

Communiqué

Issue

December 4, 2019

2019-09

The Requirements, Recommendations and Guidelines in this Communiqué are applicable to the social housing providers administered by the City of Hamilton.

✓	Providers Under <i>Housing Services Act, 2011</i>
✓	Providers Under a Federal Operating Agreement
✓	Requirement

SUBJECT: Community Safety, Single Offer of RGI Assistance, and RGI Simplification

The purpose of this communiqué is to inform Housing Providers about the recent regulatory changes relating to social housing and their implications. Regulatory changes in the following areas have been made:

1. Community Safety
2. Single Offer of RGI Assistance
3. Tenant Transfers Between Social Housing Providers
4. Simplification of rent-geared-to-income subsidy calculation

1. Community Safety

Effective September 23, 2019, Housing Providers may refuse to offer a unit to a household due to criminal act by a member of the household, if the member was previously evicted from social housing under a Landlord and Tenant Board (LTB) order (N6). The housing provider must also have reasonable grounds to believe the household would pose a risk to the safety of one or more other people in the housing project (e.g. other residents, staff). The eviction must have taken place within the past five years.

Grounds for refusal apply for an illegal activity on the N6 including the following:

- Production, trafficking, or possession for the purposes of trafficking an illegal drug;
- Illegal production, distribution, or sale of cannabis;
- Physical violence or attempted physical violence against another person;
- Human trafficking; or
- Use of threats to, intimidation of, and harassment of another person.

2. Single Offer of RGI Assistance

As of January 1, 2020, the regulation is amended to state that a household would no longer be eligible for rent-geared-to-income assistance if a household refuses an offer from a Service Manager for assistance in a unit where the unit meets the Service Manager's occupancy standards and is in housing project for which the household has expressed a preference. Households must now accept the first offer of housing provided or be removed from the waitlist (includes Survivors of Domestic Violence priority applicants) However, the Service Manager may determine that a household remains eligible if the Service Manager is satisfied that there are extenuating circumstances. **The City of Hamilton will implement this regulation starting January 1, 2021.**

3. Tenant Transfers Between Housing Providers

This legislative change allows Service Managers to allow community housing tenants to transfer between housing provider properties without needing to apply to the Centralized Waiting List. At this time, **the City of Hamilton is not changing its local rule and tenants wishing to transfer between housing providers will still be required to apply to Access to Housing.**

4. Simplification of Rent-Geared-to-Income Subsidy Calculation

Several changes have been made to the RGI calculation and related processes. The simplified RGI calculation will be implemented in Hamilton July 1, 2021. Training will be organized closer to the implementation date.

- A review of a household's RGI rent must be conducted every 12 months.
- In-year reviews may only be completed under specific circumstances (e.g., permanent change in household composition, a decrease in income of 20% or a change in full-time student status), and households will no longer be required to report an increase in income before their next annual review.
- All household members in full-time studies will now have their income exempt from the rent calculation, removing the existing conditions attached to this exemption.
- Minimum rent will be increased and indexed with the province's annual rent increase guideline, subject to phase-in for existing tenants paying less than indexed minimum rent.
- Household members whose income is to be included in the rent calculation will be required to file their income tax returns annually as a condition of continued eligibility, subject to Service Manager discretion in extenuating circumstances.
- The length of time that RGI households can pay market rent before losing eligibility for assistance will be extended from 12 to 24 consecutive months.

Rent for a family unit will be calculated by taking 30 per cent of annual adjusted family net income (AFNI) divided by 12 months. That rent is adjusted for utilities, services and heating and is subject to minimum rent.

$$\text{Monthly rent for a family unit} = \left[\frac{\text{AFNI} \times 30\%}{12} \right] \text{ +/- utility adjustments}$$

Before applying the 30 per cent, monthly adjusted family net income is reduced by an employment-related earnings deduction of either \$75 or \$150 per month, depending on the size of the family unit. Rent for a social assistance benefit unit would generally be calculated using the prescribed “rent scales”.

Housing providers are encouraged to contact their City of Hamilton Housing Administration Officers if they require any clarification.

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SH *notification*

social housing

Amendment to Ontario Regulation 367/11 under the Housing Services Act, 2011 that allows housing providers to refuse to offer a unit to a household based on a previous eviction for serious illegal activity.

Legislation/Regulation

September 23, 2019

Operational

Release: 19-09

This notification provides an overview of amendments to Ontario Regulation 367/11 under the Housing Services Act, 2011 (HSA) related to community safety.

Ontario Regulation 367/11 sets out rules for filling vacant rent-geared-to-income units and special needs housing units. In general, the housing provider must offer the unit to the highest priority household. For housing projects under Program 1(a) or (b) (public housing) or Program 6(a) or (b) (provincial reformed), a housing provider may refuse to offer a unit to a household only in certain limited circumstances.

