



Queensland

COVID-19 Emergency Response Act 2020
Residential Tenancies and Rooming Accommodation Act 2008

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

Current as at 20 October 2021

Repeal/Expiry Information

This is the last reprint before expiry. Expired on 30 April 2022 the COVID-19 legislation expiry day—see 2020 Act No. 13 s 24(8).

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

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Regulation 2020

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

Part 1 Preliminary

1 Short title

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

2 Commencement

The following provisions are taken to have commenced on 29 March 2020—

- part 1
- sections 8, 47 and 89
- schedule 1.

3 Declaration that regulation is made under COVID-19 Emergency Response Act 2020, s 24

It is declared that this regulation is made under the *COVID-19 Emergency Response Act 2020*, section 24.

Note—

This regulation expires on the COVID-19 legislation expiry day. See the *COVID-19 Emergency Response Act 2020*, section 24(8).

4 Application of regulation

This regulation applies to—

- (a) all residential tenancy agreements and rooming accommodation agreements entered into before or after the commencement of this section; and

- (b) all tenants, lessors, residents and providers, and their agents, for the agreements mentioned in paragraph (a).

5 Interpretation

- (1) The dictionary in schedule 1 defines particular words used in this regulation.
- (2) Unless a contrary intention appears, a reference in this regulation to the Act is a reference to the *Residential Tenancies and Rooming Accommodation Act 2008*.

6 When person suffers excessive hardship because of COVID-19 emergency

- (1) This section applies to a person who is a tenant or a resident.
- (2) For this regulation, the person suffers excessive hardship because of the COVID-19 emergency if, during the COVID-19 emergency period—
 - (a) any of the following circumstances apply to the person—
 - (i) the person, or another person under the person’s care, suffers from COVID-19;
 - (ii) the person is subject to a quarantine direction;
 - (iii) the person’s place of employment is closed, or the trade or business conducted by the person’s employer is restricted, because of a public health direction, including, for example, because a public health direction has closed a major supplier or customer of the person’s employer;

Examples—

- 1 The person’s place of employment is closed in compliance with a public health direction.
- 2 The person’s place of employment is unable to continue to operate because of a loss of trade or business resulting from a public health direction.

- (iv) the person is self-isolating because the person is a vulnerable person, lives with a vulnerable person or is the primary carer for a vulnerable person;
 - (v) a restriction on travel, imposed under a public health direction or other law, prevents the person working or returning home;
 - (vi) the COVID-19 emergency prevents the person leaving or returning to Australia; and
- (b) the person—
- (i) suffers a loss of income of 25% or more; or
 - (ii) the rent payable by the person under a residential tenancy agreement or rooming accommodation agreement is 30% or more of the person's income.
- (3) However, if there is more than 1 tenant or resident under the residential tenancy agreement or rooming accommodation agreement, subsection (2)(b) is taken to provide—
- (a) that there has been a 25% or more reduction in the combined total income of all of the tenants or residents; or
 - (b) that the rent payable under the agreement is 30% or more of the combined total income of all of the tenants or residents.

7 Operation of provisions about inconsistency with Act

- (1) This section applies to a provision of this regulation that—
- (a) makes provision for this regulation to override a provision of the Act; or
 - (b) disapplies a provision of the Act.
- (2) It is not intended that the provision limits the application of the *COVID-19 Emergency Response Act 2020*, section 24(3)(a) or (7)(a).

Part 2 Residential tenancies

Division 1 Moratorium on evictions

8 Moratorium on evictions

- (1) Until the end of the relevant period, a lessor or lessor's agent must not evict a tenant for failure to pay rent as required under the residential tenancy agreement if the failure relates to the tenant suffering excessive hardship because of the COVID-19 emergency.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not prevent a lessor ending a residential tenancy agreement under the Act—
- (a) for any reason other than a failure to pay rent as required under the agreement; or
 - (b) for a failure to pay rent as required under the agreement if the failure was not related to the tenant suffering excessive hardship because of the COVID-19 emergency; or
 - (c) as a consequence of having given a notice to leave, or applying to the tribunal for an order terminating the agreement, before 29 March 2020.
- (3) In this section—
- evict*, a tenant, means—
- (a) give the tenant a notice to leave; or
 - (b) apply to the tribunal for an order terminating the residential tenancy agreement; or
 - (c) cause the tenant to vacate the premises by any of the following actions—
 - (i) coercing the tenant into agreeing to end the residential tenancy agreement under section 277(2) of the Act;

