

Housing Assistance Public Rental Housing Assistance Program (Exceptions and Miscellaneous Matters-tenancy breakdown) Operation Guideline 2008 (No 1)

Notifiable Instrument NI2008-175

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-tenancy breakdown) 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 subclauses 19(2) and 19(3) – tenancy breakdown, to determine if a discretion should be exercised to provide assistance outside the normal allocation arrangements.

Subclause 19(2) – tenancy breakdown

1. Subclause 19(2) specifies:

Despite anything else in this program, in the event there is a tenancy breakdown, the housing commissioner, in his or her absolute discretion, may provide the dwelling relating to the tenancy or some

other available dwelling to the remaining one or more occupants (approved by the housing commissioner) of the dwelling.

2. Subclause 19(3) defines a tenancy breakdown as a situation where a tenant:
 - (a) dies;
 - (b) is physically unable to occupy the dwelling;
 - (c) is legally unable to occupy the dwelling; or
 - (d) no longer wishes to occupy the dwelling.

Consideration for the approval of assistance to remaining occupants

3. This provision is primarily intended to assist a domestic partner of the tenant who may have been excluded from being a party to the tenancy as a result of the operation of a now outdated early policy. However, there may be circumstances where it could be appropriate to extend assistance to other family members for whom the dwelling has been their long-term family home. These circumstances might include:
 - where a close family member, e.g. a son/daughter has lived in the dwelling for most of his/her life; and
 - where a family member who is a sole parent has been living in the dwelling for some time and the family would be homeless if they had to vacate the dwelling.
4. Where the family home exceeds the entitlement of the remaining occupant/s, consideration should be given to providing assistance to another available dwelling.

General provisions

Further information

5. If the applicant provides additional information which may further establish their needs, 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 subclause 19(2) of the Program is not a reviewable decision in terms of clause 30 of the Program. In particular, it is not subject to review by the Administrative Appeals Tribunal.

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