Effective September 23, 2019, s. 50 and s. 77 were amended to set out an additional ground upon which a housing provider may refuse to offer a unit to a household. A provider may refuse to offer a unit to a household if a member of the household was previously evicted from an HSA-governed housing project (a “designated housing project”) through an order of the Landlord and Tenant Board based on an illegal act (commonly referred to as an “N6”).

In order to refuse a household, the housing provider must also have reasonable grounds to believe the household would pose a risk to the safety of one or more other people at the housing project (e.g. other residents, staff).

In addition, this ground of refusal is only available where the past eviction order was based on certain types of serious illegal activity (outlined further below). It applies only if the eviction order was issued within the past five years. It does not apply if the eviction order has been overturned by a final decision on an appeal.

What types of illegal activity does the rule address?

The new ground of refusal applies only where there was a previous eviction order based on an illegal act involving one or more of the following:

- Production, trafficking, or possession for the purpose of trafficking an illegal drug;
- Illegal production, distribution or sale of cannabis;
- Physical violence or attempted physical violence against another person;
- Physical harm, attempted physical harm, or a risk of physical harm to another person;
- Human trafficking; or
- Use of threats to, intimidation of, and harassment of another person.

What is an N6 notice?

An N6 notice is a Landlord and Tenant Board form that is given by a housing provider to a tenant to end a tenancy for illegal acts or for misrepresenting income in rent-geared-to-income (RGI) housing. After providing an N6 notice to a tenant, a housing provider may apply to the Landlord and Tenant Board for an eviction order. The new ground of refusal only applies where the Landlord and Tenant Board ordered an eviction based on an N6 notice for an illegal act. The new ground of refusal does not apply where the Board ordered an eviction based on an N6 for misrepresentation of income.

How does the new rule impact housing providers?

The rule provides a new tool for housing providers to address safety concerns. The rule does not require housing providers to refuse a unit to anyone.

If a housing provider is aware that a member of a household was evicted from a designated housing project for serious illegal activity within the past five years and the housing provider has reasonable grounds to believe the household will pose a risk to the safety of others in the housing project, the housing provider will have the option to refuse to make an offer.

As with any other ground of refusal, the first time that a provider refuses a household, the provider must notify the household and the household may request a review of the decision by the housing provider.

Does this rule apply to previous evictions from all housing providers in the province or just housing providers within the service area?

The ability of the housing provider to refuse applies regardless of whether the household was evicted from a designated housing project in the same service area or in a different service area.

How does this rule impact other members of the evicted household?

A person who, as a tenant, was named in an eviction order based on an illegal act could potentially be refused, even if the person was not directly involved in the illegal act. However, in order to refuse, the housing provider must also have reasonable grounds to believe the household poses a risk to the safety of others in the housing project (e.g. residents, staff).

Does this rule also apply to evictions from non-profit housing co-operatives?

Yes, a household whose past occupancy in a non-profit housing co-operative was terminated by the Landlord and Tenant Board due to serious illegal activity could potentially be refused by a housing provider under this rule.

When does the rule take effect?

The community safety rule takes effect immediately, as of September 23, 2019.

The ministry intends to develop guidance material to support housing providers that choose to apply this rule.

Further Information

The amended regulation is available through the following hyperlink:

<https://www.ontario.ca/laws/regulation/r19318>

Should you have any questions, please contact Rhona Duncan, Manager, Community Housing Renewal Unit. Rhona Duncan can be reached by telephone at (416) 585-7228, or by e-mail at rhona.duncan@ontario.ca

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social housing

Amendments to Ontario Regulation 367/11 under the Housing Services Act, 2011 including a new provincial eligibility rule on refusal of offers, rules on household preferences for a housing project and changes to a Service Manager's authority to make a local rule where a household ceases to meet occupancy standards. The amendments come into force on January 1, 2020.

Legislation/Regulation

September 23, 2019

Operational

Release: 19-09

This notification provides an overview of regulatory amendments to Ontario Regulation 367/11 under the Housing Services Act, 2011 including a new provincial eligibility rule on refusal of offers, rules on household preferences for a housing project and changes to a Service Manager's authority to make a local rule where a household ceases to meet occupancy standards. The amendments come into force on January 1, 2020.

I. Provincial Rule on Refusal of Offers

Effective January 1, 2020, section 39 of the regulation is revoked and any local rule made under this section may only continue to apply as described below. Section 39 of the regulation allowed Service Managers to make a local rule providing that a household would no longer be eligible for rent-geared-to-income assistance if a household refused a minimum of three offers of rent-geared-to-income assistance from a Service Manager.

