



Queensland

# **Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2013**

**Act No. 58 of 2013**





Queensland

# Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2013

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Queensland

## **Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2013**

**Act No. 58 of 2013**

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**An Act to amend the Residential Tenancies and Rooming Accommodation Act 2008, the Queensland Building and Construction Commission Act 1991 and the Guide, Hearing and Assistance Dogs Act 2009 for particular purposes**

**[Assented to 7 November 2013]**

## The Parliament of Queensland enacts—

# Part 1 Preliminary

## 1 Short title

This Act may be cited as the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2013*.

## 2 Commencement

This Act, other than the following provisions, commences on a day to be fixed by proclamation—

- (a) part 2, heading;
- (b) section 3;
- (c) sections 8 to 19;
- (d) section 20, to the extent it inserts chapter 13A, heading and new sections 527A, 527B, 527D and 527E;
- (e) section 21;
- (f) section 22, to the extent it inserts chapter 14, part 3, heading and new sections 553(1) and 556;
- (g) section 23;
- (h) part 5;
- (i) the schedule.





- (c) the lessor is the replacement lessor under a community housing provider tenancy agreement.

## **7 Amendment of s 185 (Lessor's obligations generally)**

Section 185(4)(a)—

*omit, insert—*

- (a) the lessor is—
  - (i) the State; or
  - (ii) the replacement lessor under a community housing provider tenancy agreement; and

## **8 Amendment of s 290 (Notice to leave if tenant's entitlement under affordable housing scheme)**

Section 290, heading, after 'scheme'—

*insert—*

**ends**

## **9 Insertion of new s 290A**

After section 290—

*insert—*

### **290A Notice to leave because of serious breach**

- (1) The lessor may give a notice to leave the premises to the tenant if the lessor reasonably believes the tenant, an occupant, a guest of the tenant or a person allowed on the premises by the tenant has—
  - (a) used the premises or any property adjoining or adjacent to the premises (including any property that is available for use by the

tenant in common with others) for an illegal activity; or

- (b) intentionally or recklessly—
  - (i) destroyed or seriously damaged a part of the premises; or
  - (ii) endangered another person in the premises or a person occupying, or allowed on, premises nearby; or
  - (iii) interfered significantly with the reasonable peace, comfort or privacy of another tenant or another tenant's appropriate use of the other tenant's premises.

(2) A notice to leave under this section is called a notice to leave for *serious breach*.

(3) A lessor may form a reasonable belief that premises or property has been used for an illegal activity whether or not anyone has been convicted or found guilty of an offence in relation to the activity.

(4) In this section—

*lessor* means—

- (a) the chief executive of the department in which the *Housing Act 2003* is administered, acting on behalf of the State; or
- (b) a community housing provider.

*Note*—

See section 329(2)(ia) (Handover day for notice to leave for premises that are not moveable dwelling premises) for requirements about the handover day for a notice to leave given because of serious breach.

**10 Amendment of s 296 (Application for termination for damage or injury)**

Section 296, after subsection (4) and before the editor's note—  
*insert—*

- (5) In this section—  
*lessor* does not include—
- (a) the chief executive of the department in which the *Housing Act 2003* is administered, acting on behalf of the State; or
  - (b) a community housing provider.

**11 Insertion of new s 296A**

After section 296—

*insert—*

**296A Application for termination for damage or injury in public or community housing**

- (1) The lessor may apply to a tribunal for a termination order because the tenant, an occupant, a guest of the tenant or a person allowed on the premises by the tenant, has intentionally or recklessly caused, or is likely to intentionally or recklessly cause—
- (a) serious damage to the premises; or
  - (b) injury to—
    - (i) the lessor, the lessor's agent or someone else allowed on the premises; or
    - (ii) a person occupying, or allowed on, premises nearby.
- (2) However, the lessor may not make an application about injury to a person if the person is—

- 
- (a) the spouse of the tenant occupying the premises with the tenant; or
  - (b) a cotenant whose spouse is the other, or another, cotenant.
- (3) An application under this section about damage to premises is called an application made because of *damage*.
- (4) An application under this section about injury to a person is called an application made because of *injury*.
- (5) In this section—  
*lessor* means—
- (a) the chief executive of the department in which the *Housing Act 2003* is administered, acting on behalf of the State; or
  - (b) a community housing provider.

