

Queensland



RENTAL BOND ACT 1989

**Reprinted as in force on 17 March 1994
(includes amendments up to Act No. 68 of 1992)**

Reprint No. 1

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Information about this reprint

This Act is reprinted as at 17 March 1994. As required by section 5 of the Reprints Act 1992, it—

- shows the law as amended by all amendments that commenced on or before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the Reprints Act 1992, the reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the Reprints Act 1992, to do the following—

- use updated references permitted by Division 3 of that Act;
- express gender specific provisions in a way consistent with current legislative drafting practice as permitted by section 24 of that Act;
- correct spelling, and use different spelling consistent with current legislative drafting practice, as permitted by section 26(2) of that Act;
- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- use conjunctives and disjunctives consistent with current legislative drafting practice as permitted by section 28 of that Act;
- use aspects of format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit provisions that are no longer required as permitted by section 36 of that Act;
- use the numbering and renumbering of provisions and references permitted by section 43 of that Act.

Also see Endnotes for—

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

Queensland



RENTAL BOND ACT 1989

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	5
2	Commencement	5
4	Interpretation	5
5	Act not applicable to holiday premises	8
6	Act’s application in declared areas	8
6A	Crown bound	8
6B	Exemption from operation of Act	8
PART 2—RENTAL BOND AUTHORITY		
7	Constitution of Authority	8
8	Authority is a corporate person	9
9	Term of appointment	9
10	Disqualification for membership	9
11	Casual vacancies	10
12	Remuneration of members	11
13	Proceedings of Authority	11
14	Validity of Authority’s determinations	12
15	Authority subject to Minister’s control	12
16	Employees of Authority	12
16A	Office and identification of authorised persons	13
16B	Entry and search of premises—evidence of offences	13
16C	General powers of authorised person in relation to premises	14
16D	Warrant to enter premises	15
16E	Obstruction of authorised persons etc.	16

16F	False or misleading statements	16
17	Annual report	16
18	Protection from liability	17
PART 3—RENTAL BONDS AND THEIR DEPOSIT WITH RENTAL BOND AUTHORITY		
19	Duty to deposit bond	17
20	Extension of time	18
21	Rental bond paid by instalments	18
22	No entitlement to interest	18
23	Authority may provide rental bond	19
23A	Maximum amount of rental bond	19
PART 4—PAYMENT OUT OF RENTAL BONDS		
24	Authority's authority to pay out rental bond	20
25	Application for payment out	20
26	Automatic payment out	20
27	When payment out is not automatic	20
28	Clearance of indebtedness to Authority or other person	22
29	Time of making and withdrawing applications	23
30	Manner of payment	23
31	Prohibition of claims	24
32	Application of Part	24
PART 5—ENFORCEMENT PROVISIONS		
33	Multiple rental bonds prohibited	24
34	Receipt to be given	24
35	Receipt to be retained	25
36	Condition of premises	25
37	Evidentiary provision concerning condition of premises	26
38	Contracting out restricted	26
39	Proof re deposit of rental bond	27
40	Penalty and proceedings	27
40A	Order for payment of bond upon conviction	28
41	Offences by corporations	28

PART 6—ACCOUNTS AND INVESTMENT PROVISIONS

42	Accounts to be established	28
43	Rental bond account	29
44	Rental bond interest account	29
45	Authority to apply rental bond interest	29
46	Annual financial statements	30

PART 7—GENERAL PROVISIONS

47	Deemed rental bonds	30
48	Rent paid in advance	31
49	Tenant's name etc.	31
50	Landlord's or agent's name etc.	32
51	Increase in rental bond	32
52	False or misleading statements	33
53	Service	33
54	Authority's agents	33
55	Authentication of documents	34
56	Regulations	34

PART 8—SAVINGS AND TRANSITIONAL

57	Existing orders in council	34
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ENDNOTES

1	Index to Endnotes	35
2	Date to which amendments incorporated	35
3	List of legislation	35
4	List of annotations	36
5	Table of changed citations and remade laws	37
6	Table of renumbered provisions	38

RENTAL BOND ACT 1989

[as amended by all amendments that commenced on or before 17 March 1994²]

An Act to constitute a Rental Bond Authority and to confer and impose on the Authority functions, powers and duties for the regulation of the lodgment and disposal of rental bonds and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Rental Bond Act 1989*³⁻⁶.

Commencement

2.(1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), the provisions of this Act, or such of them as are specified in the proclamation, shall commence on a day or days appointed by proclamation.

Interpretation

4.(1) In this Act—

“**Authority**” means the Rental Bond Authority constituted under this Act;

“**declared area**” means a part of the State declared under this Act to be a declared area;

“**functions**” includes responsibilities, powers, authorities, and duties;

“**landlord**” means a person by whom or on whose behalf a right to occupy

premises under a residential tenancy agreement is granted or deemed to be granted and includes—

- (a) in relation to a proposed residential tenancy agreement—a person who is to become the landlord under the agreement when it is entered into; and
- (b) a landlord’s assigns, successors in title and legal personal representative;

“Minister” includes any Minister of the Crown for the time being performing the duties of the Minister;

“rental bond” means money paid, before, on, or after the day on which a residential tenancy agreement becomes binding on the parties thereto, to—

- (a) the landlord; or
- (b) a person other than the landlord in accordance with the landlord’s directions or the terms of the agreement; or
- (c) a person other than the landlord acting on behalf of the landlord;

for the purpose of securing (otherwise than by payment of rent in advance) the landlord against failure by the tenant to comply with any term of the agreement and includes—

- (d) money paid directly to the Authority on behalf of a tenant for that purpose; and
- (e) money paid to or on account of a landlord by a person as premium or key money or otherwise to secure acceptance of the person as tenant and not as payment for a facility or service;

“residential premises” means a dwelling house, demountable building, caravan, or other premises, in any such case used or proposed to be used for residential purposes, exclusively or in conjunction with any other use, but does not include—

- (a) any hotel or motel; or
- (b) any retirement village; or
- (c) any premises, or premises of a class of premises, declared by regulation not to be residential premises for the purposes of this Act;

“residential tenancy agreement” means an agreement, express or implied, under which a person is granted for valuable consideration a right to occupy, exclusively or otherwise, residential premises for the purpose of residence;

“retirement village” means a retirement village within the meaning of the *Retirement Villages Act 1988*;

“tenant” means the grantee of a right of occupancy under a residential tenancy agreement and includes—

- (a) in relation to a proposed residential tenancy agreement—a person who is to become the tenant under the agreement when it is entered into; and
- (b) a tenant’s assigns, successors in title and legal personal representative.