The regulation is amended to set out a new provincial rule in section 32.2 and states that a household would no longer be eligible for rent-geared-to-income assistance if a household refuses an offer from a Service Manager for assistance in a unit where the unit meets the Service Manager's occupancy standards and is in a housing project for which the household has expressed a preference. Section 32.2 provides that:

- The offer must be for assistance in a unit that meets the Service Manager's occupancy standards and is in a housing project for which the household has expressed a preference.
- If a household refuses an offer for a portable housing benefit it would not be considered as a refusal under this rule.
- Service Managers may determine that a household remains eligible if the Service Manager is satisfied that there are extenuating circumstances.

When do these rules begin to apply?

The amendments to the regulation come into force on January 1, 2020.

The provincial rule on refusal of offers begins to apply on a date chosen by the Service Manager that is no later than January 1, 2021 - or if no date is chosen, January 1, 2021.

Until the Service Manager implements the provincial rule on refusal of offers, any local eligibility rule that was made by the Service Manager under section 39, as it read immediately before it was revoked, continues to apply.

All Service Managers are required to comply with the provincial rule on refusal of offers by January 1, 2021.

Service Managers are required to make reasonable efforts to notify households of the provincial rule on refusal of offers.

Service Managers must make reasonable efforts to notify households on the waiting list of the new provincial rule on refusal of offers before the rule begins to apply.

What could be considered an extenuating circumstance?

Service Managers may determine that a household remains eligible for rent-geared-to-income assistance if the Service Manager is satisfied that there are extenuating circumstances. Examples of potential extenuating circumstances could include situations where at the time of an offer from a Service Manager an applicant is in the hospital, receiving treatment for addiction, or if an applicant is a survivor of domestic violence or human trafficking and a preferred building is no longer safe due to the proximity of an abuser.

How will the changes impact special priority applicants?

The provincial rule on refusal of offers would apply to all applicants on centralized waiting lists, including special priority applicants (SPP)¹. Service Managers have the discretion to consider extenuating circumstances and are encouraged to use their discretion to consider potential extenuating circumstances for special priority applicants to ensure they are not negatively impacted. The ministry intends to develop guidance material in collaboration with partner ministries related to special priority applicants.

Current regulatory provisions for SPP applicants remain in place, including the ability of SPP households to request to place their applications on hold (once) for up to one year and maintain their place on the waiting list, if they are or will be living with the abusing individual (section 46, paragraph 9).

¹ The Special Priority Policy (SPP) gives survivors of domestic violence and human trafficking priority access to RGI housing. Under Ontario Regulation 367/11 of the *Housing Services Act, 2011*, the prescribed provincial priority rules establish that a household in the SPP category has priority over other households seeking RGI assistance.

II. Preferences Requirements

The regulation sets out rules that apply to a Service Manager's system for selecting households for rent-geared-to-income assistance (see sections 46-51). The regulation is amended to include section 46.1 which states that a Service Manager's system must include rules that allow a household to indicate their preferences for housing projects in the Service Manager's service area. The rules must:

- Provide that until a household indicates their preferences, their preferences would be for any housing project in the Service Manager's area or in any part of the service area determined by the Service Manager.
- Permit a household to change or remove its preference for a housing project.

Service Managers are required to make reasonable efforts to notify households of rules regarding preferences.

III. Service Manager Local Rule – Occupancy Standards

Section 38 allows Service Managers to establish a local eligibility rule that a household is no longer eligible for rent-geared-to-income if it occupies a unit that is larger than is permitted under the Service Manager's occupancy standards. The rule must indicate that the household is not ineligible

- (1) until a year after it is notified by the Service Manager that it occupies a unit that is larger than permitted, and
- (2) if it is following the process specified in the rule or by the Service Manager to be transferred to a unit that is permissible under the Service Manager's occupancy standards.

Section 38 is amended and states that the process to be transferred set out in the rule or specified by the Service Manager must provide that a household is ineligible for rent-geared-to-income assistance if, after a year from being notified that it is in a unit that is larger than permitted, it refuses an offer to transfer to another unit that is permissible under the Service Manager's occupancy standards.

The process must also provide that the Service Manager may determine that a household remains eligible if the Service Manager determines there are extenuating circumstances.

Further Information

The amended regulation is available through the following hyperlink:

<https://www.ontario.ca/laws/regulation/r19318>

Should you have any questions, please contact Rhona Duncan, Manager, Community Housing Renewal Unit. Rhona Duncan can be reached by telephone at (416) 585-7228, or by e-mail at rhona.duncan@ontario.ca

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social housing

New Ontario Regulation 316/19 “Determination of Geared-to-Income Rent under Section 50 of the Act” under the Housing Services Act, 2011 (HSA) to simplify the calculation of rent-geared-to-income (RGI) assistance.

Amendments to Ontario Regulation 367/11 “General” under the HSA to support RGI simplification.