- (ii) preventing the tenant from freely accessing the premises, including, for example, by changing the locks or intimidating the tenant;
- (iii) causing the tenant to vacate the premises because of false or misleading information given to the tenant by the lessor or by another person on behalf of the lessor;
- (iv) causing the tenant to vacate the premises because of acts of intimidation carried out by the lessor or by another person on behalf of the lessor.

relevant period means the period starting on 29 March 2020 and ending on the earlier of the following days—

- (a) 29 September 2020;
- (b) the last day of the COVID-19 emergency period.

Division 2 Extending residential tenancy agreements

9 Extension of fixed term agreements

- (1) This section applies to a residential tenancy agreement that creates a residential tenancy for a fixed term ending on or before 29 September 2020, unless—
 - (a) the agreement ended before the commencement of this section; or
 - (b) any of the following happened before the commencement of this section—
 - (i) the lessor gave the tenant a notice to leave;
 - (ii) the tenant gave the lessor a notice of intention to leave;
 - (iii) a party to the agreement applied to the tribunal for a termination order.

- (2) However, this section applies to an agreement mentioned in subsection (1)(b) if—
 - (a) the notice mentioned in subsection (1)(b)(i) or (ii) is invalid; or
 - (b) the application mentioned in subsection (1)(b)(iii) is rejected.
- (3) If the tenant is suffering excessive hardship because of the COVID-19 emergency, the lessor must, before the term of the agreement ends, offer the tenant an extension of the term to 30 September 2020 or an earlier date requested by the tenant.

Maximum penalty—50 penalty units.
- (4) On its extension under subsection (3), the residential tenancy agreement continues on the same terms.
- (5) No costs are payable by the tenant for the extension of the residential tenancy agreement under subsection (3).
- (6) To remove any doubt, it is declared that the extension of the residential tenancy agreement under subsection (3) does not prevent the agreement ending under section 277 of the Act, subject to the limitations under this regulation.
- (7) This section overrides sections 70, 331 and 332 of the Act to the extent of the inconsistency between this section and those sections of the Act.

10 Extending short tenancy statements

- (1) This section applies to a residential tenancy agreement for movable dwelling premises if the lessor and tenant make a short term tenancy statement or a short tenancy (extension) statement during the COVID-19 emergency period.
- (2) The parties may continue to make short tenancy (extension) statements.
- (3) This section overrides section 48(3) of the Act.

Division 8 Ending of agreements

40 Misuse of notice to leave

- (1) This section applies if a residential tenancy 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) Unless the lessor has a reasonable excuse, the lessor—
- (a) must not include information in the notice to leave that is false or misleading in a material particular; or
 - (b) must not let the premises to a person under another agreement that takes effect before 1 May 2021.

Maximum penalty—50 penalty units.

- (3) Without limiting subsection (2), the lessor has a reasonable excuse if—
- (a) for a notice to leave given to the tenant under repealed section 35—the lessor proves—
 - (i) the lessor genuinely made the premises available for sale but no offers, acceptable to the lessor, were received; or
- Example—*
- The only offers the lessor received were below the lessor's expected sale price.
- (ii) the lessor entered into a contract for the sale of the premises but the contract ended without the sale of the premises; or

Example—

The contract was terminated by the buyer under a term of the contract or a statutory right, including a cooling-off period.

- (b) for a notice to leave given to the tenant under repealed section 37—the lessor proves—
 - (i) the intended occupant’s need to occupy the premises has ended or the intended occupant became unable to occupy the premises; and
 - (ii) the lessor did not offer a residential tenancy for the premises until after the intended occupant’s need ended or the occupant became unable to occupy the premises; and
 - (iii) the premises remained vacant between the tenant moving out and the offer mentioned in subparagraph (ii) being accepted.

- (4) In this section—

intended occupant, for premises for which a notice to leave was given under repealed section 37, means the lessor or member of the lessor’s immediate family whose need to occupy the premises formed the basis for giving the notice to leave.