(2) Money paid to a person referred to in paragraph (b) or (c) of the definition “rental bond” in subsection (1) shall be deemed for the purposes of this Act to have been paid to and received by the landlord.

(3) Where—

- (a) a rental bond is paid in respect of premises for the purposes of a proposed residential tenancy agreement; and
- (b) the person by or on whose behalf the rental bond is paid subsequently becomes a tenant of those premises under a residential tenancy agreement;

it shall be deemed for the purposes of this Act that the rental bond was paid for the purposes of the residential tenancy agreement referred to in paragraph (b), notwithstanding that the terms of that agreement may differ from the terms proposed for the residential tenancy agreement referred to in paragraph (a).

(4) The question whether money paid in connection with a residential tenancy agreement constitutes a rental bond shall in every case be determined by reference to the nature of the payment, and the name by which the payment is described shall not be determinative of the question.

Act not applicable to holiday premises

5.(1) This Act does not apply in relation to a residential tenancy agreement under which a right of occupancy of residential premises is granted to a person for the purpose of their use for holidays.

(2) For the purposes of subsection (1), a right of occupancy of residential premises granted under a residential tenancy agreement for a period of 6 weeks or longer shall be deemed, in the absence of proof to the contrary, not to have been granted for the purpose of use of the premises for holidays.

Act's application in declared areas

6. A regulation may—

- (a) declare a specified area of the State to be a declared area; and
- (b) declare that this Act, or a specified provision of this Act, does not apply to residential premises in the area.

Crown bound

6A. This Act binds the Crown in right of the State and also, so far as the legislative power of the State extends, in all its other capacities but the Crown is not liable to a penalty for a contravention of this Act.

Exemption from operation of Act

6B. A regulation may exempt a person from this Act, or a specified provision of this Act, subject to any specified conditions.

PART 2—RENTAL BOND AUTHORITY**Constitution of Authority**

7.(1) There shall be constituted and maintained an Authority under the name and style 'Rental Bond Authority'.

(2) The Authority shall consist of not less than 5 members appointed by

the Governor in Council by notification published in the Gazette.

(3) Upon each appointment of the whole number of members of the Authority the Governor in Council shall, and at such other times as the Governor in Council thinks fit may, specify 1 appointee to be chairperson of the Authority and the person so specified shall be chairperson until another person becomes chairperson in accordance with this Act.

Authority is a corporate person

8.(1) The Authority shall be duly constituted upon the first appointment of the whole number of its members.

(2) The Authority shall be a body corporate with the functions conferred or imposed on it by this Act.

(3) The Authority shall have a common seal, which shall be in the custody of the chairperson or other person authorised by the chairperson in writing in that behalf.

(4) The Authority represents the Crown in right of the State and has the rights, privileges and immunities of the Crown.

Term of appointment

9.(1) A person shall hold office as a member of the Authority for the term specified in the instrument of appointment, not exceeding in any case 3 years, unless the person sooner vacates the office or ceases to be qualified to be a member of the Authority.

(2) A member of the Authority is eligible for re-appointment to the Authority, if the member remains qualified to be a member of the Authority.

Disqualification for membership

10.(1) A person is not qualified to be appointed or to continue as a member of the Authority if—

- (a) the person has attained the age of 65 years; or
- (b) the person is an undischarged bankrupt or is taking advantage of the laws relating to bankruptcy; or

- (c) the person has been convicted in Queensland of an indictable offence (whether upon indictment or by summary proceedings) or elsewhere in respect of an act or omission such that, had it occurred in Queensland, it would have constituted an indictable offence; or
- (d) the person is a patient within the meaning of the *Mental Health Act 1974*; or
- (e) the person is unfit, in the opinion of the Governor in Council, to be a member of the Authority.

(2) An act purporting to be the appointment as a member of the Authority of a person who is not qualified to be a member is void.

Casual vacancies

11.(1) A vacancy occurs in the office of a member of the Authority upon expiry of the term for which the member was appointed or if the member—

- (a) dies; or
- (b) resigns office in writing signed by the member and given to the Minister; or
- (c) is absent from 4 consecutive ordinary meetings of the Authority actually held, of which 7 days notice has been given to the member, without leave of the Authority or permission of the Minister first had and obtained; or
- (d) ceases to be qualified to continue as a member of the Authority.

(2) Where a member of the Authority ceases to be qualified to continue as a member upon the ground specified in section 10(1)(e), the vacancy in the member's office as a member shall be taken to have occurred when notification of the opinion of the Governor in Council is given by the Minister to the member, either personally or by post addressed to the member's principal place of business or ordinary place of residence last known to the Minister.

(3) A person appointed to fill a vacancy in the office of chairperson of the Authority shall thereby be chairperson of the Authority unless the Governor in Council appoints another member to be chairperson.

Remuneration of members

12.(1) Except as provided by subsection (2), a member of the Authority is entitled to such fees and allowances as may be determined from time to time by the Governor in Council.

(2) A member of the Authority who is an officer of the public service of Queensland is not entitled to fees for attendance at meetings of the Authority during the member's ordinary working hours.

