

Queensland



RESIDENTIAL TENANCIES AMENDMENT ACT 1997

Act No. 15 of 1997



RESIDENTIAL TENANCIES AMENDMENT ACT 1997

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Queensland



Residential Tenancies Amendment Act 1997

Act No. 15 of 1997

An Act to amend the *Residential Tenancies Act 1994*

[Assented to 15 May 1997]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Residential Tenancies Amendment Act 1997*.

Commencement

2. This Act is taken to have commenced on 10 August 1996.

Act amended

3. This Act amends the *Residential Tenancies Act 1994*.

Insertion of new ch 10A

4. After chapter 10—

insert—

‘CHAPTER 10A—APPLICATION OF ACT TO AFFECTED (HOLIDAY LETTING) AGREEMENTS**‘Chapter’s purpose**

‘321A. The purpose of this chapter is, having regard to section 321B, to apply this Act, with the changes provided for in this chapter and schedule 1, to affected (holiday letting) agreements.¹

¹ This term is defined in schedule 1, part 5.

‘Act’s application to affected (holiday letting) agreements

‘321B. Section 21(1)² does not apply to an affected (holiday letting) agreement for the following purposes—

- (a) setting requirements about the giving of an information statement to the tenant;
- (b) setting requirements about the payment of a rental bond for the agreement;
- (c) setting the maximum amount of rental bond payable for the agreement;
- (d) if a rental bond is paid for the agreement—dealing with the rental bond;
- (e) if a dispute arises between the parties to the agreement about a rental bond, or part of a rental bond, paid for the agreement—resolving the dispute.

‘Information statement

‘321C. Section 43³ applies as if subsections (1) and (4) were omitted and the provisions set out in schedule 1, part 1 inserted.

‘Additional provisions about rental bonds

‘321D. This Act applies as if the division set out in schedule 1, part 2 were inserted in chapter 2, part 3, before division 1.

‘Duty to pay rental bonds

‘321E. Section 59⁴ applies as if the provisions set out in schedule 1, part 3 were added.

² Section 21 (Premises used for holidays)

³ Section 43 (Information statement)

⁴ Section 59 (Duty to pay rental bond)

‘Payments above maximum amount

‘321F. Section 77⁵ applies as if—

- (a) subsection (1) were omitted and the provisions set out in schedule 1, part 4 (numbered (1) and (1A)) inserted; and
- (b) the provision set out in schedule 1, part 4 (numbered (4)) were added.

‘Additional definitions

‘321G. This Act applies as if the definitions set out in schedule 1, part 5 were inserted in the dictionary in schedule 3.

‘References to rental bonds received for affected (holiday letting) agreements

‘321H.(1) This section applies to an affected (holiday letting) agreement if there is a dispute between the parties to the agreement about part of a rental bond paid for the agreement.

‘(2) In the application of this Act to the agreement, a reference to the rental bond paid for the agreement is taken to include a reference to the amount representing the disputed part of the rental bond.

‘Provisions in sch 1

‘321I.(1) Words appearing in schedule 1 in italic script do not form part of the schedule, but are included for completeness with a view to helping the reader.

‘(2) Despite subsection (1), the following do form part of schedule 1—

- (a) the division heading in schedule 1, part 2;
- (b) a reference in schedule 1 to the short title of an Act.

‘(3) A reprint of this Act produced under the *Reprints Act 1992* may include a provision set out in schedule 1 in a form that represents the provision as amended from time to time.

⁵ Section 77 (Payments above maximum amount)

‘Validation and saving provisions

‘**321J.(1)** To remove doubt, it is declared that the *Residential Tenancies Amendment Regulation (No. 1) 1996* is, and always was, validly made under this Act.

‘**(2)** Subsection (3) applies for things done, or required to be done, before the enactment of the *Residential Tenancies Amendment Act 1997*.

‘**(3)** For this Act, anything done, or required to be done, under this Act as applied or affected by the regulation is taken for all purposes to have been done, or required to be done, under this Act.

‘**(4)** In this section—

“**regulation**” means the *Residential Tenancies Regulation 1995*, part 2 (other than sections 6 and 8) and schedule 1, as in force on and from 10 August 1996 because of the *Residential Tenancies Amendment Regulation (No. 1) 1996*.

‘Expiry

‘**321K.** This chapter and schedule 1 expire on 31 December 1997.’.