**12 Amendment of s 297 (Application for termination for tenant’s objectionable behaviour)**

Section 297, after subsection (2) and before the editor’s note—  
*insert—*

- (3) In this section—  
*lessor* does not include—
- (a) the chief executive of the department in which the *Housing Act 2003* is administered, acting on behalf of the State; or
  - (b) a community housing provider.

**13 Insertion of new s 297A**

After section 297—

*insert—*

**297A Application for termination for objectionable behaviour in public or community housing**

- (1) The lessor may apply to a tribunal for a termination order because the tenant, an occupant, a guest of the tenant or a person allowed on the premises by the tenant—
  - (a) has harassed, intimidated or verbally abused—
    - (i) the lessor or lessor’s agent; or
    - (ii) a person occupying, or allowed on, premises nearby; or
  - (b) is causing, or has caused, a serious nuisance to persons occupying premises nearby; or
  - (c) has intentionally or recklessly endangered another person at the premises or interfered with the reasonable peace, comfort or privacy of a person occupying premises nearby.
- (2) An application under this section is called an application made because of ***objectionable behaviour***.
- (3) In this section—

***lessor*** means—

  - (a) the chief executive of the department in which the *Housing Act 2003* is administered, acting on behalf of the State; or
  - (b) a community housing provider.

*Note—*

See sections 335(1) (Applications for termination orders) and 345A (Objectionable behaviour in public or community housing) for other provisions about the application.

**14 Amendment of s 329 (Handover day for notice to leave for premises that are not moveable dwelling premises)**

(1) Section 329(2)(i), ‘2 months’—

*omit, insert—*

1 month

(2) Section 329(2)—

*insert—*

(ia) if the notice is given because of serious breach—7 days after the notice is given; or

**15 Amendment of s 340 (Failure to leave for other grounds)**

Section 340(1)(b)—

*insert—*

(viii) ending of housing assistance;

(ix) serious breach.

**16 Amendment of s 345 (Objectionable behaviour)**

(1) Section 345, heading, after ‘behaviour’—

*insert—*

**other than in public or community housing**

(2) Section 345—

*insert—*

(4) In this section—

***applicant*** does not include—

(a) the chief executive of the department in which the *Housing Act 2003* is administered, acting on behalf of the State; or

(b) a community housing provider.

## 17 Insertion of new s 345A

After section 345—

*insert—*

### **345A Objectionable behaviour in public or community housing**

- (1) If an application is made to a tribunal for a termination order because of objectionable behaviour, the tribunal may make the order if it is satisfied—
  - (a) the applicant has established the ground of the application; and
  - (b) the behaviour justifies terminating the agreement.
- (2) In deciding if the behaviour justifies terminating the agreement, the tribunal may have regard to—
  - (a) whether the behaviour was recurrent and, if it was recurrent, the frequency of the recurrences; and
  - (b) for behaviour in the form of harassment, intimidation or verbal abuse—its seriousness; and
  - (c) for behaviour in the form of intentional or reckless endangerment—its seriousness; and
  - (d) for behaviour in the form of interference with a person's reasonable peace, comfort or privacy—its seriousness.
- (3) Also, in deciding if the behaviour justifies terminating the agreement, the tribunal must have regard to—
  - (a) any serious or adverse effects on neighbouring residents or other persons, including whether neighbouring residents or other persons are likely to be subjected to



- 
- objectionable behaviour if the agreement is not terminated; and
- (b) any evidence regarding the tenancy history of the tenant; and
  - (c) if the tenant is a tenant under a State tenancy agreement—
    - (i) the department's responsibility to other tenants; and
    - (ii) the needs of persons awaiting housing assistance from the State.
- (4) Subsections (2) and (3) do not limit the issues to which the tribunal may have regard.
- (5) In this section—

*applicant* means—

- (a) the chief executive of the department in which the *Housing Act 2003* is administered, acting on behalf of the State; or
- (b) a community housing provider.