(3) A member of the Authority is entitled to be reimbursed expenses certified by the chairperson as having been necessarily incurred by the member in discharging the member's functions as a member.

Proceedings of Authority

13.(1) The Authority shall hold at least 1 meeting every 3 months and, subject to that requirement, may hold meetings at such times as it determines.

(2) At every meeting of the Authority the chairperson shall preside, if the chairperson is present, and in the chairperson's absence another member appointed by those present shall preside.

(3) A quorum of the Authority shall be a majority of the members for the time being appointed and business before the Authority shall not be transacted unless a quorum is then present.

(4) Each member of the Authority is entitled to 1 vote on business before a meeting of the Authority and in the event of an equality of votes on any business the chairperson (or member presiding at the meeting) is entitled to a second or casting vote.

(4A) All business before a meeting of the Authority shall be determined by majority vote of the members present at the meeting who vote on that business.

(5) The Authority shall cause minutes to be kept of proceedings at its meetings.

(6) Except as is prescribed, procedure at a meeting of the Authority shall be as determined by the Authority.

Validity of Authority's determinations

14. A determination of the Authority duly made at a duly constituted meeting of the Authority shall not be invalid or prejudiced by reason of a defect in the appointment of a member or a vacancy in the office of a member.

Authority subject to Minister's control

15. In the discharge of its functions the Authority shall be subject to the direction and control of the Minister, except in relation to the content of any report or recommendation made by it to the Minister.

Employees of Authority

16.(1) With the Minister's approval, the Authority may—

- (a) appoint and employ such persons as are necessary for the effectual administration of this Act and discharge of the Authority's functions upon such terms and conditions as it thinks fit, subject to any applicable industrial award or industrial agreement within the meaning of the *Industrial Conciliation and Arbitration Act 1961*;
- (b) engage for a purpose approved at a meeting of the Authority, upon such terms and conditions as it thinks fit, any person, body or organisation of persons or firm that the Authority considers competent to provide services, information or advice to the Authority upon the discharge by it of its functions in respect of that purpose.

(2) With the approval of the Governor in Council, the Authority may make use of the services of any officers of or employees in the public service of Queensland or of the officers or employees of any public authority for the discharge of the Authority's functions, upon such terms and conditions as are arranged between the Authority and the Minister of the Crown responsible for the department of government or, as the case may require, between the Authority and the public authority within which such officers or employees are employed.

Office and identification of authorised persons

16A.(1) The chairperson may appoint a person as an authorised person for the purposes of this Act.

(2) The chairperson may cause an identity card to be issued to an authorised person.

(3) The identity card must—

- (a) contain a recent photograph of the authorised person; and
- (b) be in a form approved, in writing, by the Authority.

(4) A person who ceases being an authorised person must, as soon as practicable, return his or her identity card to the chairperson.

Entry and search of premises—evidence of offences

16B.(1) Subject to subsection (3), an authorised person who has reasonable grounds for suspecting that there is in premises a particular matter or thing (the “**search object**”) that may afford evidence of the commission of an offence against this Act, may—

- (a) enter the premises; and
- (b) exercise the powers set out in section 16C(1).

(2) If the authorised person enters the premises and finds the search object, the following provisions have effect—

- (a) the authorised person may seize the search object;
- (b) the authorised person may keep the search object for 60 days, or, if a prosecution for an offence against this Act in the commission of which the search object may have been used or otherwise involved is instituted within that period, until the completion of the proceedings for the offence and of any appeal from the decision in relation to the proceedings;
- (c) if the search object is a book, record or document—while the authorised person has possession of the book, record or document, the authorised person must allow the book, record or document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the authorised person’s possession.

(3) The authorised person must not enter the premises, or exercise a power, under subsection (1) unless—

- (a) the occupier of the premises consents to the entry or the exercise of the power; or
- (b) a warrant under section 16D that was issued in relation to the search object authorises the entry or the exercise of the power.

(4) If, in the course of searching the premises under subsection (1) pursuant to a warrant under section 16D, the authorised person—

- (a) finds a thing that the authorised person believes, on reasonable grounds to be—
 - (i) a matter or thing (other than the search object) that will afford evidence of the commission of the offence mentioned in subsection (1); or
 - (ii) a matter or thing that will afford evidence of the commission of another offence against this Act; and
- (b) the authorised person believes, on reasonable grounds, that it is necessary to seize the matter or thing to prevent—
 - (i) its concealment, loss or destruction; or
 - (ii) its use in committing, continuing or repeating the offence mentioned in subsection (1), or the other offence, as the case may be;

subsection (2) applies to the matter or thing as if it were the search object.

General powers of authorised person in relation to premises

16C.(1) An authorised person who enters the premises under section 16B(1) may—

- (a) search any part of the premises;
- (b) inspect and examine anything on the premises;
- (c) take extracts from, and make copies of, any documents on the premises;
- (d) take into the premises such equipment and materials as the authorised person requires for the purpose of exercising any

powers in relation to the premises;

- (e) require the occupier of or any person in the premises to give to the authorised person reasonable assistance in relation to the exercise of the authorised person's powers mentioned in paragraphs (a), (b), (c) and (d).

(2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement made under subsection (1)(e).

(3) It is a reasonable excuse for a person to refuse or fail to answer a question or produce a document if answering the question, or producing the document, might tend to incriminate the person.

Warrant to enter premises

16D.(1) An authorised person may apply to a Stipendiary Magistrate for a warrant under this section in relation to particular premises.

(2) Subject to subsection (3), the Magistrate may issue the warrant if the Magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 72 hours, in the premises a particular matter or thing (the “**search object**”) that may afford evidence of the commission of an offence against this Act.

(3) If the Magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the Magistrate must not issue the warrant unless the authorised person or some other person has given the information to the Magistrate in the form (either orally, written or by affidavit) that the Magistrate requires.

