

# Communiqué

Issue

December 7, 2020

2020-12

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

<input checked="" type="checkbox"/>	Providers Under <i>Housing Services Act, 2011</i>
<input checked="" type="checkbox"/>	Providers Under a Federal Operating Agreement
<input checked="" type="checkbox"/>	Requirement
<input type="checkbox"/>	Recommendation
<input type="checkbox"/>	Guidelines
<input type="checkbox"/>	For Information Purposes Only

## **SUBJECT: Rent Freeze Regulatory Amendments for Geared-to-Income-Tenants**

The [Helping Tenants and Small Businesses Act, 2020](#) received Royal Assent on October 1, 2020. The Act amends the *Residential Tenancies Act, 2006 (RTA)* and Sections of the *Housing Services Act (HSA)* to deliver on the commitment to freeze residential rent increases in 2021 and to give Ontario tenants some relief and financial security as we continue to recover from the pandemic.

As was noted in our Communiqué dated October 15, 2020, the MMAH had informed Service Managers they were pursuing amendments to the regulations under the HSA to provide one clear set of rules for RGI households for 2021 that would be structured in a manner consistent with the RTA rent freeze.

Please find attached below the following MMAH documents dated December 2, 2020 which outlines and clarifies any concerns regarding the above subject matter. If you have any questions or require clarifications on this communiqué, please contact your Housing Administration Officer. We are looking forward to our continued collaboration.

We thank all housing providers in the City of Hamilton for their ongoing support and advocacy for social housing tenants during the COVID-19 pandemic. We look forward to our ongoing collaboration with housing providers in 2021.

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Attachments: [English SH Notification](#)    [Q & A](#)

# SH *notification*

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social housing

## Rent Freeze Regulatory Amendments for Geared-to-Income Tenants

Legislation/Regulation

December 2, 2020

Operational

Release: 20-10

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The purpose of this notification is to provide an overview to Service Managers and housing providers of recently approved consequential amendments to Ontario Regulation 316/19 and Ontario Regulation 367/11 under the *Housing Services Act, 2011* (HSA).

These amendments will help provide all rent-geared-to-income (RGI) households, including members of housing co-operatives governed by the HSA, with protection consistent with the province's 2021 residential rent freeze, ensuring that Ontario's most vulnerable residents have the protections they need during this challenging time.

### Background

To further protect and mitigate the financial impact of the COVID-19 outbreak on residential tenants, on September 30, 2020, the Ontario government passed Bill 204, *Helping Tenants and Small Businesses Act, 2020*. This legislation will freeze rents at 2020 levels so that the vast majority of tenants will not face a rent increase in 2021.

Ontario's 2021 rent freeze will apply to the majority of tenancies that are covered by the *Residential Tenancies Act, 2006* (RTA), including households living in community housing that receive RGI assistance or pay low end of market rent.

While the province's *Helping Tenants and Small Businesses Act, 2020* gives the new rent freeze provisions made under the RTA precedence over the RGI regulations found under the HSA, the government has made consequential regulatory amendments to allow for policy consistent with a rent freeze to apply to members paying geared-to-income rent in non-profit housing co-operatives (as housing co-operatives are not covered by the RTA).

As of January 1, 2021, the regulatory amendments under the HSA will provide one clear set of rules for all RGI households for 2021 that will be consistent with the policy underlying the province's rent freeze legislation and that will apply to HSA housing co-operatives.

### What is changing?

Consistent with the province's residential rent freeze legislation, in the 2021 calendar year, no tenant living in RGI housing will experience a rent increase when their household income increases. Any calculated rent increase resulting from an annual or in-year review that would otherwise take effect in 2021 will be effective January 1, 2022.

