

Program Instructions



This Program Instruction applies to the following:

- ✓ HSA Part VII Housing Providers (Provincial Reform)
- ✓ Rent Supplement – Social Housing Rent Supplement Program
- ✓ Rent Supplement – Commercial and Strong Communities
- ✓ Former Federal Program Housing Providers (s.15. 1/27, s.56. 1/95)
- ✓ Housing York
 - ✓ Public Housing
 - ✓ HSA Part VII

ADMINISTERING RENT-GEARED-TO-INCOME DURING THE 2021 PROVINCIAL RENT FREEZE

Effective Date: January 1, 2021

Summary

This Program Instruction provides direction to housing providers on administration of RGI during the rent freeze under the current RGI rules set by *O. Reg. 298/01*, which remain in place in York Region and apply to RGI reviews completed until June 30, 2021. The Government of Ontario has frozen most residential rents for the period of January 1, 2021 and December 31, 2021, including rents and housing charges paid by households receiving rent-geared-to-income (RGI) in community housing.

York Region will release an additional program instruction in Spring 2021 to provide direction on administration of RGI during the rent freeze under the new RGI rules set by *O. Reg. 316/19*, which will apply to RGI reviews completed beginning July 1, 2021.

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Background

On October 1, 2020, the Government of Ontario enacted the *Helping Tenants and Small Businesses Act, 2020*, amending sections of the *Residential Tenancies Act, 2006* (RTA) to freeze rents at 2020 levels for most residential tenancies, prohibiting landlords from increasing rents between January 1 and December 31, 2021. The 2021 rent increase guideline has been set to 0%, freezing rents, despite the guideline amount previously published in *The Ontario Gazette*. On December 2, 2020, the province amended regulations under the *Housing Services Act, 2011* to clarify application of the rent freeze to rent-gated-to-income (RGI) assistance.

The rent freeze applies to market rent households in community non-profits and households who receive RGI assistance in non-profits and co-operatives. The rent freeze does not apply to co-operative members paying market housing charges, as they are not subject to the rent increase guideline under the RTA. Housing charges for co-operatives are set by a resolution of the members.

Action Required

No tenant or member receiving RGI will experience an increase to RGI in the 2021 calendar year, even if the following occurs:

- Increase in income of any household member
- Someone joins the household
- A household transitions from rent scales for Ontario Works (OW) and Ontario Disability Support Program (ODSP) to RGI for family units
- Changes in OW or ODSP rent scale as a result of someone joining the household
- A household is found to be ineligible for RGI
- A household fails to submit the information required as part of an annual review

Any increase that results from an annual or in-year review that would otherwise take effect in 2021 will be effective January 1, 2022.

Housing providers continue to be required to complete annual and in-year reviews in accordance with *O. Reg. 298/01*, which remains in effect in York Region and applies to RGI reviews completed until June 30, 2021. York Region will issue further direction in Spring 2021 on administering RGI during the rent freeze under the new RGI rules, which apply beginning July 1, 2021.

During the rent freeze, tenants and members retain the ability to request reviews of housing provider decisions about RGI calculations or eligibility, in accordance with [Program Instruction 2018-04: Decision Review](#). Decision reviews must continue to be made within 15 days of the date of the decision letter, regardless of the date the change takes effect.

Housing providers requiring assistance with notifying tenants and members of the outcome of annual and in-year reviews during the rent freeze may contact their Program Coordinator for letter templates.

ANNUAL REVIEWS

Complete annual reviews for RGI tenants and members following the standard processes and timeframes set out in *O. Reg. 298/01*. Annual reviews are an important opportunity to keep in contact with tenants and members, verify their eligibility and household composition, and refer them to financial supports if needed.

When completing an annual review:

1. If the results of the review indicate the tenant or member's RGI will increase because of the change, the tenant or member will begin to pay the higher amount on January 1, 2022. This also applies to tenants and members being increased to the maximum RGI (equivalent to market). Issue the notice of increase to the tenant or member explaining the increase of RGI is deferred to January 1, 2022 due to the provincial rent freeze.
2. If the results of the review indicate the tenant or member's RGI will decrease because of the change, the reduced RGI may take effect the first day of the following month after the notice is issued, as usual. Issue the notice of decrease to the tenant or member with the appropriate effective date.
3. Tenants and members found to be ineligible for RGI must continue to be given 90 days' notice of the increase to market rent or housing charge, with the increase taking effect no earlier than January 1, 2022.

Housing providers are encouraged to issue additional notices later in 2021 to tenants and members with deferred increases reminding them of the effective dates.

IN-YEAR REVIEWS

Under *O. Reg. 298/01* and [Program Instruction 2012-06: Reporting Changes to Income and Household Composition](#), tenants and members are required to report in-year changes within 30 days, and housing providers must adjust rents accordingly. This requirement remains in effect until June 30, 2021.