(4) The warrant must—

- (a) state the name of the authorised person; and
- (b) authorise the authorised person, with such assistance and by such force as is necessary and reasonable—
 - (i) to enter the premises; and
 - (ii) to exercise the powers set out in section 16C(1); and
 - (iii) to seize the search object; and
- (c) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and

- (d) specify the day (not more than 7 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (e) state the purpose for which the warrant is issued.

Obstruction of authorised persons etc.

16E. A person must not, without reasonable excuse, obstruct, hinder or resist an authorised person in the exercise of powers under this Act.

False or misleading statements

16F. A person must not—

- (a) make to an authorised person a statement that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to an authorised person any matter or thing without which the statement is, to the knowledge of the person, misleading in a material particular; or
- (c) give to an authorised person a document containing information that the person knows is false, misleading or incomplete in a material particular without—
 - (i) indicating to the authorised person that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and
 - (ii) providing correct information to the authorised person if the person has, or can reasonably obtain, the correct information.

Annual report

17.(1) As soon as is practicable after 30 June in each year the Authority shall cause to be prepared and furnished to the Minister a report of its work and activities for the 12 months preceding that date.

(2) Within 14 sitting days after the Minister receives the Authority's report the Minister shall table the report in the Legislative Assembly.

Protection from liability

18.(1) An act or thing done or contract made by the Authority, or by a member of the Authority or other person (in either case acting under the direction of or as a delegate of the Authority) shall not subject a member of the Authority or such other person personally to any action, liability, claim or demand, if the act or thing is done or the contract is made in good faith for the purposes of this Act.

(2) Nothing in subsection (1) shall exempt any member of the Authority or other person from liability to be surcharged with the amount of any payment disallowed by the Auditor-General in the accounts of or relating to the Authority, which payment the member or other person authorised or joined in authorising knowing the payment to be unauthorised.

**PART 3—RENTAL BONDS AND THEIR DEPOSIT
WITH RENTAL BOND AUTHORITY****Duty to deposit bond**

19.(1) Where a rental bond is received by a person as a landlord or as a landlord's agent on or after the date of commencement of this section, that person shall pay the amount of the bond to the Authority within the prescribed period.

(2) Subsection (1) shall be complied with notwithstanding any other provision of law, any residential tenancy agreement, or any other contract relating to the rental bond.

(3) In subsection (1)—

“prescribed period” means—

- (a) in a case to which section 20 is not relevant—14 days from the day on which the rental bond is received by the person required to comply with subsection (1);
- (b) in a case to which section 20 is relevant—the extended time applicable to the case in question.

(4) Where, on 1 January 1992 a residential tenancy agreement exists and,

prior to the commencement of subsection (1), under that agreement or any other prior agreement a rental bond had been received from the tenant by a person as the landlord or as the landlord's agent in respect of the residential premises, the landlord or the landlord's agent must on or before 1 January 1992 pay to the Authority the amount of the bond.

Extension of time

20.(1) The Minister may extend the time within which, in a particular case or a case of a particular class, an amount of rental bond must be deposited with the Authority under section 19.

(2) The Minister may revoke or, from time to time vary (by shortening or further extending) an extension of time granted under subsection (1).

(3) An extension of time or a variation thereof—

- (a)** where it is to relate to a particular case or a number of particular cases—may be effected by notice in writing signed by or on behalf of the Minister and given to the landlord or to the landlord's agent in each case; or
- (b)** where it is to relate to a class of case—may be effected by notification published in the Gazette.

Rental bond paid by instalments

21. Where a rental bond is paid by instalments to a person as a landlord or as a landlord's agent sections 19 and 20 apply in relation to each instalment paid as if the instalment were the rental bond.

No entitlement to interest

22. No person, other than the Authority, is entitled to any interest that may accrue in respect of an amount of rental bond or any instalment thereof deposited with the Authority.

Authority may provide rental bond

23.(1) Where, on application in writing made to it by a tenant under a proposed residential tenancy agreement, the Authority is satisfied that,

without financial assistance, the tenant would not be able to pay all or part of a rental bond to be paid in relation to that agreement the Authority may agree that, when the residential tenancy agreement is entered into, the Authority will, by way of loan to the tenant, appropriate from moneys credited to the rental bond interest account of the Authority a sum not exceeding the amount of rental bond required by the residential tenancy agreement to be paid.

(2) If the Authority agrees as permitted by subsection (1), it shall credit to its rental bond account, as the amount of rental bond (or part thereof, as the case may be) deposited with the Authority by the landlord or by the landlord's agent under the residential tenancy agreement, the sum so appropriated, and debit its rental bond interest account accordingly.

(2A) It shall be deemed for all purposes that the sum so appropriated was paid to the landlord (or the landlord's agent) by the tenant as a rental bond and was deposited with the Authority by the landlord (or the landlord's agent) as an amount of rental bond or part thereof, as the case may be.

(3) A loan made by the Authority under this section may be subject to such conditions as the Authority thinks fit, including a condition for repayment of the loan to the Authority, with or without interest.

Maximum amount of rental bond

23A. A person must not require the payment of, or receive, a rental bond of an amount exceeding 4 weeks rent under the residential tenancy agreement in relation to which it is required or received except where the weekly rent is greater than the amount prescribed by the regulations or, if not prescribed, \$300.

PART 4—PAYMENT OUT OF RENTAL BONDS

Authority's authority to pay out rental bond

24. The Authority shall not pay out or be required to pay out an amount of rental bond deposited with it, or any part of that amount, except—

- (a) in accordance with an application made to it by or on behalf of a landlord or a tenant; or
- (b) in accordance with an order of a Small Claims Tribunal constituted under the *Small Claims Tribunals Act 1973*; or
- (c) pursuant to authority conferred on it by section 28.

Application for payment out

25. An application to the Authority for payment out of an amount of rental bond deposited with the Authority, or any part of that amount, shall be in or to the effect of the prescribed form.