Specifically, the following regulatory amendments have been made to Ontario Regulation 316/19 to ensure consistency with the 2021 residential rent freeze:

- **Clarifying rules around increases to minimum rent (s. 2 of O.Reg. 316/19):** Clarifying amendment will provide that, for the purposes of indexing the minimum rent for the period from July 1, 2021 to June 30, 2022, the percentage used is 1.5 per cent (the original rent increase guideline published in the Ontario Gazette), not 0 per cent (the new guideline set under the RTA rent freeze amendments). An amendment will also clarify that where a household's geared-to-income rent would increase during the 2021 calendar year due to an increase in minimum rent, the increase will take effect on January 1, 2022.
- **Deferring rent increases resulting from annual reviews (s. 10 of O.Reg. 316/19):** Normally, a rent increase resulting from an annual review conducted under Ontario Regulation 316/19 would take effect on the first day of the month following the month in which the review is completed. Where such a rent increase would otherwise take effect in the 2021 calendar year, the increase will instead take effect on January 1, 2022.
- **Deferring rent increases resulting from in-year reviews (s. 11 of O.Reg. 316/19):** Normally, a rent increase resulting from an in-year review conducted under Ontario Regulation 316/19 would take effect on the first day of the month following the month in which the review is completed (or earlier in certain situations). Where such a rent increase would otherwise take effect in the 2021 calendar year, the increase will instead take effect on January 1, 2022.
- **Deferring rent increases for households still subject to the "old" RGI rules (s. 12 of O.Reg. 316/19):** While some households have transitioned over to the province's new, simplified RGI calculation rules under Ontario Regulation 316/19, the regulations provide that (until June 30, 2021) rent for some households is still calculated in accordance with the now-revoked Ontario Regulation 298/01. If a Service Manager determines on a review under the old regulation that the rent should be increased with an effective date in 2021, the increase takes effect on January 1, 2022 even if the rules would have provided otherwise. In addition, if a household transitions from the old regulation in 2021 and experiences an increase in rent at that time, the increase takes effect on January 1, 2022.

The following regulatory amendment has also been made to Ontario Regulation 367/11 to ensure consistency with the 2021 residential rent freeze:

- **Clarify the limitation on recovery of rent that should have been paid in 2021 (s. 65 of O. Reg 367/11):** Where a household receives RGI assistance to which they were not entitled, the Service Manager can recover the underpayment by way of a rent increase. An amendment would prescribe that a rent increase during the 2021 calendar year to recover an underpayment takes effect on January 1, 2022.

### **What is not changing?**

All other requirements under Ontario Regulation 316/19 and Ontario Regulation 367/11 will remain unchanged.

Service Managers and housing providers will continue to be obligated to comply with the RGI rules as set out in Ontario Regulation 316/19 under the HSA, including rules for annual reviews and in-year recalculations of rent, which would be completed in 2021. This preserves the ability to decrease geared-to-income rent payable if household income decreases. However, any calculated rent increase resulting from an annual or in-year review would not take effect until January 1, 2022.

## **Further Information**

For common questions and answers regarding the 2021 rent freeze regulatory amendments for geared-to-income tenants, please see the attached questions and answers document.

The amendments to Ontario Regulation 316/19 are available through the following hyperlink:

<https://www.ontario.ca/laws/regulation/190316>

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

<https://www.ontario.ca/laws/regulation/110367>

Should you have further questions, please contact your Team Lead, Regional Housing Services.

## Questions and Answers

### Rent Freeze Regulatory Amendments for Geared-to-Income Tenants

The purpose of this document is to provide common questions and answers on recently approved rent freeze regulatory amendments to Ontario Regulation 316/19 and Ontario Regulation 367/11 under the *Housing Services Act, 2011* (HSA). This document is meant to accompany SH Notification 20-10, released on December 2, 2020.

The amendments to Ontario Regulation 316/19 are available through the following hyperlink:

<https://www.ontario.ca/laws/regulation/190316>

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

<https://www.ontario.ca/laws/regulation/110367>

Should you have further questions, please contact your Team Lead, Regional Housing Services.