*State tenancy agreement* means a residential tenancy agreement under which the lessor is the chief executive of the department in which the *Housing Act 2003* is administered, acting on behalf of the State.

## 18 Insertion of new s 349A

Chapter 5, part 1, division 6—

*insert—*

### **349A How tribunal must deal with public or community housing tenant**

- (1) This section applies if an application is made to a tribunal for a termination order by—

- (a) the chief executive of the department in which the *Housing Act 2003* is administered, acting on behalf of the State; or
  - (b) a community housing provider.
- (2) The tribunal must not refuse to terminate the tenancy merely because the tenant is a tenant of the chief executive or a community housing provider.

**19 Amendment of s 415 (Meaning of *urgent application*)**

Section 415(1)—

*insert—*

- (h) failure to enter into acceptable behaviour agreement; or
- (i) serious or persistent breach of acceptable behaviour agreement.

**20 Insertion of new ch 13A**

After chapter 13—

*insert—*

**Chapter 13A Matters relating to particular leases by the State and community housing providers**

**527A Definitions for ch 13A**

In this chapter—

***antisocial behaviour*** includes making excessive noise, dumping cars or excessive rubbish, vandalism and defacing property.

***community housing provider***, for a tenancy, see section 527B.

***community housing provider tenancy agreement*** means an existing State tenancy agreement for which an entity has become the replacement lessor under section 527C.

***community housing service*** is a social housing service that is not public housing.

***existing State tenancy agreement*** see section 527C.

***public housing*** is a social housing service provided directly by the State.

***replacement lessor*** see section 527C.

***replacement terms*** see section 527C.

***social housing service*** is a service for providing housing to an individual for residential use, other than housing provided to an individual under NRAS.

### **527B What is a *community housing provider***

An entity is a ***community housing provider*** for a particular tenancy only if the entity—

- (a) has received, or is receiving, funding under the *Housing Act 2003* to provide a community housing service for that tenancy; and
- (b) is providing a community housing service for that tenancy.

*Example—*

An entity is lessor of 1 Smith Street and has received funding under the *Housing Act 2003* to provide a community housing service for that tenancy. The entity is also lessor for 2 Smith Street but has not received funding under the *Housing Act 2003* to provide a community housing service for that tenancy. The entity is not a community housing provider for 2 Smith Street but is a community housing provider for 1 Smith Street while it is providing a community housing service with funding received under the *Housing Act 2003*.

### **527C Replacement of standard and special terms for certain tenancies**

- (1) This section applies if—
  - (a) under a residential tenancy agreement (the *existing State tenancy agreement*) the lessor is the State; and
  - (b) the State enters into a concurrent lease with an entity; and
  - (c) because of the concurrent lease the entity becomes the lessor (the *replacement lessor*) under the existing State tenancy agreement.
- (2) The standard and special terms applying to the existing State tenancy agreement are taken to be replaced by the terms prescribed under a regulation (the *replacement terms*) from the time the entity becomes the replacement lessor.
- (3) The replacement terms may also change a part of the agreement other than the standard and special terms.
- (4) Without limiting subsection (3), the existing State tenancy agreement may be changed in the way stated in the replacement terms so that the replacement lessor has a right to do any of the following—
  - (a) require the tenant to pay a rental bond;

- (b) state the way in which the bond must be paid by the tenant;
  - (c) require the tenant to pay stated service charges;
  - (d) state the apportionment of the cost for the service charges payable by the tenant (where the premises are not individually metered for a service);
  - (e) state the way in which service charges must be paid by the tenant.
- (5) As changed by the replacement terms, the existing State tenancy agreement continues in force.
- (6) As soon as practicable after an entity becomes the replacement lessor under an existing State tenancy agreement, the entity must give to the tenant—
- (a) a written notice stating—
    - (i) that the entity has become the replacement lessor; and
    - (ii) that the rent must be paid to the replacement lessor; and
    - (iii) the way in which the rent is to be paid; and
    - (iv) if the amount of the rent payable has changed—the new amount payable; and
  - (b) a copy of the replacement terms.