Automatic payment out

26. Where application is made to the Authority for payment out of an amount of rental bond deposited with the Authority in relation to a residential tenancy agreement (or of any part of that amount) the Authority shall forthwith make the payment or payments directed by the application if—

- (a) the application is a joint application made by or on behalf of the landlord and the tenant; or
- (b) the application is made by or on behalf of the landlord and directs payment to be made to or on account of the tenant only; or
- (c) the application is made by or on behalf of the tenant and directs payment to be made to or on account of the landlord only.

When payment out is not automatic

27.(1) Where application to the Authority for payment out of an amount of rental bond deposited with the Authority in relation to a residential tenancy agreement (or of any part of that amount) is made—

- (a) by or on behalf of the landlord and directs payment to be made to or on account of the landlord or partly in that manner and partly to or on account of the tenant;
- (b) by the tenant and directs payment to be made to or on account of the tenant or partly in that manner and partly to or on account of

the landlord;

the Authority shall not make payment as directed to or on account of the landlord, in the case referred to in paragraph (a), or to or on account of the tenant, in the case referred to in paragraph (b), but the Authority shall give notice in writing of the application, and of its particulars, to the tenant, in the case referred to in paragraph (a), or to the landlord or the landlord's agent, in the case referred to in paragraph (b).

(2) Where, pursuant to subsection (1), the Authority withholds payment of part only of an amount of rental bond from the landlord (or the landlord's agent) or the tenant (or the tenant's agent), the Authority shall pay the balance of the amount of rental bond to or on account of the tenant or to or on account of the landlord, as the case may be.

(3) If a person to whom the Authority gives notice under subsection (1)—

- (a) does not inform the Authority, in writing, within the prescribed period that the person has commenced prescribed proceedings in relation to the amount of rental bond referred to in the notice; or
- (b) does so inform the Authority, but the prescribed proceedings are discontinued;

the Authority shall pay, as directed by the application of which the notice is given, the amount of rental bond specified in the notice of which payment was withheld.

(4) Where the Authority has received a copy (certified by the tribunal) of an order for the payment of money made by a Small Claims Tribunal in prescribed proceedings and the Authority is satisfied that the claim to which the proceedings related was for repayment of money that is the whole or part of an amount of rental bond deposited with the Authority and then held by it, the Authority shall—

- (a) if it is further satisfied that the order has not been satisfied, make payment of or from the amount of rental bond in or towards satisfaction of the order; or
- (b) if it is further satisfied that the order has been satisfied otherwise than by the Authority, make payment of, or from the amount of rental bond to the person obliged by the order in the sum that has been paid in satisfaction.

(5) Payment by the Authority under subsection (4) in or towards satisfaction of an order shall be deemed to be payment by the person obliged by the order to make payment of money.

(6) In this section—

“**prescribed period**”, in subsection (3), means 14 days from the day on which the person referred to in that subsection is given or is to be deemed to have been given, the notice referred to in that subsection or, if some other period is prescribed by the regulations, that period;

“**prescribed proceedings**”, in subsections (3) and (4), means proceedings taken in a Small Claims Tribunal constituted under the *Small Claims Tribunals Act 1973* upon a claim for repayment of money held by or on behalf of a person to whom or on whose demand the money was paid by way of bond or security in connection with a tenancy of any premises let to the tenant for the purposes of a dwelling and otherwise than for the purposes of assigning or subletting or for the purposes of a trade or business carried on by the tenant.

Clearance of indebtedness to Authority or other person

28.(1) Notwithstanding the provisions of section 26 or 27, where the Authority is required by this Part to make payment out of an amount of rental bond—

- (a) to a tenant or former tenant of residential premises to whom the Authority has made a loan under section 23; or
- (b) to a tenant or former tenant of those residential premises whose entitlement to the payment out arises through or under a tenant to whom the Authority has made a loan under section 23;

at a time when the tenant to whom the loan was made is indebted to the Authority on account of the loan and the amount of payment out required to be made consists wholly or partly of the sum appropriated by way of the loan under section 23 or some part of that sum, the Authority shall first recoup to itself the amount of the indebtedness so far as the sum or that part of the sum extends and shall pay the balance (if any) of that amount to or on account of the tenant or former tenant to whom payment out is required to be made.

(2) Notwithstanding the provisions of section 26 or 27, where the

Authority is required by this Part to make payment out to or on account of a tenant of an amount of rental bond and it is known to the Authority that the rental bond or part of the rental bond was not provided by the tenant but was paid directly to the Authority by the Queensland Housing Commission or some other person on behalf of a tenant (whether the same tenant, or another through or under whom the tenant's entitlement arises) the Authority shall make the payment out of the amount or, as the case may be, such part to or on account of the Commission or that person, as the case may require.

Time of making and withdrawing applications

29.(1) An application to the Authority for payment out of an amount of rental bond deposited with the Authority in relation to a residential tenancy agreement (or of any part of that amount) may be made—

- (a) at any time, in the case of an application referred to in section 26;
- (b) only after termination of the agreement, in the case of an application referred to in section 27(1).

(2) A person who makes such an application to the Authority may withdraw the application at any time before the Authority makes a payment as directed by the application, whereupon it shall be deemed that the application has not been made.

Manner of payment

30. Where the Authority is required by this Part to make a payment to or on account of any person, the Authority may make the payment in accordance with that person's directions.

Prohibition of claims

31. No claim, other than one provided for by this Part, shall lie against the Authority in respect of an amount of rental bond deposited with the Authority.

Application of Part

32. This Part applies notwithstanding any other Act, any rule of law, or any agreement.

PART 5—ENFORCEMENT PROVISIONS**Multiple rental bonds prohibited**

33.(1) A landlord shall not demand or accept more than 1 rental bond in relation to any residential tenancy agreement.

(2) For the purposes of this Act, where the same tenant continuously occupies the same residential premises under a series of residential tenancy agreements made with the same landlord, those agreements shall be deemed to be one residential tenancy agreement.