Division 10 Compensation

43 Reletting costs

- (1) A residential tenancy agreement may include a term requiring the tenant to pay the reasonable costs incurred by the lessor in reletting the premises (*reletting costs*) only if—
 - (a) the agreement is for a fixed term; and
 - (b) the tenant is made liable under the term only if the tenant terminates the agreement other than in a way permitted under this Act; and

- (c) the only reference in the term to the amount payable by the tenant is a reference to the reasonable costs incurred by the lessor in reletting the premises.

Editor's note—

Reletting costs are often referred to as break lease fees.

- (2) However, a term of a residential tenancy agreement requiring the tenant to pay reletting costs is void if the agreement ends because of—
 - (a) a termination order; or
 - (b) a notice, that complied with repealed section 22, was given to the lessor under repealed section 21; or
 - (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.

- (3) This section overrides section 173 of the Act to the extent of the inconsistency between this section and section 173 of the Act.

44 Limits on reletting costs

- (1) This section applies if—
 - (a) a residential tenancy agreement is a fixed term agreement; and
 - (b) the tenant terminates the agreement other than in a way permitted under the Act; and
 - (c) a term of the agreement provides that the tenant is liable to pay the reasonable costs incurred by the lessor in reletting the premises if the tenant terminates the agreement other than in a way permitted under the Act.
- (2) If there is only 1 tenant for the agreement, the amount the tenant is liable to pay is limited to an amount equivalent to 1 week's rent under the agreement if—

- (a) the tenant suffers a loss of income of 75% or more; and
 - (b) the tenant has less than \$5,000 in savings, whether held as cash or in a bank account.
- (3) If there is more than 1 tenant for the agreement, the amount the tenants are collectively liable to pay is limited to an amount equivalent to 1 week's rent under the agreement if—
- (a) there has been a 75% or more reduction in the combined total income of all of the tenants; and
 - (b) the combined savings of all of the tenants is less than \$5,000, whether held as cash or in a bank account.
- (4) This section—
- (a) overrides section 43 to the extent of the inconsistency between this section and section 43; and
 - (b) overrides section 173 of the Act to the extent of the inconsistency between this section and section 173 of the Act.

Division 12 Tenancy databases

46 Restriction on listing on tenancy database

- (1) This section applies to personal information relating to—
- (a) a failure to pay rent as required under a residential tenancy agreement; or
 - (b) ending a residential tenancy agreement.
- (2) A person (a *user*) must not list personal information about another person in a tenancy database if the failure to pay rent, or the ending of the agreement, happened during the COVID-19 emergency period and was because of the other person—
- (a) suffering excessive hardship because of the COVID-19 emergency; or
 - (b) complying with a public health direction.

Maximum penalty—20 penalty units.

- (3) However, subsection (2)(a) does not apply if—
- (a) the user was the lessor or lessor’s agent under the residential tenancy agreement when the failure happened; and
 - (b) the other person did not inform the user that the failure to pay the rent, or the ending of the agreement, was because of a circumstance mentioned in subsection (2)(a) or (b).
- (4) This section applies in addition to the restrictions on listing personal information in a tenancy database under section 459 of the Act.
- (5) In this section—
- list* see section 457 of the Act.
 - personal information* see section 457 of the Act.
 - tenancy database* see section 457 of the Act.

Part 3 Rooming accommodation

Division 1 Moratorium on evictions

47 Moratorium on evictions

- (1) Until the end of the relevant period, a provider or provider’s agent must not evict a resident for failure to pay rent as required under the rooming accommodation agreement if the failure relates to the resident suffering excessive hardship because of the COVID-19 emergency.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not prevent a provider from ending a rooming accommodation agreement under the Act—

- (a) for any reason other than a failure to pay rent as required under the agreement; or
 - (b) for a failure to pay rent as required under the agreement if the failure was not related to the resident suffering excessive hardship because of the COVID-19 emergency; or
 - (c) as a consequence of having given a notice to leave, or applying to the tribunal for an order terminating the agreement, before 29 March 2020.
- (3) In this section—
- evict***, a resident, means—
- (a) give the resident a notice to leave in relation to the rental premises; or
 - (b) apply to the tribunal for an order terminating the rooming accommodation agreement; or
 - (c) cause the resident to vacate the rental premises by any of the following actions—
 - (i) coercing the resident into agreeing to end the rooming accommodation agreement under section 366(2) of the Act;
 - (ii) preventing the resident from freely accessing the resident’s room, including, for example, by changing the locks or intimidating the resident;
 - (iii) causing the resident to vacate the rental premises because of false or misleading information given to the resident by the provider or another person on behalf of the provider;
 - (iv) causing the resident to vacate the rental premises because of acts of intimidation carried out by the provider or another person on behalf of the provider.