Legislation/Regulation

September 23, 2019

Operational

Release: 19-09

The purpose of this notification is to provide an overview of the new Ontario Regulation 316/19 that will replace Ontario Regulation 298/01 and of regulatory amendments to Ontario Regulation 367/11 to support RGI simplification.

The province is implementing a suite of changes to the RGI calculation to make calculating rent simpler for Service Managers and housing providers and easier for tenants to predict and understand. To do this, Ontario Regulation 298/01 is being revoked and replaced with Ontario Regulation 316/19, in-force July 1, 2020.

Ontario Regulation 367/11 is being amended to change some of the eligibility rules for RGI assistance, and make consequential changes to align, where practical, the portable housing benefit framework with the changes to the RGI calculation.

What is changing?

Several changes have been made to the RGI calculation and related processes. Examples include:

- RGI calculation will be a simplified, annual process based on 30 per cent of adjusted family net income determined, where possible, by the household members’ net income amounts in their notices of assessment for the relevant taxation year, subject to certain adjustments.
- A household member’s net income may be calculated differently depending on when rent is being reviewed. In some instances, net income may be based on a projection of net income for the next 12 months in situations where income tax return information is not available or where it does not accurately reflect the current financial position of a household member.
- A review of a household’s RGI rent must be conducted every 12 months.
- In-year reviews may only be completed under specific circumstances (e.g., permanent change in household composition, a decrease in income of 20% or a change in full-

time student status), and households will no longer be required to report an increase in income before their next annual review.

- All household members in full-time studies will now have their income exempt from the rent calculation, removing the existing conditions attached to this exemption.
- For household members who work, the new system will continue to exempt \$75 or \$150 per month of family unit employment income (depending on family size) but simplify the criteria to determine the amount.
- Minimum rent will be increased and indexed with the province's annual rent increase guideline, subject to phase-in for existing tenants paying less than indexed minimum rent.
- Household members whose income is to be included in the rent calculation will be required to file their income tax returns annually as a condition of continued eligibility, subject to Service Manager discretion in extenuating circumstances.
- The length of time that RGI households can pay market rent before losing eligibility for assistance will be extended from 12 to 24 consecutive months.
- Consequential changes are also being made to align (where appropriate) the portable housing benefit rules with the new RGI calculation rules.

What is not changing?

No changes will be made to certain aspects of the RGI calculation and related processes. Examples where changes will not be made include:

- Most definitions in the regulations including the definitions for a “family unit” and “benefit unit”.
- Utility scale and rent scale tables.
- Most eligibility rules and rules for local rules.

How would geared-to-income rent be calculated?

Rent for a family unit would be calculated by taking 30 per cent of annual adjusted family net income (AFNI) divided by 12 months. That rent is adjusted for utilities, services and heating and is subject to minimum rent.

$$\text{Monthly rent for a family unit} = \left[\frac{\text{AFNI} \times 30\%}{12} \right] \text{ +/- utility adjustments}$$

Before applying the 30 per cent, monthly adjusted family net income is reduced by an employment-related earnings deduction of either \$75 or \$150 per month, depending on the size of the family unit.

Rent for a social assistance benefit unit would generally be calculated using the prescribed “rent scales”.

What is adjusted family net income?

Adjusted family net income for the month is the total of the net income of each member of the household excluding those in full-time attendance at a recognized educational institution divided by 12.

Typically, the net income amount of a household member will be reflected on line 236 of the member's notice of assessment less any Registered Disability Savings Plan income and plus any Registered Disability Savings Plan amounts repaid.

When do the changes take effect?

The new simplified regulation will be in-force on July 1, 2020. However, Service Managers may choose an implementation date of either July 1, 2020 or July 1, 2021, at their discretion.

If a Service Manager opts for implementation on July 1, 2020, they must conduct all rent calculations in their local service area using the new regulations as of their selected implementation date.

Service Managers that opt for implementation on July 1, 2021 must continue to determine RGI assistance under the revoked Ontario Regulation 298/01 for the period between July 1, 2020 and June 30, 2021, however, new minimum rent provisions would apply.

As of July 1, 2021, all Service Managers will be required to use the simplified regulations.

Whichever implementation date is chosen (July 1, 2020 or July 1, 2021), Service Managers would be required to recalculate rent for all existing tenants within 12 months of that date.

Further Information

The new Ontario Regulation 316/19 is available through the following hyperlink:

<https://www.ontario.ca/laws/regulation/r19316>

The amended Ontario Regulation 367/11 is available through the following hyperlink:

<https://www.ontario.ca/laws/regulation/r19317>

Should you have any questions, please contact Ravi Bhusia, Manager, Program Development & Analysis Unit. Ravi Bhusia can be reached by telephone at (416) 585-6526, or by e-mail at ravi.bhusia@ontario.ca.