

Residential Tenancies and Rooming Accommodation Amendment Regulation 2022

Explanatory notes for Subordinate Legislation 2022 No. 95

Made under the
Residential Tenancies and Rooming Accommodation Act 2008

General Outline

Short title

The short title of the Regulation is the *Residential Tenancies and Rooming Accommodation Amendment Regulation 2022* (Amendment Regulation)

Authorising law

Section 520 of the *Residential Tenancies and Rooming Accommodation Act 2008*

Policy objectives and the reasons for them

The *Housing Legislation Amendment Act 2021* (HLA Act) was passed by Parliament on 15 October 2021 and received assent on 20 October 2021.

The HLA Act amends the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act) to implement changes to Queensland's rental laws that progress Stage 1 rental law reforms.

The policy objectives in relation to the HLA Act are to:

1. Support tenants and residents to enforce their existing rights by removing the ability for lessors and providers to end tenancies without grounds.
2. Provide an expanded suite of additional approved reasons for lessors/providers and tenants/residents to end a tenancy.
3. Ensure all Queensland rental properties are safe, secure, and functional by prescribing minimum housing standards and introducing compliance mechanisms to strengthen the ability to enforce these standards.
4. Strengthen rental law protections for people experiencing domestic and family violence.
5. Support parties to residential leases reach agreement about renting with pets

Consequential amendments are required to be made to the *Residential Tenancies and Rooming Accommodation Regulation 2009* (RTRA Regulation) to enact the HLA Act amendments commencing by Proclamation on 1 October 2022, achieve the HLA Act policy objectives and be consistent with the amended RTRA Act.

These consequential amendments update and align the standard terms contained in the RTRA Regulation that must be included in tenancy agreements made under the RTRA Act, including general, moveable dwelling, State and community housing provider tenancy agreements and rooming accommodation agreements.

Achievement of policy objectives

The Amendment Regulation amends the RTRA Regulation to update and align standard terms for tenancy agreements with Stage 1 rental law reforms implemented by the HLA Act. Amendments are made across the following RTRA Regulation schedules:

- Schedule 1 (General tenancy agreements)
- Schedule 2 (Moveable dwelling tenancy agreements)
- Schedule 3 (State tenancy agreements)
- Schedule 3A (Community housing provider tenancy agreements)
- Schedule 4 (Rooming accommodation agreements)

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the *Residential Tenancies and Rooming Accommodation Act 2008* and the *Housing Legislation Amendment Act 2021*.

The changes in the Amendment Regulation are not retrospective. Section 20 of the *Acts Interpretation Act 1954* provides that processes started prior to the commencement of this Amendment Regulation must follow the requirements which existed at the time the process commenced until it has completed.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Benefits and costs of implementation

The Amendment Regulation will provide clarity, uniformity and alignment to the residential rental sector and support them to transition their systems and agreements to Stage 1 rental law reforms commencing on 1 October 2022.

As these amendments are consequential to amendments made by the HLA Act no additional costs to those outlined for Stage 1 rental law reforms are expected.

Consistency with fundamental legislative principles

The fundamental legislative principles that are potentially engaged by the Amendment Regulation are set out below and were considered during debate of the Housing Legislation Amendment Bill 2021.

Tenancy law reforms have the potential to infringe several Fundamental Legislative Principles relating to the rights and liberties of individuals, including that legislation should not abrogate statutory or common law rights without sufficient justification and proportion and relevance. Some departures from fundamental legislative principles have occurred to balance the competing interests of individuals or to match individual's rights and obligations with community expectations.

Freedom of individuals to contract

The HLA Act and subsequent consequential amendments to the RTRA Regulation, include specific obligations of parties to a tenancy or rooming accommodation agreement, with the obligations fixed by legislation regardless of the terms of the agreement. Fixing the terms of a tenancy or rooming accommodation agreement by legislation may be a departure from the principle that individuals should have freedom to contract and agree between themselves as to the terms of those contracts. The legislation seeks to reflect community expectations in achieving a fair balance between the rights of the parties. The RTRA Act is fundamentally consumer protection legislation and recognises that there is often unequal bargaining power between tenants and lessors, with tenants generally having less power than lessors particularly in competitive markets. The provisions of the legislation seek to strike the right balance between the competing rights of tenants and lessors in the tenancy relationship and ensure that tenants are supported to enforce their rights without fear of retaliatory action.

Consultation

Targeted consultation was undertaken with stakeholders on an exposure draft of the changes to the RTRA Regulation. Applicable feedback was considered in finalising the Amendment Regulation.

The Office of Best Practice Regulation has confirmed that further regulatory impact analysis was not required on this amendment as it met the criteria for exclusion under Category A – Regulatory proposals that make consequential amendments.