Insertion of new sch 1

5. After section 339—

insert—

‘SCHEDULE 1**‘APPLICATION OF ACT TO AFFECTED (HOLIDAY LETTING) AGREEMENTS**

sections 321C to 321G

‘PART 1—SECTION 43***‘Information statement*****‘43.(1)** This section applies to a lessor only if—

- (a) the agreement is an agreement for which at least some of its terms are required to be in writing; or
- (b) the agreement is an affected (holiday letting) agreement for which a rental bond is required to be paid.

‘(2) The lessor must give to the tenant, as required by this section, a statement in the approved form containing information for the benefit of the tenant.

Maximum penalty—10 penalty units.

‘(3) *Without limiting subsection (2), the information may be about—*

- (a) *the duties and entitlements of the lessor and tenant; and*
- (b) *the procedures for resolving disputes under the agreement (including mediation processes); and*
- (c) *entities to which issues about the agreement may be referred.*

‘(4) The statement must be given to the tenant—

- (a) for an agreement mentioned in subsection (1)(a)—when a copy of the signed agreement is given to the tenant; or
- (b) for an agreement mentioned in subsection (1)(b)—when the rental bond is paid.

‘PART 2—ADDITIONAL PROVISIONS ABOUT RENTAL BONDS (SECTIONS 56A–56E)

‘Division 1A—Requirements about payment of rental bonds for affected (holiday letting) agreements

‘Application of division

‘56A.(1) This division applies only to affected (holiday letting) agreements.

‘(2) This division applies only to a rental bond paid, or requirement to pay a rental bond made, on or after 10 August 1996 (whether the agreement to which the rental bond or requirement relates is entered into before, or on or after, that date).

‘Renting premises

‘56B.(1) This section applies if a rental bond is paid, or required to be paid, for an agreement.

‘(2) If the entering into of the agreement by the lessor was not arranged by an agent of the lessor, the lessor must not enter into another agreement for the premises unless an appropriate rental bond⁶ is paid, or required to be paid, for the other agreement.

Maximum penalty—20 penalty units.

‘(3) If an agent of the lessor arranged for the lessor to enter into the agreement, the agent must not arrange for the lessor to enter into another agreement for the premises unless an appropriate rental bond is paid, or required to be paid, for the other agreement.

Maximum penalty for subsection (3)—20 penalty units.

⁶ The meaning of this term is dealt with in section 56E (Appropriate rental bond).

‘Renting of separate premises in multiple dwelling complex involving same lessor

‘56C.(1) This section applies if—

- (a) a person is the lessor under an agreement for premises situated in a multiple dwelling complex; and
- (b) a rental bond is paid, or required to be paid, for the agreement.

‘(2) If the entering into of the agreement by the person was not arranged by an agent of the person, the person must not enter into an agreement as lessor for other premises in the complex unless an appropriate rental bond⁷ is paid, or required to be paid, for the agreement for the other premises.

Maximum penalty—20 penalty units.

‘(3) If an agent of the person arranged for the person to enter into the agreement, the agent must not arrange for the person to enter into an agreement as lessor for other premises in the complex unless an appropriate rental bond is paid, or required to be paid, for the agreement for the other premises.

Maximum penalty for subsection (3)—20 penalty units.

‘Renting of separate premises in multiple dwelling complex involving different lessors

‘56D.(1) This section applies if—

- (a) an agent of a person arranges for the person to enter into an agreement as lessor for premises situated in a multiple dwelling complex; and
- (b) a rental bond is paid, or required to be paid, for the agreement.

‘(2) The agent must not arrange for another person to enter into an agreement as lessor for other premises in the complex unless an appropriate

⁷ The meaning of this term is dealt with in section 56E (Appropriate rental bond).

rental bond⁸ is paid, or required to be paid, for the agreement for the other premises.

Maximum penalty—20 penalty units.

‘Appropriate rental bond

‘56E.(1) This section applies to a reference in section 56B(2) or (3), 56C(2) or (3) or 56D(2) to an appropriate rental bond paid, or required to be paid, for an agreement (a **“subsequent agreement”**) following the entering into of another agreement (the **“initial agreement”**).

‘(2) The reference is a reference to a rental bond of an amount that is the lesser of the following amounts—

- (a) \$1 000;
- (b) an amount that bears the same proportion to the referable rent for the subsequent agreement as the rental bond paid, or required to be paid, for the initial agreement bears to the referable rent for the initial agreement.

‘(3) In subsection (2)—

“referable rent” for an agreement means—

- (a) if the term of the agreement is at least 1 week—the rent payable under the agreement for 1 week; or
- (b) if the term of the agreement is less than 1 week—the rent payable under the agreement.