Receipt to be given

34.(1) A landlord or landlord's agent who receives money paid as a rental bond shall at the time of receiving the money prepare and give (or cause to be given) to the person making the payment a receipt for the payment, which receipt complies with subsection (2).

(2) A receipt required by subsection (1) shall be signed by the landlord or the landlord's agent in person and shall specify—

- (a) the date on which the rental bond is paid; and
- (b) the name of the tenant by whom or on whose behalf the rental bond is paid; and
- (c) the amount of the rental bond; and
- (d) the premises in respect of which the rental bond is paid.

Receipt to be retained

35. A landlord or landlord's agent shall keep or cause to be kept a copy of a receipt given under section 34, so that it may readily be produced, for

such time as may be prescribed.

Condition of premises

36.(1) Where a landlord requires payment of a rental bond by a tenant, the landlord or the landlord's agent shall, not later than the day next after the tenant has taken possession of the premises, give to the tenant 3 copies of a report in the prescribed form, signed by or on behalf of the landlord, as to the state of repair and general condition of the premises as at that day.

(2) A tenant who receives copies of the report referred to in subsection (1) shall, within 3 days after receiving the copies, return 2 of the copies to the landlord or the landlord's agent, either—

- (a) signed by or on behalf of the tenant; or
- (b) bearing an endorsement, signed by or on behalf of the tenant, that indicates whether the tenant agrees or disagrees with the report, as a whole or as to specified parts of it.

(2A) Where a report is signed by or on behalf of a tenant, without further endorsement, it shall be taken that the tenant agrees with all matters stated in the report.

(3) Upon receipt from a tenant of 2 copies of the report referred to in subsections (1) and (2), the person who has received the copies shall forthwith give 1 of the copies to the Authority.

(4) A person shall not be liable to be prosecuted upon a charge of an offence against this Act for a failure to comply with a provision of this section.

(5) Subsections (1) to (4) do not apply where an amount is paid to the Authority pursuant to section 19(4).

Evidentiary provision concerning condition of premises

37.(1) Subject to subsections (4) and (4A), where the provisions of section 36(1) and (2) have been complied with, a statement in a copy of a report referred to in section 36 other than a statement in respect of which the tenant has, by endorsement on the copy, indicated the tenant's disagreement as to the state of repair or general condition of premises to which a residential tenancy agreement relates, or of any part of the premises, shall be

conclusive evidence thereof as at the day on which the report was given to the tenant.

(2) Subject to subsections (4) and (4A), where the provisions of section 36(1) have been complied with and the provisions of section 36(2) have not been complied with, a statement in a copy of a report referred to in section 36 as to the state of repair or general condition of premises to which a residential tenancy agreement relates or of any part of the premises shall be conclusive evidence thereof as at the day on which the report was given to the tenant.

(3) Subject to subsections (4) and (4A), where the provisions of section 36(1) have not been complied with evidence by a tenant of premises to which a residential tenancy agreement relates as to the state of repair or general condition of the premises or of any part of the premises shall be conclusive evidence thereof as at the day on which the tenant obtained possession of the premises.

(4) The provisions of subsection (1), (2) and (3) apply only in and for the purposes of prescribed proceedings.

(4A) The provisions of subsection (1) do not apply in relation to a lack of repair or condition of premises, or a part thereof, that could not have been discovered upon a reasonable inspection thereof.

(5) In subsection (4)—

“prescribed proceedings” has the meaning ascribed to that expression in section 27(6)(b).

Contracting out restricted

38.(1) Except as permitted by or under this Act—

- (a) any provision of an agreement or arrangement that is inconsistent with a provision of this Act or that purports to exclude, modify or restrict the operation of this Act or any provision of this Act is, to the extent of the inconsistency, void; and
- (b) any putative waiver of a right conferred by or under this Act is void.

(2) Except as permitted by or under this Act, a person shall not enter into any agreement or arrangement for the purpose or having the effect of

directly or indirectly defeating, evading or preventing the operation of this Act or any provision of this Act.

Proof re deposit of rental bond

39. A certificate purporting to be that of the chairperson of the Authority, or of a person authorised by the chairperson in that behalf, stating that—

- (a) no amount of rental bond has been deposited with the Authority;
or
- (b) no amount of rental bond is held by the Authority;

in relation to a tenancy specified in the certificate of premises specified in the certificate at a time or during a period specified in the certificate shall be in all proceedings evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

Penalty and proceedings

40.(1) A person who contravenes or fails to comply with a provision of this Act, other than of section 36, commits an offence against this Act and, except where another penalty is expressly prescribed, is liable to a penalty of 15 penalty units.

(2) Proceedings for an offence against this Act shall be taken in a summary manner under the *Justices Act 1886* and may be commenced within 1 year after the commission of the offence or within 6 months after commission of the offence comes to the knowledge of the complainant, whichever period is the later to expire.

Order for payment of bond upon conviction

40A.(1) A court that convicts a person of an offence relating to a failure to pay a rental bond to the Authority may, in addition to any penalty imposed, order the person to pay to the Authority the amount of the rental bond which amount is a debt due and owing to the Authority and is recoverable in any court of competent jurisdiction.

(2) A person ordered to pay an amount to the Authority pursuant to subsection (1) must comply with the order.

Offences by corporations

41.(1) If a corporation contravenes or fails to comply with any provision of this Act each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened or failed to comply with the same provision, if that person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted pursuant to subsection (1), whether or not the corporation has been proceeded against or been convicted in respect of the offence in question.

(3) Nothing in this section affects any liability of a corporation for an offence against this Act committed by the corporation.

(4) This section does not apply to a person in the person's capacity as a director of, or a person concerned in the management of, a corporation constituted by or under an Act.

PART 6—ACCOUNTS AND INVESTMENT PROVISIONS**Accounts to be established**

42. There shall be established and kept by the Authority—

- (a) a rental bond account; and
- (b) a rental bond interest account; and
- (c) other accounts as required of it by the Auditor-General.

