



## Housing Services Notice

**Date: February 25, 2020**

**HSN#: 2020-04**

This applicable legislation/policy is to be implemented effective this date by the housing provider(s) under the following programs:

Please note if your program is not checked this change is not applicable to your project.

- Federal Section 95 Non-Profit Housing Program
- Federal Section 26/27 Housing Program
- Federal Urban Native Non-Profit Housing Program
- Private Non-Profit Housing Program (Provincial Reformed)
- Municipal Non-Profit Housing Program (Pre-1986)
- Local Housing Corporation
- Rent Supplement Programs
- Affordable Housing Program (AHP)/Investment in Affordable Housing Program (IAH)/Social Infrastructure Fund (SIF)
- Housing Access (Centralized Waiting List Services)

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**Subject: Amendment to Ontario Regulation 367/11  
Refusal to Offer Based on Previous Eviction for Serious Illegal Activity**

**Reference:** Ontario Regulation 367/11

**Background:**

Ontario Regulation 367/11 under the Housing Services Act 2011 was recently amended to allow housing providers to refuse to offer a unit to a household based upon a previous conviction for serious illegal activity.

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. A housing provider may refuse to offer a unit to a household only in certain limited circumstances.

Effective September 23, 2019, section 50 and section 77 of the regulation 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 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, the ground of refusal is only available where the past eviction order was based on certain types of serious illegal activity. 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 final decision on appeal.

What types of illegal activity does the rule address?

- 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.

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.

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.

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).

This rule also applies to evictions from non-profit housing co-operatives.

This community safety rule took effect **September 23, 2019**.

**Action:**

If a housing provider decides to refuse to offer a unit to a household based on this rule, the housing provider is required to notify the household in writing. The notice must include wording that informs the household of their right to request an internal review of this decision.

Housing providers refusing to offer a unit to a household under this rule must also make note of that decision and of the notification to the household in the DNSSAB's Housing Registry System.

If you have any questions or concerns regarding this or any other Housing Services Notice, please contact the Housing Services Administrator assigned to your portfolio:

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