### **527D Acceptable behaviour agreements for tenants**

- (1) The lessor may, by written notice given to the tenant, require the tenant to give a written undertaking (an *acceptable behaviour*

*agreement*), in the terms stated in the notice, not to engage in stated antisocial behaviour on any of the following—

- (a) the premises to which the agreement relates;
  - (b) any property adjoining or adjacent to the premises (including any property that is available for use by the tenant in common with others).
- (2) The operation of an acceptable behaviour agreement extends to the behaviour of an occupant, a guest of the tenant or a person allowed on the premises by the tenant (each a *person allowed on the premises*).
  - (3) If the tenant or a person allowed on the premises engages in any antisocial behaviour stated in the agreement, the tenant is taken to have breached the agreement.
  - (4) The lessor may require a tenant to enter into an acceptable behaviour agreement for premises only if the lessor is of the opinion that the tenant or a person allowed on the premises has engaged, or is likely to engage, in antisocial behaviour on the premises or any property adjoining or adjacent to the premises (including any property that is available for use by the tenant in common with others).
  - (5) The lessor's opinion under subsection (4) must be based on—
    - (a) the history of the tenancy concerned; or
    - (b) the history of any prior tenancy entered into by the tenant and the lessor.
  - (6) A notice under subsection (1) must inform the tenant of the lessor's right to apply to the tribunal under section 527E.

- (7) An acceptable behaviour agreement is of no effect unless the lessor has given the tenant the information required under subsection (6).
- (8) In this section—  
*lessor* means—
  - (a) the chief executive of the department in which the *Housing Act 2003* is administered, acting on behalf of the State; or
  - (b) a community housing provider.

#### **527E Application for termination relating to acceptable behaviour agreement**

- (1) The lessor may apply to the tribunal for a termination order if—
  - (a) the tenant fails or refuses to enter into an acceptable behaviour agreement as required; or
  - (b) the tenant, after entering into an acceptable behaviour agreement, seriously or persistently breaches the terms of the agreement.
- (2) An application under this section about the failure or refusal to enter into an acceptable behaviour agreement is called an application made because of *failure to enter into acceptable behaviour agreement*.
- (3) An application under this section about seriously or persistently breaching the terms of an agreement is called an application made because of *serious or persistent breach of acceptable behaviour agreement*.

- (4) The tribunal may make the order if it is satisfied the lessor has established the ground of the application.
- (5) In this section—  
*lessor* means—
  - (a) the chief executive of the department in which the *Housing Act 2003* is administered, acting on behalf of the State; or
  - (b) a community housing provider.

**527F State may charge bonds and service charges under existing State tenancy agreements**

- (1) This section applies to a residential tenancy agreement for which the lessor is the State.
- (2) The agreement may be changed in the way decided by the chief executive so that the State has a right to do any of the following—
  - (a) require the tenant to pay a rental bond;
  - (b) require the bond to be paid by the tenant in a particular way;
  - (c) require the tenant to pay stated service charges;
  - (d) decide the apportionment of the cost for the service charges payable by the tenant (where the premises are not individually metered for a service);
  - (e) require the service charges to be paid by the tenant in a particular way.
- (3) The chief executive must give a tenant required to pay a bond or service charge written notice of the changes to the agreement.



(4) A change takes effect on the date stated in the written notice of the change given to the tenant.

(5) In this section—

*chief executive* means the chief executive of the department in which the *Housing Act 2003* is administered.

**21 Amendment of ch 14, pt 2, hdg (Savings and transitional provisions)**

Chapter 14, part 2, heading, after ‘provisions’—

*insert—*

**for Act No. 73 of 2008**

**22 Insertion of new ch 14, pt 3**

Chapter 14—

*insert—*

**Part 3**

**Savings and  
transitional provisions  
for Residential  
Tenancies and  
Rooming  
Accommodation and  
Other Legislation  
Amendment Act 2013**

**553 Certain sections not to apply to community housing providers on assent**

(1) The following sections do not apply to a lessor that is a community housing provider until the commencement of subsection (2)—

(a) section 290A;

- (b) sections 296(5), 296A, 297(3) and 297A;
  - (c) section 329(2)(ia);
  - (d) section 340(1)(b)(ix);
  - (e) section 345(4) and 345A;
  - (f) section 349A;
  - (g) section 415(1)(h) and (i);
  - (h) section 527D and 527E.
- (2) This section expires on the day after the commencement of this subsection.