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#### **When will the regulatory amendments come into effect?**

The regulatory amendments will come into force on January 1, 2021.

#### **What will the 2021 rent freeze mean for households that receive RGI assistance?**

Under the rent freeze, the effective date of decisions to increase rent will generally be deferred until January 1, 2022, but rent could still be reduced during that time.

During the rent freeze period, RGI households will continue to be required to submit all necessary information for annual or in-year reviews (which would continue to occur in 2021), however, any calculated rent increase resulting from these reviews would not take effect until January 1, 2022.

#### **What will the 2021 rent freeze mean for RGI households who pay minimum rent?**

Regulatory amendments will clarify that for the purposes of indexing the minimum rent under section 2 of Ontario Regulation 316/19 for the period from July 1, 2021 to June 30, 2022, the percentage increase to be used is 1.5 per cent (the original rent increase guideline published in the Ontario Gazette). The effect is that minimum rent will increase in the 2021 calendar year, despite the rent freeze.

However, consistent with the rent freeze legislation, regulatory amendments will also clarify that any rent increase in 2021 resulting from an increase to minimum rent will be deferred until January 1, 2022.

For example, if an RGI household that is paying minimum rent at \$93 per month has its annual review in September 2021 after which it would be required to pay the increased minimum rent of \$101 per month (per subsection 2(5), Ontario Regulation 316/19), the

household will continue paying \$93 per month rate until the end of 2021. Starting January 1, 2022, household rent would increase to \$101 per month.

**Will Service Managers and housing providers need to conduct annual or in-year reviews in 2021? Will RGI households need to report household changes in 2021?**

Yes, in the 2021 calendar year, Service Managers and housing providers will continue to be obligated to comply with the RGI rules as set out in Ontario Regulation 316/19 under the HSA. This includes rules for annual reviews and in-year recalculations of rent, which will continue to be completed in 2021.

Likewise, RGI households will still be required to report certain household changes and submit all necessary information for annual or in-year reviews. Failure to report certain changes or provide necessary information for reviews could result in the household being determined ineligible for assistance.

**Can households be determined ineligible for RGI assistance in 2021? If so, does rent remain frozen?**

Yes, during the 2021 calendar year, households may continue to be determined to be ineligible for RGI assistance in accordance with the HSA.

If a household determined to be ineligible in 2021 is required to enter into a new, non-RGI lease, rent could increase to the market rate in 2021. However, where there is no change to the lease agreement as a result of RGI ineligibility, rent would not increase from the existing amount until the expiry of the freeze.

**When does the rent freeze end? What happens at the end of the rent freeze period?**

The rent freeze will end on December 31, 2021. On January 1, 2022, any geared-to-income rent increase resulting from an annual or in-year review that would have come into effect in 2021 would be implemented.

For example, an RGI household paying \$300 per month in rent reports an income increase through their scheduled annual review in 2021. While their rent would be recalculated, the decision would not be implemented until after the 2021 calendar year and the household will continue to pay \$300 month until that time.

**What happens if an RGI household transfers to a new unit and rent should increase?**

From a *Residential Tenancies Act, 2006* (RTA) standpoint, a transfer would generally be a new tenancy and so the new starting rent would not be subject to the RTA rent freeze.

If the Service Manager's practice is to perform a new initial rent calculation at the time of a transfer to a new provider, the RTA would not prohibit a rent increase. However, the amendments provide that rent increases resulting from annual and in-year reviews in 2021 are deferred to January 1, 2022.

**What happens if an RGI household had an unreported change in 2020 that would have otherwise increased rent, but the change was not reported or discovered until 2021?**

*December 2, 2020*

The HSA regulations provide that decisions to increase rent that would take effect in 2021 would take effect on January 1, 2022.

Any rent increase resulting from an unreported 2020 change would need to take effect prior to January 1, 2021 or would be otherwise deferred to January 1, 2022.