



REVISED 2004-09-08

DIRECTIVE

- ☒ **Legislation/Regulation**
☒ **Operational**

DATE: 2004-06-14
NUMBER: 04-05

The policies and procedures in this Directive are to be implemented by housing providers funded by the Municipality under the following programs:

<input checked="" type="checkbox"/>	Public Housing Program	<input type="checkbox"/>	Aboriginal Program
<input checked="" type="checkbox"/>	Non-Profit Program	<input checked="" type="checkbox"/>	Public Housing Rent Supplement Program
<input checked="" type="checkbox"/>	Co-Op Program	<input checked="" type="checkbox"/>	Ontario Community Housing Assistance Program (OCHAP)
<input type="checkbox"/>	Federal Program	<input checked="" type="checkbox"/>	Community Sponsored Housing Program (CSHP)
<input checked="" type="checkbox"/>	Social Housing Registry		

* Please note: If your program is not checked, this Directive doesn't apply to your project.

SUBJECT:

Limitation periods for former tenant/member arrears revised

BACKGROUND:

Under the terms of new operating agreements the Service Manager delegated the duty of monitoring the eligibility for rent-geared-to-income assistance (RGI) to housing providers. Part of their responsibility is to enforce legislated eligibility requirements for those tenants/members who owe rental arrears. Section 7(1)(e) of O.Reg. 298/01 states the following:

- in the case of a household other than a special priority household, no member of the household owes arrears either of rent or of money owed as a result of damage caused by a member of the household with respect to any housing project under any housing program, whether administered by the service manager or the Ministry, or if a member of the household does owe such arrears,

- the service manager is satisfied that extenuating circumstances exist, or any member of the household has entered into an agreement with the housing provider for the repayment of the arrears and the service manager is satisfied that the member is making or intends to make all reasonable efforts to repay the arrears.

As prescribed by section 13 of the SHRA, housing providers operating housing projects are responsible,

- (a) for all rent collection matters in respect of the housing project; and
- (b) for entering into an arrangement with a household occupying a unit in the housing project for the repayment of rental arrears if a service manager has determined that the household has paid an amount of geared-to-income rent that is less than the amount of geared-to-income rent payable by the household.

To be eligible for RGI assistance any applicant/tenant/member has an obligation to repay owed rental arrears or arrears owed as a result of damage caused by a member of the household with respect to the housing project. Former tenant arrears are subject to recovery through an agreement with the housing provider for repayment. The Social Housing Reform Act, 2000 and corresponding regulations are silent with respect to the timeframe.

However, statutory limitations under section 4 and section 24 of the Limitations Act, 2002 should guide housing providers who are responsible for the collection of tenant arrears. The new general limitation is two years. If rental arrears were known before the Act came into force on January 1st 2004, the old limitations period of six years applies. If arrears owed for reasons other than rent, i.e. damages to the housing project or other circumstances other than rent, the time period to commence an action against the tenant would be two years.

In some cases, an applicant/tenant/member with rental arrears or arrears owed as a result of damage caused by a member of the household may acknowledge responsibility with respect to former arrears and undertake a written commitment to repay under the terms of the repayment agreement with the former housing provider. This will allow to “update the debt” so that it is enforced as of the date of the repayment agreement. In this case, the limitation period will begin from the time of this agreement.

The 6 and 2 year limitation periods apply only to bringing a court action for enforcement and do not preclude collection by other voluntary methods. A housing provider may request a voluntary repayment schedule, and a repayment agreement may be accepted by the housing provider after the limitation period has expired. A housing provider may not refuse to enter into a lease based on refusal to enter into a voluntary repayment schedule.

ACTION TO BE TAKEN:

1 Actions to be taken by Housing Providers:

(a) To apply legislated limitation periods

Housing providers must apply the following limitation periods for former tenant/members arrears with respect to rent-geared-to-income (RGI) and market units in their housing projects as prescribed by the Limitations Act, 2002:

- 6 years for former tenant/member rental arrears recorded before January 1, 2004

- 6 years for to tenant/member rental arrears recorded starting January 1, 2004
- 2 years for arrears other than rent (damages to the housing project, additional fees and charges allowed under the Tenant Protection Act with respect to a unit , the initial fee for the membership if the housing provider is a non-profit co-operative or other circumstances other than rent).

Housing providers are accountable for the collection of former tenant/member arrears and must bring court action in order to have an enforceable debt after the limitation period has run. They may enter into voluntary repayment agreements with former tenants/members for the amount owed after the expiration of limitation periods. Without a court order or voluntary agreement, arrears are extinguished and unenforceable after a limitation period arises and are not a debt at law.

In the event of voluntary repayment agreements between housing providers and former tenant/members, the 2 or 6 year limitation period starts from the date indicated in the undersigned repayment agreement.

(b) To review former tenant/member arrears

- Review impact of the Limitation Act, 2002 on former tenant/member arrears preferably with a legal advisor
- Review former tenant/member arrears files for RGI and market units starting January 1st, 1998 and identify collectible former tenant/member arrears that may be enforced through the Court
- Review former tenant/member arrears files for RGI and market units and identify collectible former tenant/member arrears starting from January 1st 2004 that may be enforced before January 1, 2006
- Apply the relevant limitation period to repayment agreements with former tenants/members recorded since January 1, 2004
- Following the review, steps to recover rental or arrears other than rent should not harass the tenant/member, his/her spouse or same-sex partner or any member of his/her family or household.

(c) To notify The Social Housing Registry:

- Notify the Social Housing Registry of extinguished and unenforceable rental arrears or arrears owed as a result of damage caused by a member of the household with respect to the housing project, including RGI and market units
- Notify the Social Housing Registry of the date of new repayment agreements with former tenants/members who voluntarily acknowledge the debt after the expiration of limitation periods.

2. Actions to be taken by The Social Housing Registry:

- The Social Housing Registry must record extinguished and unenforceable rental arrears and arrears owed as a result of damage caused by a member of the household with respect to the housing project, including RGI and market units, upon notification from the housing provider or as being reported by an applicant for RGI assistance
- The Social Housing Registry must update the former tenant/member arrears database based on the list of uncollectible arrears as prepared by housing providers.

This Directive was released on July 1st, 2004 and amended on September 8th, 2004.
The Limitations Act, 2002 came into effect on January 1st, 2004.

SOCIAL HOUSING REFORM ACT, 2000 – REFERENCE:

If you have any questions, please contact Mila Kolokolnikova, Supervisor of Program, Policy & Research

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