# CG-HI-007

|  |  |  |
| --- | --- | --- |
| Version | Issued | Dates of Effect |
| From: | To: |
| 1 | 15 December 2006 | 15 December 2006 | 31 December 2007 |
| 2 | 2 January 2008 | 1 January 2008 | 30 June 2011 |
| 3 | 1 July 2011 | 1 July 2011 | 3 December 2012 |
| 4 | 7 December 2012 | 4 December 2012 | Current |

# Purpose

1. This Guideline sets out the circumstances and conditions under which the Territory Revenue Office (“TRO”) may approve an instalment arrangement under section 41(6) of the *First Home Owner Grant Act* (“the Act”) for the repayment of the first home owner grant and payment of any penalty and interest (“the debt”).

# Requirement to repay the grant

1. A grant recipient is required to notify TRO in writing and repay the grant within 30 days where the recipient:
	1. is ineligible for the grant
	2. failed to meet the residence requirements
	3. did not comply with a condition placed on the payment of the grant
	4. was overpaid the amount of grant to which they were entitled.[[1]](#footnote-1)
2. For further information on the requirement to repay the grant, refer to Commissioner’s Guideline CG-HI-002: *Home owner assistance schemes – Interest and penalties*.

# Penalty and interest

1. If the recipient fails to repay the amount of the grant or overpayment within the 30 day period, TRO will issue a notice requiring repayment of the grant together with interest and a penalty in accordance with Commissioner’s Guideline CG-HI-002.
2. Interest is payable on the amount of the grant or overpayment that remains outstanding after the 30-day period[[2]](#footnote-2) and is also payable on any penalty that remains unpaid after the due date for payment specified in the notice.[[3]](#footnote-3)
3. The requirement to pay the debt by the relevant date may cause the recipient financial hardship. Accordingly, the Act provides that TRO may approve an instalment arrangement to assist with the payment of the debt.[[4]](#footnote-4)
4. As a general rule where TRO approves a debt to be paid by way of an instalment arrangement, interest at the statutory rate will apply from the due date for payment until the debt is paid irrespective of whether or not the interest rate applying prior to the approval of the instalment arrangement was remitted in accordance with Commissioners Guideline CG HI-002 and Commissioners Guideline CG-GEN-004. For current interest rates, refer to TRO’s website www.revenue.nt.gov.au.
5. This interest is calculated on that part of the debt that comprises the grant and penalty payable, but not to any interest accrued to that date. Where satisfied that it is appropriate, the Commissioner may remit (in whole or in part) the interest payable under an instalment arrangement.[[5]](#footnote-5)
6. From 1 January 2020 to 31 December 2020, a concessional interest rate may apply in limited circumstances to certain eligible tax defaults the subject of instalment arrangements. Refer to Commissioner’s Guideline CG-GEN-006: *Concessional interest rate* for more information.

# Terms and conditions of instalment arrangements

1. Following are the general terms and conditions under which TRO may approve an instalment arrangement.
2. Of note, the application will be refused where TRO considers that the grant recipient has not made a full and true disclosure as to their current financial circumstances, or the grant recipient refuses to provide information requested by TRO to assist in determining their instalment arrangement application.

## Demonstrated financial incapacity

## Where the grant recipient proposes an instalment arrangement that will repay the debt within 12 months or less, the recipient must provide evidence that the recipient or their spouse or de facto partner does not have funds including savings or unused credit or loan facilities available to repay all or part of the debt.

## Where the grant recipient proposes an instalment arrangement that will take longer than 12 months to repay the debt, the recipient must provide evidence that:

## the recipient or their spouse or de facto partner does not have funds including savings or unused credit or loan facilities available to repay all or part of the debt

## the recipient and their spouse or de facto partner have applied for and have been refused loans, advances or other credit for all or part of the amount of the debt such as personal loans, an increased or second mortgage over the home and/or other property owned by the recipient and their spouse or de facto partner.

## Separate rules apply where the grant was received in circumstances where TRO considers that the recipient knowingly applied for it when they were ineligible, never intended to satisfy the residence requirements or deliberately breached a condition imposed on the payment of the grant. In these circumstances, the recipient must provide evidence that they and their spouse or de facto partner have applied for and have been refused loans, advances or other credit such as personal loans, an increased or second mortgage over the home and/or other property owned by the recipient and their spouse or de facto partner for all or part of the amount of the debt.

## Length of instalment arrangements

1. Instalment arrangements will generally only be approved for the shortest period of time that is within the recipient’s financial capacity to pay.

## Periodical review

1. It is a condition of all instalment arrangements that TRO will periodically review the recipient’s circumstances and will adjust the amount and/or timing of instalment payments where the recipient's or their spouse’s or de facto partner’s financial situation changes.