notice to leave means a notice given by a provider to a resident under section 369, 370, 371, 372 or 374 of the Act.

relevant period means the period starting on 29 March 2020 and ending on the earlier of the following days—

- (a) 29 September 2020;
- (b) the last day of the COVID-19 emergency period.

Division 2 Extending rooming accommodation agreements

48 Extension of fixed term agreements

- (1) This section applies to a rooming accommodation agreement if, under the agreement, accommodation is provided to the resident for a fixed term ending on or before 29 September 2020, unless—
 - (a) the agreement ended before the commencement of this section; or
 - (b) any of the following happened before the commencement of this section—
 - (i) the provider gave the resident a notice requiring the resident to leave the rental premises under section 369, 370, 371 or 374 of the Act;
 - (ii) the provider gave the resident a notice terminating the agreement under section 372 of the Act;
 - (iii) the resident gave the provider a notice terminating the agreement under section 379, 380 or 381 of the Act;
 - (iv) a party to the agreement applied to the tribunal for a termination order.
- (2) However, this section applies to an agreement mentioned in subsection (1)(b) if—
 - (a) the notice mentioned in subsection (1)(b)(i), (ii) or (iii) is invalid; or

- (b) the application mentioned in subsection (1)(b)(iv) is rejected.
- (3) If the resident is suffering excessive hardship because of the COVID-19 emergency, the provider must, before the term of the agreement ends, offer the resident an extension of the term to 30 September 2020 or an earlier date requested by the resident.
- Maximum penalty—50 penalty units.
- (4) On its extension under subsection (3), the rooming accommodation agreement continues on the same terms.
- (5) No costs are payable by the resident for the extension of a rooming accommodation agreement under subsection (3).
- (6) To remove any doubt, it is declared that the extension of the rooming accommodation agreement under subsection (3) does not prevent the agreement ending under section 366 of the Act, subject to the limitations under this regulation.
- (7) This section overrides sections 366 and 381(2) of the Act to the extent of the inconsistency between this section and those sections of the Act.

Division 8 Ending of agreements

75 Misuse of notice to leave if rental premises being sold

- (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.

- (2) Unless the provider has a reasonable excuse, the provider—
- (a) must not include information in the notice that is false or misleading in a material particular; or

- (b) must not let the rental premises to a person under another agreement that takes effect before 1 May 2021.

Maximum penalty—50 penalty units.

- (3) Without limiting subsection (2), the provider has a reasonable excuse if the provider proves—

- (a) the provider genuinely made the rental premises available for sale but no offers, acceptable to the provider, were received; or

Example—

The only offers the provider received were below the provider's expected sale price.

- (b) the provider entered into a contract for the sale of the rental premises but the contract ended without the sale of the premises.

Example—

The contract was terminated by the buyer under a term of the contract or a statutory right, including a cooling-off period.

Division 10 Compensation

78 Reletting costs

- (1) A rooming accommodation agreement may include a term requiring the resident to pay the reasonable costs incurred by the provider in reletting the rental premises (*reletting costs*) only if—
- (a) the agreement is for a fixed term; and
- (b) the resident is made liable under the term only if the resident terminates the agreement other than in a way permitted under the Act; and
- (c) the only reference in the term to the amount payable by the resident is a reference to the reasonable costs incurred by the provider in reletting the rental premises.

Editor's note—

Reletting costs are often referred to as break lease fees.

- (2) However, a term of a rooming accommodation agreement requiring the resident to pay reletting costs is void if the agreement ends because of—
- (a) a termination order; or
 - (b) a notice, that complied with repealed section 60, was given to the provider under repealed section 59; or
 - (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.