Rental bond account

43. There shall be paid into the rental bond account all amounts of rental bond deposited with the Authority in accordance with section 19.

(2) There shall be paid from the rental bond account—

- (a) all amounts paid out by the Authority under the authority of section 26 or 27; and

- (b) all moneys invested in a manner approved by the Governor in Council for investment of moneys credited to that account.

(3) The Authority may invest moneys from time to time credited to its rental bond account in such manner as the Governor in Council approves.

Rental bond interest account

44.(1) There shall be paid into the rental bond interest account all interest received by the Authority on investments made by the Authority.

(2) Subject to any specific or general directions given by the Minister, there shall be paid from the rental bond interest account—

- (a) the costs of, and expenses incurred in, the administration of this Act;
- (b) all moneys invested in a manner approved by the Governor in Council for investment of moneys credited to that account;
- (c) all payments authorised by this Act to be made from that account.

(3) The Authority may invest moneys from time to time credited to its rental bond interest account in such manner as the Governor in Council approves.

Authority to apply rental bond interest

45.(1) The Authority may apply moneys from its rental bond interest account by way of loan provided for by section 23.

(2) The Authority may make payment from its rental bond interest account to a landlord or as the landlord directs to compensate the landlord for damage caused to premises by a tenant or any person in or on the premises under the tenant's authority, subject to the following—

- (a) the payment shall be made in such amount in such circumstances (other than those prescribed by paragraphs (b) and (c)) and subject to such conditions as the Authority may determine, generally or in a particular case; and
- (b) the landlord must have deposited with the Authority an amount of rental bond under section 19 in respect of the tenancy of the premises; and

(c) the damage must exceed the amount of rental bond so deposited.

(3) The Authority may, in accordance with the Minister's approval first obtained, make payment, by way of grant or loan, from its rental bond interest account for the purposes of—

- (a) establishing or administering rental advisory services; or
- (b) any scheme approved by the Minister for the provision of residential accommodation; or
- (c) research into or projects concerning matters relevant to improving relationship between landlords and tenants.

Annual financial statements

46. As soon as is practicable after the close of each financial year the Authority shall give to the Minister a copy of the annual financial statements prepared and certified in relation to its accounts in accordance with the *Financial Administration and Audit Act 1977*.

PART 7—GENERAL PROVISIONS

Deemed rental bonds

47. Where during the period of 6 months after the day on which a tenancy under a residential tenancy agreement commenced the rate of rent payable under the agreement decreases or is decreased, the amount paid in excess of the lower or, as the case may be, lowest rate of rent payable under the agreement during that period shall be deemed to be paid as rental bond.

Rent paid in advance

48.(1) Notwithstanding the terms and conditions of a residential tenancy agreement, rent paid in advance or money claimed by the payer to be rent paid in advance under the agreement—

- (a) shall not be appropriated by the landlord to any purpose other than the payment of rent; and

- (b) shall (unless it is returned immediately to the payer) be applied by the landlord in respect of the first period after the date of payment of that rent or money for which rent has not already been paid.

(2) Notwithstanding the terms and conditions of a residential tenancy agreement, where a tenant has paid an amount of rent in advance in accordance with the agreement, the landlord or the landlord's agent shall not require the tenant to pay further rent in advance except at or immediately before the expiry of the period for which the first mentioned amount was paid.

Tenant's name etc.

49.(1) A tenant shall not falsely state to the landlord or to the landlord's agent the tenant's name or place of employment.

(2) When requested in writing by the landlord or by the landlord's agent, a tenant shall, at the time of delivering up possession of the premises to which the agreement relates, notify the landlord or the landlord's agent of—

- (a) the address at which the tenant intends next to reside; or
- (b) the tenant's postal address;

unless the tenant has a lawful, reasonable and sufficient reason for not doing so.

Landlord's or agent's name etc.

50.(1) On a day not later than the day on which a tenant enters into possession of premises under a residential tenancy agreement, the landlord or the landlord's agent shall notify the tenant in writing of—

- (a) the landlord's full name and address for service of process; or
- (b) if the landlord's agent is authorised to stand in the stead of the landlord in prescribed proceedings—the agent's full name and address for service of process.

(2) Whenever the particulars notified to a tenant pursuant to subsection (1) become incorrect or inaccurate, the landlord or the landlord's agent shall, within 14 days thereafter, notify the tenant in writing of the correct or, as the case may be, accurate particulars.

(3) Where the name and address of a landlord's agent are the particulars notified to a tenant pursuant to subsection (1) or (2), then for the purposes of prescribed proceedings to which the landlord may be liable the agent shall stand in the stead of the landlord to the intent that the proceedings may be brought against the agent and a Small Claims Tribunal may make its order against the agent, and a settlement may be made with the agent, as if the agent were the landlord.

(4) In this section—

“**prescribed proceedings**” has the meaning assigned to that expression in section 27(6).

Increase in rental bond

51. Where the rate of rent payable under a residential tenancy agreement is increased, the amount of the rental bond in respect of the tenancy may be increased, by notice in writing given to the tenant, by the landlord or the landlord's agent, specifying the amount of increase and the day on which it is payable, being a day—

- (a) not less than 30 days after the day on which the notice is given; and
- (b) not less than 12 months after the day on which the tenancy commenced or, if the amount of the rental bond has been increased previously, after the day on which it was last increased;

but otherwise the amount of the rental bond shall not increase or be increased.

False or misleading statements

52. A person shall not wilfully make a false or misleading statement—

- (a) in any notification lodged with the deposit of an amount of rental bond with the Authority; or
- (b) in any application made or direction given to the Authority for payment out of an amount of rental bond or of any part of that amount.