When completing an in-year review:

1. If the results of the review indicate the tenant or member's RGI will increase because of the change, the tenant or member will begin to pay the higher amount on January 1, 2022. Issue the notice of increase to the tenant or member explaining the increase of RGI is deferred to January 1, 2022 due to the provincial rent freeze.
 - a. There may be situations from January to June 2021 where a tenant or member reports an in-year change that normally would result in a rent increase, but their annual review is scheduled to take place prior to January 1, 2022. In these situations, housing providers should explain the change that would otherwise have taken effect, but that due to the provincial rent freeze, RGI will not be adjusted until their next annual review is completed.
2. If the results of the review indicate the tenant or member's RGI will decrease because of the change, the reduced RGI may take effect the first day of the following month after the notice is issued, as usual. Issue the notice of decrease to the tenant or member with the appropriate effective date.

3. Tenants and members found to be ineligible for RGI must continue to be given 90 days' notice of the increase to market rent or housing charge, with the increase taking effect no earlier than January 1, 2022.

Beginning July 1, 2021, in-year reviews will only be permitted under certain circumstances to be determined by the Region, under the new RGI rules.

Housing providers are encouraged to issue additional notices later in 2021 to tenants and members with increases deferred to January 1, 2022 reminding them of the upcoming change.

APPLYING MINIMUM RENT

In June 2020, York Region issued [Program Instruction 2020-06: Minimum Rent Payable for Tenants and Co-operative Members Receiving Rent-Geared-to-Income](#) outlining the changes to minimum rent under RGI simplification. Beginning July 1, 2020, the minimum rent is \$129. The province committed to indexing this amount annually by the rent increase guideline. The minimum rent will increase by 1.5%, to \$131, which housing providers will use for reviews completed beginning July 1, 2021 for tenants and members paying an RGI higher than \$131 before their review, as tenants and members paying a lower RGI are subject to phase-ins.

Any planned phase-ins for 2021 must be deferred to January 1, 2022. Additionally, households who had a review implemented before the rent freeze who are paying the minimum rent of \$129 may not be increased to \$131 until January 1, 2022.

York Region will issue a program instruction in Spring 2021 outlining in greater detail the minimum rent rates for July 2021. The rent freeze means that some housing providers will have tenants and members paying various minimum rent amounts of \$85, \$93, \$129 or \$131 in 2021. Examples are provided below.

Example 1

- A co-operative member is currently paying the minimum housing charge of \$85 per month, plus any additional charges such as parking or sector support
- At their next RGI review in March 2021, the housing provider finds the member's calculated RGI is \$80 per month, including any utility charges or allowances
- The member's housing charge is to be increased to the phased-in minimum rent rate of \$93 (\$85 +\$8) per month, plus any additional charges such as parking
- Because of the rent freeze, this increase will take effect January 1, 2022 and for the remainder of 2021, this member will continue to pay \$85

Example 2

- A tenant started receiving RGI assistance in September 2020 and their calculated RGI was \$100 per month, including any utility charges or allowances
- Because of the tenant's calculated RGI of \$100 per month, the housing provider set their RGI at the minimum rent of \$129, plus any additional charges such as parking

- At the next annual review in September 2021, the housing provider reviewed the tenant's income which had not changed since September 2020; the household is to continue to pay the minimum rent of \$129
- Under the minimum rent rules, minimum rent was indeed by the province on July 1, 2021 at 1.5% and increased to \$131
- However, because of the 2021 rent freeze period, the tenant's rent remains \$129, plus any additional charges, for the remainder of 2021 and increases to \$131 on January 1, 2022

RECOVERY OF OVERPAYMENTS

In situations where a tenant or member has received RGI assistance to which they were not entitled, housing providers typically recalculate RGI on a retroactive basis. Housing providers cannot increase RGI retroactively in 2021 to collect overpayments of subsidy. Throughout 2021, the tenant or member will continue to pay the RGI amount that was in place as of December 31, 2020, and the effective date of any retroactive increase must be January 1, 2022. Housing providers are encouraged to enter into separate agreements with tenants and members for the repayment of retroactive amounts owing for 2020, as they are considered debts owing to York Region as Service Manager under section 56 of the *Housing Services Act, 2011*.

TRANSFERS

Tenants and members transferring to another unit are not subject to the rent freeze and can have their RGI increased if necessary, as transfers represent a new tenancy under the RTA. For example, a household determined to be overhoused transferring from a two-bedroom unit to a one-bedroom unit would typically sign a new lease and have their RGI reviewed. Increases to their RGI would be permitted.

ADDITIONAL FEES AND CHARGES

Landlords and tenants can agree to an increase in rent in 2021 for a new service or facility (e.g. parking), in accordance with the RTA. Tenants and members already paying additional fees for services or facilities, the change cannot be increased in 2021. Housing providers are encouraged to seek legal advice to determine how additional fees for other services or facilities are affected by the rent freeze.

Authority: *Housing Services Act, 2011* – section 50
 O. Reg. 316/19 – sections 2, 10, 11 and 12
 O. Reg. 367/11 – section 65

Please contact your Program Coordinator with any questions.

This notice will be available in an accessible format or with communication supports upon request from 1-877-464-9675 or 905-830-4444 ext. 72119.

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