79 Limits on reletting costs

- (1) This section applies if—
- (a) a rooming accommodation agreement is a fixed term agreement; and
 - (b) the resident terminates the agreement other than in a way permitted under the Act; and
 - (c) a term of the agreement provides that the resident is liable to pay the reasonable costs incurred by the provider in reletting the rental premises if the resident terminates the agreement other than in a way permitted under the Act.
- (2) If there is only 1 resident for the agreement, the amount the resident is liable to pay is limited to an amount equivalent to 1 week's rent under the agreement if—
- (a) the resident suffers a loss of income of 75% or more; and
 - (b) the resident has less than \$5,000 in savings, whether held as cash or in a bank account.

- (3) If there is more than 1 resident for the agreement, the amount the residents are collectively liable to pay is limited to an amount equivalent to 1 week's rent under the agreement if—
 - (a) there has been a 75% or more reduction in the combined total income of all of the residents; and
 - (b) the combined savings of all of the residents is less than \$5,000, whether held as cash or in a bank account.
- (4) This section—
 - (a) overrides section 78 to the extent of the inconsistency between this section and section 78; and
 - (b) overrides section 178 of the Act to the extent of the inconsistency between this section and section 178 of the Act.

Division 12 Tenancy databases

81 Extension of chapter 9 of the Act for rooming accommodation

- (1) Chapter 9 of the Act, and part 4 of the *Residential Tenancies and Rooming Accommodation Regulation 2009*, apply in relation to rooming accommodation agreements as if—
 - (a) a reference in a provision of that chapter or regulation to a residential tenancy agreement included a reference to a rooming accommodation agreement; and
 - (b) a reference in a provision of that chapter or regulation to a tenant included a reference to a resident; and
 - (c) a reference in a provision of that chapter or regulation to a lessor included a reference to a provider; and
 - (d) a reference in a provision of that chapter or regulation to premises included a reference to rental premises.
- (2) Part 4 of the *Residential Tenancies and Rooming Accommodation Regulation 2009* applies in relation to rooming accommodation agreements as if—

- (a) a reference in a provision of that regulation to section 280 of the Act included a reference to section 368 of the Act; and
 - (b) a reference in a provision of that regulation to section 347 of the Act included a reference to section 389 of the Act.
- (3) However, sections 17 and 18 of the *Residential Tenancies and Rooming Accommodation Regulation 2009* do not apply in relation to rooming accommodation agreements.
- (4) This section extends the application of chapter 9 of the Act, and part 4 of the *Residential Tenancies and Rooming Accommodation Regulation 2009*, to—
- (a) residents, providers and provider’s agents; and
 - (b) persons who own or operate a database containing information that—
 - (i) is personal information relating to, or arising from, the occupation of residential premises under a rooming accommodation agreement; or
 - (ii) is used for a purpose relating to a past, current or future occupation of residential premises under a rooming accommodation agreement; and
 - (c) persons who list personal information about other persons in a tenancy database mentioned in paragraph (b).
- (5) In this section—

list see section 457 of the Act, as modified under subsection (1).

personal information see section 457 of the Act, as modified under subsection (1).

tenancy database see section 457 of the Act, as modified under subsection (1).

82 Restriction on listing on tenancy database

- (1) This section applies to personal information relating to—
 - (a) a failure to pay rent as required under a rooming accommodation agreement; or
 - (b) ending a rooming accommodation agreement.
- (2) A person (a *user*) must not list personal information about another person in a tenancy database if the failure to pay rent, or the ending of the agreement, happened during the COVID-19 emergency period and was because of the other person—
 - (a) suffering excessive hardship because of the COVID-19 emergency; or
 - (b) complying with a public health direction.

Maximum penalty—20 penalty units.

- (3) However, subsection (2)(a) does not apply if—
 - (a) the user was the provider or provider’s agent under the rooming accommodation agreement when the failure happened; and
 - (b) the other person did not inform the user that the failure to pay the rent, or the ending of the agreement, was because of a circumstance mentioned in subsection (2)(a) or (b).
- (4) This section applies in addition to the restrictions on listing personal information in a tenancy database under section 459 of the Act, as modified under section 81.

- (5) In this section—

list see section 457 of the Act, as modified under section 81.

personal information see section 457 of the Act, as modified under section 81.

tenancy database see section 457 of the Act, as modified under section 81.