‘PART 3—SECTION 59

‘Duty to pay rental bond

‘59.(1) A person receiving a rental bond must, within 10 days of receiving it—

⁸ The meaning of this term is dealt with in section 56E (Appropriate rental bond).

- (a) *pay it to the authority; and*
- (b) *give the authority a notice, in the approved form, about the rental bond.*

Maximum penalty—40 penalty units.

‘(2) Subsection (1) does not apply to a person to whom section 59A applies.

‘(3) Subsection (1) does not apply to a rental bond received for an affected (holiday letting) agreement.

*‘(4) A person (the “**accountable person**”) who receives a rental bond, or a tenant by or for whom a rental bond is paid, for an affected (holiday letting) agreement, may, within 14 days after the term of the agreement ends—*

- (a) *give the authority a notice in the approved form (a “**bond dispute notice**”) informing the authority of a dispute about the rental bond or a part of the rental bond; and*
- (b) *give a copy of the notice to the other person.*

‘(5) If the accountable person gives a bond dispute notice to the authority, or receives a copy of a bond dispute notice from the tenant, under subsection (4), the person must, at or within the time mentioned in subsection (6)—

- (a) *if the dispute is about the entire rental bond—pay the rental bond to the authority; or*
- (b) *if the dispute is about part of the rental bond—*
 - (i) *pay the disputed amount to the authority; and*
 - (ii) *pay the balance of the rental bond to the tenant.*

Maximum penalty—20 penalty units.

‘(6) An amount required to be paid under subsection (5) must be paid—

- (a) *if the amount is required to be paid to the authority and a bond dispute notice is given to the authority by the accountable person—when the notice is given; and*
- (b) *in any other case—within 3 days after the accountable person gives a bond dispute notice to the authority, or receives a copy of*

a bond dispute notice from the tenant.

‘(7) Subsection (4) applies only to a dispute that arises on or after 10 August 1996 (whether the agreement is entered into, or the rental bond is paid, before, or on or after, that date).

‘PART 4—SECTION 77

‘Payments above maximum amount

‘77.(1) A person must not require payment of, or accept, a rental bond more than, or amounts as rental bond totalling more than—

- (a) if paragraph (b) does not apply—
 - (i) for an affected (holiday letting) agreement—the amount fixed under subsection (1A); or
 - (ii) for another agreement—the maximum rental bond for the agreement; or
- (b) if the lessor is the tenant’s employer and gives the tenant a rental subsidy—the amount fixed under subsection (2).

Maximum penalty—20 penalty units.

‘(1A) For subsection (1)(a)(i), the amount is the lesser of the following amounts—

- (a) \$1 000;
- (b) an amount equal to—
 - (i) if the term of the agreement is at least 1 week—the rent payable under the agreement for 1 week; or
 - (ii) if the term of the agreement is less than 1 week—the rent payable under the agreement.

‘(2) For subsection (1)(b), the amount is the greater of the following amounts—

- (a) \$400; or

(b) *the amount equal to the rent payable under the agreement for the period of—*

(i) *for moveable dwelling premises—2 weeks; or*

(ii) *for other premises—4 weeks.*

‘(3) Subsection (1) does not apply if the weekly rent under the agreement is more than—

(a) *the amount prescribed under the regulations; or*

(b) *if an amount is not prescribed—\$300.*

‘(4) Subsection (3) does not apply to an affected (holiday letting) agreement.

‘PART 5—ADDITIONAL DEFINITIONS

‘ “affected accommodation period”, for an affected area, for a year, means—

(a) *the period of 4 weeks starting on the 16th day of September in the year; or*

(b) *the period of 4 weeks starting on the 16th day of November in the year;*

and, for the affected area of the City of Gold Coast, for a year, includes the period starting 9 days before the Indy car race day for the year and ending on that day.

“affected area” means each of the following local government areas—

(a) *City of Cairns;*

(b) *City of Caloundra;*

(c) *City of Gold Coast;*

(d) *Shire of Maroochy;*

(e) *Shire of Noosa;*

(f) *Shire of Whitsunday.*

“affected (holiday letting) agreement” means a residential tenancy agreement—

- (a) for which the right of occupancy of the premises is given for holiday purposes; and
- (b) that is for premises in an affected area; and
- (c) for which the period of occupancy is—
 - (i) an affected accommodation period for the affected area; or
 - (ii) a period that includes an affected accommodation period, or part of an affected accommodation period, for the affected area.

“appropriate rental bond”, for sections 56B, 56C and 56D, see section 56E.

“Indy car race day”, for a year, means the last full day of the period that is the declared period for the year for the *Indy Car Grand Prix Act 1990*.