Service

53.(1) Any notice or other writing to be given to any person under this Act may be given—

- (a) by service on the person personally; or
- (b) by post addressed to the person at the person's principal place of business, the person's ordinary place of residence or employment, or the person's postal address, in any such case, last known to the person who seeks to give the notice or other writing.

(2) Any notice, summons, writ or other proceeding or other writing to be served on or given to the Authority may be served or given—

- (a) by being left with some person employed in any of the Authority's offices; or
- (b) in the case of a notice or other writing—by post addressed to the Authority at any of its offices.

Authority's agents

54. Money received, invested or paid out by an agent of the Authority shall be deemed to have been received, invested or paid out by the Authority, and money received by an agent of the Authority shall be deemed to have been received by the Authority on the day on which it is received by the agent.

Authentication of documents

55. A document requiring authentication by the Authority may be sufficiently authenticated, without the Authority's seal, if signed by the chairperson of the Authority or the chairperson's delegate.

Regulations

56. The Governor in Council may make regulations not inconsistent with this Act providing for—

- (a) forms to be used for the purposes of this Act and the purposes for which prescribed forms shall be used; and

- (b) fees to be paid for the purposes of this Act, the purposes for which prescribed fees shall be paid, and the means of recovering fees unpaid; and
- (c) functions to be exercised or discharged by the Authority in giving effect to this Act; and
- (d) offences against this Act consisting in breaches of the regulations; and
- (e) all matters and things that in the opinion of the Governor in Council are necessary or convenient for the proper administration of this Act or to give effect to the provisions of this Act.

PART 8—SAVINGS AND TRANSITIONAL

Existing orders in council

57. An order in council in force under section 6 or 6B immediately before the commencement of this section continues to have effect after the commencement, and may be repealed or amended as if it were a regulation.

ENDNOTES**1 Index to Endnotes**

	Page
2 Date to which amendments incorporated	35
3 List of legislation	35
4 List of annotations	36
5 Table of changed citations and remade laws	37
6 Table of renumbered provisions	38

2 Date to which amendments incorporated

This is the reprint date mentioned in section 5(c) of the Reprints Act 1992. Accordingly, this reprint includes all amendments that commenced operation on or before 17 March 1994. Future amendments of the Rental Bond Act 1989 may be made in accordance with this reprint under section 49 of the Reprints Act 1992.

3 List of legislation**Rental Bond Act 1989 No. 19**

date of assent 6 April 1989

ss 1–2 commenced on date of assent

ss 7–18, 42–46 and 57 commenced 1 May 1989 (proc pubd Gaz 29 April 1989 p 2803)

ss 56, 58 commenced 22 July 1989 (proc pubd Gaz 22 July 1989 p 2585)

ss 19–22, 24–41 and 47–55 commenced 1 December 1989 (proc pubd Gaz 25 November 1989 p 2249)

remaining provisions commenced 1 March 1990 (proc pubd Gaz 24 February 1990 p 929)

as amended by—

Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 Sch

date of assent 25 October 1989

commenced on 22 July 1989 (see s 2(9))

Rental Bond Act Amendment and Validation Act 1991 No. 14 Pt 4

date of assent 1 May 1991

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1992 (No. 2) No. 68 s 3 Sch 1

date of assent 7 December 1992

commenced on date of assent

4 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Chap	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Arrangement

s 3 om (see s 36 RA)

Interpretation

s 4 def “residential premises” amd 1992 No. 68 s 3 Sch 1

Act’s application in declared areas

s 6 sub 1992 No. 68 s 3 Sch 1

Crown bound

s 6A ins 1991 No. 14 s 4.2

Exemption from operation of Act

s 6B ins 1991 No. 14 s 4.2
sub 1992 No. 68 s 3 Sch 1

Proceedings of Authority

s 13 amd 1991 No. 14 s 4.3

Office and identification of authorised persons

s 16A ins 1991 No. 14 s 4.4

Entry and search of premises—evidence of offences

s 16B ins 1991 No. 14 s 4.4

General powers of authorised persons in relation to premises

s 16C ins 1991 No. 14 s 4.4

Warrant to enter premises

s 16D ins 1991 No. 14 s 4.5

Obstruction of authorised persons etc.

s 16E ins 1991 No. 14 s 4.5

False or misleading statements

s 16F ins 1991 No. 14 s 4.5

Duty to deposit bond

s 19 amd 1991 No. 14 s 4.6

Maximum amount of rental bond

s 23A ins 1991 No. 14 s 4.7

Condition of premises

s 36 amd 1991 No. 14 s 4.8

Order for payment of bond upon conviction

s 40A ins 1991 No. 14 s 4.9

Tabling of orders in councils 56A ins 1991 No. 14 s 4.10
om 1992 No. 68 s 3 Sch 1**PART 8—SAVINGS AND TRANSITIONAL**

Pt hdg sub 1992 No. 68 s 3 Sch 1

Existing orders in council

s 57 sub 1992 No. 68 s 3 Sch 1

Amendment of Small Claims Tribunals Acts 58 amd 1989 No. 103 s 3 Sch
om 1992 No. 68 s 3 Sch 1**5 Table of changed citations and remade laws**TABLE OF CHANGED CITATIONS AND REMADE LAWS
under sections 21A and 22 of the Reprints Act 1992

Old	New	Reference provision
Mental Health Services Act 1974	Mental Health Act 1974	s 9.1(2) Health Services Act 1991

6 Table of renumbered provisionsTABLE OF RENUMBERED PROVISIONS
under section 43 of the Reprints Act 1992

Previous	Renumbered as
13(4) (2nd sentence)	13(4A)
23(2) (2nd sentence)	23(2A)
27(6)(a)	27(6) def “prescribed period”
27(6)(b)	27(6) def “prescribed proceedings”
36(2) (2nd sentence)	36(2A)
37(4) (2nd sentence)	37(4A)
42 (1st unnum para)	42(a)
42 (2nd unnum para)	42(b)
42 (3rd unnum para)	42(c)