- (7) This section overrides a provision of the Act to the extent of the inconsistency between that provision and this section.

84 Additional grounds to be considered by tribunal in deciding applications

- (1) This section applies to an application made to the tribunal under the Act after the commencement of this section.
- (2) The tribunal must have regard to the following matters when considering the application, in addition to the matters the tribunal must consider under the Act—
- (a) the financial and medical effect of the COVID-19 emergency on the applicant and any other party for the application;
 - (b) the likely difficulty the applicant and any other party for the application may have in complying with the tribunal's decision on the application while also complying with the public health directions that apply to the person.
- (3) This section overrides a provision of the Act to the extent of any inconsistency between that provision and this section.
- (4) In this section—
- other party*, for an application, means—
- (a) if the application relates to a residential tenancy agreement or rooming accommodation agreement—a person who is a party to the agreement; or
 - (b) if the application is for an order of the tribunal—a person who is to be subject to the order.

85 Evidence of suffering excessive hardship because of COVID-19 emergency

- (1) This section applies if a tenant or resident claims to be, or to have been, suffering excessive hardship because of the COVID-19 emergency.

- (2) The lessor or provider may require evidence from the tenant or resident to support the claim if the evidence is similar in nature to the information the lessor or provider required from the tenant or resident to enter into the agreement.

Examples of evidence supporting claim—

a separation certificate from an employer, a confirmation from Centrelink or a medical certificate

- (3) If the lessor or provider makes a dispute resolution request to the authority for a tenancy dispute or rooming accommodation dispute involving the tenant or resident—
- (a) the authority may require the tenant or resident to provide additional evidence that the tenant or resident is suffering excessive hardship because of the COVID-19 emergency; and
- (b) the authority may advise the lessor or provider about whether the authority is satisfied the tenant or resident is or has been suffering excessive hardship because of the COVID-19 emergency.

Note—

Information provided during the conciliation process is protected under the Act. See chapter 6, part 1, division 6 of the Act.

- (4) If—
- (a) the tenant or resident has informed the lessor or provider that the tenant or resident is suffering excessive hardship because of the COVID-19 emergency; and
- (b) the tenant's or resident's circumstances change with the effect that the tenant or resident is no longer suffering excessive hardship;

the tenant or resident must, as soon as reasonably practicable after the change in circumstances happens, inform the lessor or provider of the tenant's or resident's changed circumstances.

Maximum penalty—20 penalty units.

86 False or misleading documents about excessive hardship because of COVID-19 emergency

- (1) A person must not give the authority, or another person, a document containing information that the person knows is false or misleading in a material particular for the purpose of claiming the person is or has been suffering excessive hardship because of the COVID-19 emergency.

Maximum penalty—50 penalty units.

- (2) However, the person does not commit an offence against subsection (1) if, when giving the document, the person—
- (a) informs the authority or other person, to the best of the person’s ability, how it is false or misleading; and
 - (b) gives the correct information to the authority or other person, if the person has, or can reasonably obtain, the correct information.

87 Summary offences

Despite section 510(2) of the Act, a proceeding for an offence against this regulation may be started within 2 years after the commission of the offence.

88 Minister may make guidelines

The Minister may make guidelines, consistent with the Act and this regulation, to provide guidance to persons about the application of this regulation to the rights and obligations of lessors, providers, tenants and residents under the Act as it is modified by this regulation.

Part 5 **Transitional and saving provisions**

Division 1 **Transitional provision for SL No. 57 of 2020**

89 **Transitional provision—offences against moratorium provisions**

- (1) A person can not be prosecuted under section 8 or 47 for an act or omission done or omitted to be done before the day this regulation is notified if the act or omission would not have constituted an offence but for section 8 or 47.
- (2) Subsection (1) does not limit the Criminal Code, section 11.

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 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
 - (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.
- (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.

