

# Housing Support Assistance Amendment 2019

This instrument is made under section 101 of the Social Security Act 2018 by the Minister for Social Development.

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## Instrument

### 1 Title

This instrument is the Housing Support Assistance Amendment 2019.

### 2 Commencement

This instrument comes into force on 4 November 2019.

### 3 Principal programme amended

This instrument amends the Housing Support Assistance Programme<sup>1</sup> (as established and approved on 26 June 2014) (the **principal programme**).

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<sup>1</sup> New Zealand Gazette, 3 July 2014, page 1975

**4 Clause 4 amended (Interpretation)**

- (1) In clause 4(1), insert in the appropriate alphabetical order:  
“**rent arrears assistance**” means the recoverable special assistance under subpart 7 of Part 2  
“**rent arrears**” means a debt owed for rent required by the tenant’s landlord under a current boarding house tenancy agreement or tenancy agreement excluding any service costs that are included in that rent  
“**service costs**” has the same meaning as in section 65(2) of the Act.
- (2) In clause 4(1), 52-week period, after “programme” insert “(other than rent arrears assistance)”.

**5 Clause 6 amended (Assistance is discretionary)**

- (1) In clause 6(3), after “moving assistance”, delete “letting fees assistance”.
- (2) In clause 6(3), after moving assistance, insert “rent arrears assistance”.

**6 Clause 6A amended (Relationship between Parts 2, 3 and former Part 4)**

In clause 6A(1), after “bond assistance”, delete “, and “letting fees assistance,”.

**7 Clause 45 amended (Purpose of this Part)**

- (1) In clause 45(a), after “bonds”, delete “,” insert “and”.
- (2) In clause 45(a), after “advance”, delete “, and letting fees”.

**8 Clause 48 amended (Conditional grant letter assistance: components and limits)**

In clause 48(1), revoke clause 48(1)(a).

**9 Clause 51 amended (Conditional grant letter assistance: conditions of payment)**

In clause 51, revoke clause 51(b).

**10 New Subpart 7 inserted**

In part 2, after subpart 6, insert:

“Subpart 7—Rent arrears assistance

**“44A Purpose of this subpart**

The purpose of this subpart is to allow for recoverable grants of special assistance to specified people towards the payment of rent arrears required by their landlord to help retain their alternative housing or social housing and avoid the need for emergency housing or to prevent people from becoming homeless.

#### **“44B Interpretation**

In this Part, —

**52 week-period**, in relation to rent arrears assistance, means a period of 52 weeks commencing on the date on which a rent arrears assistance grant is first made to an applicant and does not include the date that a rent arrears grant is first made to their spouse or partner.

#### **“44C Rent arrears assistance: eligibility**

- (1) An applicant who meets the residential criteria is eligible to be considered for a rent arrears assistance grant under this programme if,
  - (a) the applicant (whether alone or together with any other person) is either—
    - (i) a tenant of any social housing; or
    - (ii) a person who is awaiting allocation of social housing; or
    - (iii) a person who has contacted MSD or the agency in regard to the person’s housing need, including a tenant of any alternative housing; and
  - (b) the applicant is a signatory to a tenancy agreement or is subject to a tenancy order made by the court under section 122 of the Family Violence Act 2018; and
  - (c) is required by their landlord to pay rent arrears; and
  - (d) is at risk of losing their tenancy due to those rent arrears; and
  - (e) is likely to retain and sustain their tenancy if rent arrears assistance is granted.

#### **“44D Rent arrears assistance: ineligibility**

- (1) An applicant is ineligible for rent arrears assistance if they—
  - (a) have cash assets or income in excess of the cash assets limit and income limit; or
  - (b) are eligible for other financial assistance payable to them under the Act to assist with rent arrears such as an advance payment of instalments of benefit under section 347 of the Act or payment under the recoverable assistance programme; or
  - (c) are subject to a non-conditional order terminating the tenancy made under section 55 or 56 of the Residential Tenancies Act 1986; or
  - (d) have received a notice terminating the tenancy under section 51 or 53 of the Residential Tenancies Act 1986; or
  - (e) are applying for rent arrears assistance for a tenancy that is not subject to the Residential Tenancies Act 1986.

#### **“44E MSD must consider whether applicant is at risk of losing tenancy**

- (1) When determining whether to make a rent arrears assistance grant MSD must consider whether an applicant is at risk of losing their tenancy because of rent arrears.

- (2) Without limiting subclause (1), the following factors are examples of when an applicant may be at risk of losing a tenancy:
- (a) the applicant and landlord have made an agreement for payment of rent arrears and the applicant is unable to pay these costs;
  - (b) the landlord has issued a notice to remedy for rent arrears under section 56(b)(i) of the Residential Tenancies Act 1986;
  - (c) the landlord has applied to the Tenancy Tribunal seeking an order for payment of rent arrears;
  - (d) the applicant is subject to an order to pay rent arrears to the landlord made by the Tenancy Tribunal under section 78 of the Residential Tenancies Act 1986.

**“44F Rent arrears assistance: restrictions on grant**

- (1) Only 1 grant of rent arrears assistance may be made to an applicant in a 52-week period, unless exceptional circumstances apply.

**“44G More than 1 grant if exceptional circumstances apply**

- (1) If exceptional circumstances apply, an applicant may receive more than 1 rent arrears grant within the same 52-week period.
- (2) In this clause and clause 44F, —
- exceptional circumstances** means circumstances beyond the applicant’s control and includes the applicant needing to move to a different property because of violence against them or their family, or the applicant requiring emergency hospitalisation.

**“44H Rent arrears assistance: principles to be applied in exercise of discretion to grant assistance**

- (1) In exercising the discretion under clause 6(1), MSD must have regard to —
- (a) the reasons the applicant needs rent arrears assistance;
  - (b) the applicant’s ability to pay the rent arrears owed from their own resources;
- (2) In exercising the discretion under clause 6(1), MSD may consider:
- (a) the extent to which the applicant has caused or contributed to rent arrears being owed; and,
  - (b) any other matters MSD considers relevant.

**“44I Rent arrears assistance amounts and limits**

- (1) The amount of a grant of rent arrears assistance under clause 6(1) must not exceed the lesser of the following amounts—
- (a) the amount of rent arrears the applicant is required to pay by the landlord; or
  - (b) \$2,000.

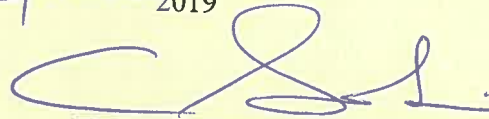
**44J Rent arrears assistance recoverable**

Any grant of rent arrears assistance is recoverable from the applicant and the amount of the grant is a debt to the Crown for the purposes of regulation 206(d)(i) of the Social Security Regulations 2018.

**11 Subpart 3 revoked (Letting fees assistance)**

(1) Revoke Subpart 3.

At Wellington this 2<sup>nd</sup> day of September 2019



Minister for Social Development

**Explanatory note**

*This note is not part of the instrument but is intended to indicate its general effect.* This instrument, which comes into effect on 4 November 2019, allows for recoverable grants of rent arrears assistance to specified people to help retain and sustain their alternative housing or social housing and avoid the need for emergency housing or to prevent people from becoming homeless.

Clause 11 revokes letting fees assistance payable under Subpart 3 because section 17A of the Residential Tenancies Act 1986 makes it unlawful to charge letting fees. Clauses 5(2), 6, 7, 8 and 9 amend or revoke references to letting fees in the principal programme.