



Queensland

Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Amendment Regulation 2020

Subordinate Legislation 2020 No. 235

made under the

COVID-19 Emergency Response Act 2020

Residential Tenancies and Rooming Accommodation Act 2008

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Amendment Regulation 2020

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1 Short title

This regulation may be cited as the *Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Amendment Regulation 2020*.

2 Commencement

This regulation commences on 30 September 2020.

3 Regulation amended

This regulation amends the *Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020*.

4 Omission of pt 2, divs 3 and 4

Part 2, divisions 3 and 4—
omit.

5 Omission of pt 2, div 8, sdiv 1 hdg (Notices to leave premises given by lessor)

Part 2, division 8, subdivision 1, heading—
omit.

6 Omission of ss 35–39

Sections 35 to 39—
omit.

7 Amendment of s 40 (Misuse of notice to leave)

(1) Section 40(1)—
omit, insert—

(1) This section applies if a residential tenancy

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agreement ends because, before 30 September 2020, the lessor gave the tenant—

- (a) a notice to leave if premises being sold under repealed section 35; or
- (b) a notice to leave for owner occupation under repealed section 37.

Note—

See also section 91 for the continuation in effect of a notice to leave given under repealed section 35 or 37 before 30 September 2020.

(2) Section 40(3)—

omit.

8 Omission of pt 2, div 8, sdiv 2 (Notices of intention to leave premises given by tenant)

Part 2, division 8, subdivision 2—

omit.

9 Omission of pt 2, divs 9 and 11

Part 2, divisions 9 and 11—

omit.

10 Amendment of s 43 (Reletting costs)

Section 43(2)(c)—

omit, insert—

- (c) a notice of intention to leave given under repealed section 41.

Note—

See also section 91 for the continuation in effect of a notice of intention to leave given under repealed section 41 before 30 September 2020.

11 Omission of pt 3, divs 3 and 4

Part 3, divisions 3 and 4—

omit.

12 Omission of pt 3, div 8, sdiv 1 hdg (Notices to leave premises given by provider)

Part 3, division 8, subdivision 1, heading—

omit.

13 Omission of ss 73 and 74

Sections 73 and 74—

omit.

14 Amendment of s 75 (Misuse of notice to leave if rental premises being sold)

Section 75(1)—

omit, insert—

- (1) This section applies if a rooming accommodation agreement ends because, before 30 September 2020, the provider gave the resident a notice requiring the resident to leave the rental premises under repealed section 73.

Note—

See also section 91 for the continuation in effect of a notice to leave given under repealed section 73 before 30 September 2020.

15 Omission of pt 3, div 8, sdiv 2 (Notices of intention to leave premises given by resident)

Part 3, division 8, subdivision 2—

omit.

[s 16]

16 Omission of pt 3, divs 9 and 11

Part 3, divisions 9 and 11—

omit.

17 Amendment of s 78 (Reletting costs)

Section 78(2)(c)—

omit, insert—

- (c) a notice terminating the agreement under repealed section 76.

Note—

See also section 91 for the continuation in effect of a notice terminating the agreement given under repealed section 76 before 30 September 2020.

18 Insertion of new pt 5 and pt 5, div 1 hdgs

After section 88—

insert—

Part 5 Transitional and saving provisions

Division 1 Transitional provision for SL No. 57 of 2020

19 Insertion of new pt 5, div 2

After section 89—

insert—

Division 2 Transitional provisions for Residential Tenancies and Rooming Accommodation

(COVID-19 Emergency Response) Amendment Regulation 2020

90 Definition for division

In this division—

amendment regulation means the *Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Amendment Regulation 2020*.

91 Continuation of particular notices

- (1) The repeal of a former section by the amendment regulation does not—
- (a) affect the validity of an action taken or started under the former section before 30 September 2020; or
 - (b) revoke or otherwise end a notice given under the former section before 30 September 2020; or

Examples of notices for paragraph (b)—

- a notice to leave given to a tenant under repealed section 35, 36 or 37
 - a notice of intention to leave given to a lessor under repealed section 41
 - a notice to leave given to a resident under repealed section 73
 - a notice terminating an agreement given to a provider under repealed section 76
- (c) prevent a residential tenancy agreement or a rooming accommodation agreement ending because of a notice mentioned in paragraph (b).

- (2) Subsection (3) applies if, before 30 September

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2020, a lessor gave a tenant a notice to leave under repealed section 35, 36 or 37.

- (3) Despite the repeal of section 39 by the amendment regulation, the section, as in force immediately before its repeal, continues in effect for each of the following matters—
 - (a) the lessor making an application to the tribunal for a termination order;
 - (b) the application being taken to be an urgent application for the Act;
 - (c) the tribunal making, or refusing to make, the termination order.
- (4) In this section—

former section means any of repealed sections 35, 36, 37, 41, 73 and 76.

92 Unpaid rent—residential tenancy

- (1) Subsection (2) applies if repealed section 11 applied in relation to a residential tenancy agreement before 30 September 2020.
- (2) From 30 September 2020, repealed section 11 no longer has effect in relation to the residential tenancy agreement, including, for example, by—
 - (a) preventing the lessor from giving the tenant a notice to remedy breach under section 280 of the Act; and
 - (b) authorising the lessor to request that the tenant enter into a tenancy variation agreement with the lessor.
- (3) Despite the repeal of section 12 by the amendment regulation, if the section applied to a lessor and tenant before 30 September 2020—

- (a) either party may make a dispute resolution request under repealed section 12(2) as in force immediately before its repeal; and
 - (b) either party may make an application to the tribunal under repealed section 12(3) as in force immediately before its repeal; and
 - (c) the tribunal may make an order under repealed section 12(4) as in force immediately before its repeal.
- (4) Subsection (5) applies if, before 30 September 2020—
- (a) repealed section 15 applied for an application for a termination order; and
 - (b) the application had not been decided or withdrawn.
- (5) From 30 September 2020—
- (a) repealed section 15(2) does not limit the ability of the tribunal to grant the application; and
 - (b) section 337 of the Act applies for the application.