Division 3

Transitional provision for Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Amendment Regulation 2021

99 Return to regular obligations for entry to premises and repairs and maintenance

- (1) From the commencement—
- (a) part 2, division 5 ceases to impose restrictions on lessors or lessors' agents from entering premises in compliance with the Act; or
 - (b) part 2, division 6 ceases to release lessors from obligations under the Act for repairs and maintenance to premises; or

- (c) part 3, division 5 ceases to impose restrictions on providers or providers' agents from entering a resident's room in compliance with the Act; or
 - (d) part 3, division 6 ceases to release providers from obligations under the Act for repairs and maintenance to premises.
- (2) If an allowed remedy period for a notice to remedy breach was, immediately before the commencement, still extended under repealed section 20 or 58, the allowed remedy period ends on the commencement.

Division 4 Transitional provisions for Housing Legislation Amendment Act 2021

100 Incomplete domestic violence processes—residential tenancy

- (1) Subsection (2) applies if, before the commencement of the *Housing Legislation Amendment Act 2021*, chapter 2, part 2—
 - (a) a tenant gave a lessor a notice under repealed section 21 and the notice complied with repealed section 22; and
 - (b) the tenant, lessor or another tenant has not taken or completed an action required or permitted under the domestic violence provisions in relation to the notice.
- (2) Despite the repeal of the domestic violence provisions—
 - (a) the tenant, lessor or other tenant must take or complete the action required under the domestic violence provisions; and
 - (b) the tenant, lessor or other tenant may take or complete the action permitted under the domestic violence provisions.
- (3) Subsection (4) applies if, before the commencement of the *Housing Legislation Amendment Act 2021*, chapter 2, part 2—

- (a) a tenant applied to the tribunal for a termination order under repealed section 34; and
 - (b) the application was not decided, withdrawn or rejected.
- (4) Despite the repeal of section 34, the tribunal may deal with the application under that section and make a termination order under that section.
- (5) For the purpose of subsections (2) and (4), the provisions of the Act that do not apply or are overridden under the domestic violence provisions continue to not apply or be overridden to the extent provided for under the domestic violence provisions.
- (6) In this section—
- domestic violence provisions* means repealed part 2, division 7.

101 Incomplete domestic violence processes—rooming accommodation

- (1) Subsection (2) applies if, before the commencement of the *Housing Legislation Amendment Act 2021*, chapter 2, part 2—
- (a) a resident gave a provider a notice under repealed section 59 and the notice complied with repealed section 60; and
 - (b) the resident, provider or another resident has not taken or completed an action required or permitted under the domestic violence provisions in relation to the notice.
- (2) Despite the repeal of the domestic violence provisions—
- (a) the resident, provider or other resident must take or complete the action required under the domestic violence provisions; and
 - (b) the resident, provider or other resident may take or complete the action permitted under the domestic violence provisions.
- (3) Subsection (4) applies if, before the commencement of the *Housing Legislation Amendment Act 2021*, chapter 2, part 2—

- (a) a resident applied to the tribunal for a termination order under repealed section 68; and
 - (b) the application was not decided, withdrawn or rejected.
- (4) Despite the repeal of section 68, the tribunal may deal with the application under that section and make a termination order under that section.
- (5) For the purpose of subsections (2) and (4), the provisions of the Act that do not apply or are overridden under the domestic violence provisions continue to not apply or be overridden to the extent provided for under the domestic violence provisions.
- (6) In this section—
domestic violence provisions means repealed part 3, division 7.

Schedule 1 Dictionary

section 5

COVID-19 emergency see the *COVID-19 Emergency Response Act 2020*, schedule 1.

COVID-19 emergency period see the *COVID-19 Emergency Response Act 2020*, schedule 1.

income, of a person, means the net weekly income of the person, including, for example, any financial assistance the person is receiving from the State or Commonwealth.

prescribed minimum housing standard see section 17A(1) of the Act.

public health direction see the *Public Health Act 2005*, section 362B(1).

quarantine direction means—

- (a) a public health direction requiring a person to stay at a place for a stated period in isolation; or
- (b) a direction, under the *Public Health Act 2005*, section 362H requiring a person to stay at a place for a stated period in isolation.

social distancing means keeping at least 1.5m distance away from other persons at a place.

vulnerable person means any of the following persons—

- (a) an individual over 70 years of age;
- (b) an individual over 65 years of age who has an existing health condition or comorbidities;
- (c) an Aboriginal person or Torres Strait Islander over the age of 50 who has an existing health condition or comorbidities;
- (d) an individual whose immune system is compromised.