for holding a rental bond following the payment of any deductions made by the lessor at the end of the tenancy under the *Residential Tenancies Act 1997*, section 31.

In accordance with the conditions of the Program (see clause 7 – Rental bond agreement), these monies will be used to repay any outstanding balance owed to the housing commissioner under the rental bond agreement. Any residual funds will be paid to the signatory.

*Notice of internally reviewable decision*

- 14 Decisions made under clause 9 (eligibility) and clause 10 (exemptions) about an application for a rental bond loan are internally reviewable. This includes any decision to revoke or amend a decision made under these clauses.

The housing commissioner is required to inform an applicant of any such decision within 28 days in writing, and include sufficient information to allow the affected applicant to seek a review of decision (see clause 15) if they choose to.

*ACAT review*

- 16 This clause enables an applicant to seek an external review of decision by the ACAT for decisions relating to the rental bond loan application, except where the decision is made under clause 10.

For example, a decision regarding eligibility criteria (clause 9) may be externally reviewed, but a decision to exempt eligibility criteria (clause 10) is made in the ‘absolute discretion’ of the housing commissioner and may not be referred for external review.