

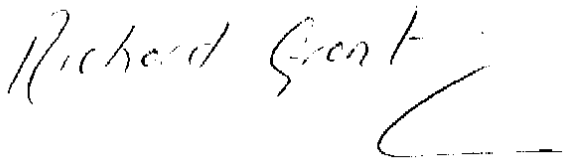
To: **Members of Working Group on Housing Act Implementation**

At the last meeting of the Working Group, we discussed a paper on the need to protect existing rights through a section 11(1) order.

One of the specific points that we discussed was the need for protection for existing joint tenants since the Act specifies that all joint tenants must occupy the house as their only or principal home. At present, the only requirement (for both secure and assured tenancies) is that at least one of the joint tenants occupies the house or his or her only or principal home. We decided that we should seek to protect the position of existing joint tenants who do not occupy the house as their only or principal home.

Our lawyers have pointed out that this could create difficulties for implementation of section 20 of the Act which gives landlords powers to take action against joint tenants who abandon their house. For our proposal to work without completely undermining section 20, landlords would need to be able to clearly identify which tenants are to have their occupation rights protected and we will need to disapply section 20 for these tenants. If the landlord were to make a mistake and use section 20 to bring the tenant's interest to an end in a case of this sort, then the tenant would not be able to use section 21 (tenant's recourse to court) so that the only form of redress would be a judicial review.

I think it would be helpful if we could discuss this at the next meeting on 19 September under matters arising and I have simply circulated this note in advance to facilitate the discussion. Given these complications, there may be a case for rethinking our original position since in practice I doubt if there are many cases where persons who are not only or principal residents have been given joint tenancies. If we decide not to provide protection for those cases that do exist, then relevant joint tenants would be required to either give up their share of the tenancy or agree to occupy the house as their only or principal home at the time the SST is introduced.

A handwritten signature in cursive script that reads "Richard Grant". The signature is written in dark ink and includes a long, sweeping underline that extends to the right.

RICHARD GRANT
September 2001