## Commitment of additional funds

1. A condition of all instalment arrangements will be that any unexpected funds, windfalls or additional disposable income that becomes available to the recipient or their spouse will be used to reduce the amount of the debt. Where such amounts are available, TRO must be advised and the amounts applied to reduce the debt.

## Security for payment of the debt

## A liability to repay the amount of the grant and to pay any penalty and interest will be secured by an overriding statutory charge on the home for which the recipient was paid the grant.[[6]](#footnote-6)

## TRO will register the overriding statutory charge against the home where full payment of the debt has not been received within the relevant 30-day payment period referred to in Commissioner’s Guideline CG-HI-002. The charge will not be removed until the debt is paid.

## Where the recipient has sold the home before the charge is registered on that home, TRO may require security over another property owned by the recipient, particularly where the instalment arrangement exceeds six months.

## Other conditions

1. TRO will impose any other conditions as are considered appropriate in the circumstances of a particular case.

# Applications and supporting information

1. All applications for approval of an instalment arrangement must be in writing, setting out fully and in detail the recipient’s circumstances and reasons why the recipient requires additional time to pay the debt.
2. The application must include:
	1. a proposed instalment arrangement, setting out the amount and frequency of payments (e.g. weekly, fortnightly or monthly)
	2. details of savings and unused credit or loan facilities available to the recipient and their spouse or de facto partner to pay all or part of the debt
	3. details of the monthly income and expenditure of the recipient and their spouse or de facto partner
	4. for proposed instalments arrangements greater than 12 months, evidence of the recipient applying and being rejected for finance for all or part of the amount of the debt
	5. any other information the recipient believes may assist TRO in determining the application.
3. An application for an instalment arrangement should be made as soon as possible once the grant recipient becomes aware of the debt. Any delay in lodging an application after the due date for payment may influence TRO’s assessment of the recipient’s commitment to the arrangement.
4. The application will be refused where the recipient does not provide sufficient information to enable TRO to make an informed decision on the application for approval or fails to provide additional information within a reasonable period when requested to by TRO.

# Approval of an instalment arrangement

1. TRO will to take into account the following factors in determining an application for an instalment arrangement.
	1. In cases where the recipient knowingly applied for the grant when they were ineligible, never intended to satisfy the residence requirements or deliberately breached a condition imposed on the payment of the grant, the degree of the recipient’s culpability will be a dominant consideration in determining whether an instalment arrangement, rather than legal recovery action, is appropriate.
	2. Whether or not the prospects of recovery of the full amount of the debt in the longer term will be diminished.
	3. Whether it would be reasonable in the circumstances for the recipient to access funds through a commercial lending provider.
	4. Any other matter TRO considers relevant in the circumstances of the particular case.

# Order of repayments

1. Instalments will generally be applied to reduce the debt in the following order of preference:
	1. the interest accruing as a result of the non-payment of the debt
	2. the penalty
	3. the amount of the outstanding grant

# Review of instalment arrangements

1. If the financial circumstances of a recipient deteriorate such that they cannot comply with an approved instalment arrangement, the recipient must notify TRO immediately. The recipient must provide sufficient information about their current financial circumstances to allow TRO to determine whether it is appropriate to renegotiate a more suitable instalment arrangement or pursue other methods to recover the debt.

# Breach of instalment arrangements

1. If a recipient defaults on an instalment or does not otherwise comply with a condition of an instalment arrangement, TRO will notify the recipient in writing that if the breach is not remedied within the period stated in the notice, the instalment arrangement will be terminated and immediate legal action will be taken to recover the debt.
2. Continued breaches, regardless of whether they are of the same or a similar nature, will result in TRO revoking the instalment arrangement and pursuing other methods of recovering the debt.

# Commissioner’s Guidelines

1. Commissioner’s Guideline CG-GEN-001, which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Guideline. All Circulars and Guidelines are available from the TRO website.

# Date of effect

1. This version of the Guideline takes effect from 4 December 2012.



Grant Parsons

**COMMISSIONER OF TERRITORY REVENUE**

Date of Issue: 7 December 2012

|  |
| --- |
| For further information please contact the Territory Revenue Office: |
| GPO Box 1974Darwin NT 0801Email: ntrevenue@nt.gov.au | Phone: 1300 305 353Website: [www.revenue.nt.gov.au](http://www.revenue.nt.gov.au/) |

1. Section 41(1) of the Act. [↑](#footnote-ref-1)
2. Section 41(3)(a) of the Act. [↑](#footnote-ref-2)
3. Section 41(3)(c) of the Act. [↑](#footnote-ref-3)
4. Section 41(6) of the Act. [↑](#footnote-ref-4)
5. Section 41(7) of the Act. [↑](#footnote-ref-5)
6. Section 41(5) of the Act. [↑](#footnote-ref-6)