93 Unpaid rent—rooming accommodation

- (1) Subsection (2) applies if repealed section 49 applied in relation to a rooming accommodation agreement before 30 September 2020.
- (2) From 30 September 2020, repealed section 49 no longer has effect in relation to the rooming accommodation agreement, including, for example, by—
 - (a) preventing the provider from giving the resident a notice to remedy breach under section 368 of the Act; and

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- (b) authorising the provider to request that the resident enter into a residency variation agreement with the provider.
- (3) Despite the repeal of section 50 by the amendment regulation, if the section applied to a provider and resident before 30 September 2020—
 - (a) either party may make a dispute resolution request under repealed section 50(2) as in force immediately before its repeal; and
 - (b) either party may make an application to the tribunal under repealed section 50(3) as in force immediately before its repeal; and
 - (c) the tribunal may make an order under repealed section 50(4) as in force immediately before its repeal.
- (4) Subsection (5) applies if, before 30 September 2020—
 - (a) repealed section 53 applied for an application for a termination order; and
 - (b) the application had not been decided or withdrawn.
- (5) From 30 September 2020—
 - (a) repealed section 53(2) does not limit the ability of the tribunal to grant the application; and
 - (b) section 337 of the Act applies for the application.

94 Tenancy variation agreements

- (1) This section applies if a tenancy variation agreement was entered into under repealed section 13 before 30 September 2020.
- (2) The repeal of section 13 does not end, or

otherwise alter, the tenancy variation agreement.

- (3) However, from 30 September 2020—
 - (a) repealed section 14(2) does not apply in relation to the tenancy variation agreement; and
 - (b) sections 91, 92 and 93 of the Act apply in relation to an increase in rent at the end of the term of the tenancy variation agreement.
- (4) If an application is made under the Act to the tribunal about unpaid rent for a period during which the tenancy variation agreement was in effect, the tribunal must have regard to the agreement in deciding the application.
- (5) Subsection (4) does not limit the matters the tribunal may have regard to in deciding the application.
- (6) To remove any doubt, it is declared that a tenancy variation agreement may not be entered into after 29 September 2020.

95 Residency variation agreements

- (1) This section applies if a residency variation agreement was entered into under repealed section 51 before 30 September 2020.
- (2) The repeal of section 51 does not end, or otherwise alter, the residency variation agreement.
- (3) However, from 30 September 2020—
 - (a) repealed section 52(2) does not apply in relation to the residency variation agreement; and
 - (b) section 105 of the Act applies in relation to an increase in rent at the end of the term of the residency variation agreement.

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- (4) If an application is made under the Act to the tribunal about unpaid rent for a period during which the residency variation agreement was in effect, the tribunal must have regard to the agreement in deciding the application.
- (5) Subsection (4) does not limit the matters the tribunal may have regard to in deciding the application.
- (6) To remove any doubt, it is declared that a residency variation agreement may not be entered into after 29 September 2020.

96 Rental bonds

From 30 September 2020, repealed sections 16 and 54 do not apply in relation to a rental bond for a residential tenancy agreement or rooming accommodation agreement, and sections 146 and 155(4) of the Act apply.

97 Notices to leave without grounds

- (1) If, before 30 September 2020, a lessor gave a tenant a notice to leave without grounds in contravention of repealed section 38(1)—
 - (a) the notice to leave is of no effect; and

Note—

If the lesser intends to end the residential tenancy agreement without grounds, the lessor must give the tenant another notice to leave without grounds under section 291 of the Act.

 - (b) repealed section 38(2) does not apply in relation to the notice to leave.
- (2) If, before 30 September 2020, a provider gave a resident a notice under section 372 of the Act in contravention of repealed section 74(1)—
 - (a) the notice is of no effect; and

Note—

If the provider intends to terminate the rooming accommodation agreement without grounds, the provider must give the resident another notice to leave under section 372 of the Act.

- (b) repealed section 74(2) does not apply in relation to the notice.

98 Termination for excessive hardship

- (1) From 30 September 2020, repealed section 42 does not—
 - (a) require a tenant to make a dispute resolution request to the authority before applying to the tribunal for a termination order under section 310 of the Act; or
 - (b) limit the tenant to establishing excessive hardship on the basis of the COVID-19 emergency.
- (2) From 30 September 2020, repealed section 77 does not—
 - (a) require a resident to make a dispute resolution request to the authority before applying to the tribunal for a termination order under section 383 of the Act; or
 - (b) limit the resident to establishing excessive hardship on the basis of the COVID-19 emergency.
- (3) From 30 September 2020, section 415 of the Act applies to an application mentioned in repealed section 45 or 80, including an application made but not decided or withdrawn before 30 September 2020.

[s 20]

20 Amendment of sch 1 (Dictionary)

Schedule 1, definitions *residency variation agreement* and *tenancy variation agreement*—
omit.

ENDNOTES

- 1 Made by the Governor in Council on 29 September 2020.
- 2 Notified on the Queensland legislation website on 29 September 2020.
- 3 The administering agency is the Department of Housing and Public Works.

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