*Note—*

On the day that subsection (2) is commenced by proclamation all the sections listed in subsection (1) start to apply to community housing providers.

### **554 Notices given, and proceedings started, by the State**

- (1) This section applies if—
- (a) the State gives a tenant a notice or starts a proceeding under this Act in relation to an existing State tenancy agreement; and
  - (b) an entity becomes the replacement lessor under section 527C; and
  - (c) at the time the entity becomes the replacement lessor action is pending under the notice or proceeding.
- (2) The replacement lessor—
- (a) is taken to have given the notice or started the proceeding; and
  - (b) may continue action under this Act against the tenant in relation to the notice or proceeding in place of the State.

### **555 Notices given, and proceedings started, by the tenant**

- (1) This section applies if—
  - (a) a tenant gives a notice or starts a proceeding under this Act in relation to an existing State tenancy agreement; and
  - (b) an entity becomes the replacement lessor under section 527C; and
  - (c) at the time the entity becomes the replacement lessor action is pending under the notice or proceeding.
- (2) The replacement lessor is taken to have received the notice or to be a party to the proceeding in place of the State.
- (3) The tenant may continue action under this Act against the replacement lessor in relation to the notice or proceeding.

### **556 Applications by the State or community housing providers for particular termination orders**

- (1) This section applies if the State or a community housing provider applies to a tribunal for a termination order because of objectionable behaviour under section 345—
  - (a) for the State—before the commencement of section 345(4); or
  - (b) for a community housing provider—before section 345(4) applies to a community housing provider.
- (2) The application must be decided under section 345 despite section 345(4).

*Note—*

See section 553 regarding the time from which section 345(4) applies to a community housing provider.

### **557 Transitional regulation-making power**

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which—
  - (a) it is necessary to make provision to allow or facilitate anything relating to an entity becoming the replacement lessor under an existing State tenancy agreement; and
  - (b) this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day this section commences.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 1 year after the commencement of this section.

## **23 Amendment of sch 2 (Dictionary)**

Schedule 2—

*insert—*

*antisocial behaviour*, for chapter 13A, see section 527A.

*community housing provider*, for a tenancy, see section 527B.

*community housing provider tenancy agreement* see section 527A.

*community housing service*, for chapter 13A, see section 527A.

*existing State tenancy agreement* see section 527C.

*failure to enter into acceptable behaviour agreement*, for an application for a termination order, see section 527E.

*public housing*, for chapter 13A, see section 527A.

*replacement lessor* see section 527C.

*replacement terms*, for chapter 13A, see section 527C.

*serious breach*, for a notice to leave, see section 290A(2).

*serious or persistent breach of acceptable behaviour agreement*, for an application for a termination order, see section 527E.

*social housing service*, for chapter 13A, see section 527A.

## Part 3

# Amendment of Queensland Building and Construction Commission Act 1991

### 24 Act amended

This part amends the *Queensland Building and Construction Commission Act 1991*.

### 25 Replacement of s 42 (Unlawful carrying out of building work)

Section 42—

*omit, insert—*

## **42 Unlawful carrying out of building work**

- (1) A person must not carry out, or undertake to carry out, building work unless the person holds a contractor's licence of the appropriate class under this Act.

Maximum penalty—250 penalty units.

- (2) However, subsection (1) does not apply to a person to the extent that the person is exempt under schedule 1A.

- (3) Subject to subsection (4), a person who carries out building work in contravention of this section is not entitled to any monetary or other consideration for doing so.

- (4) A person is not stopped under subsection (3) from claiming reasonable remuneration for carrying out building work, but only if the amount claimed—

(a) is not more than the amount paid by the person in supplying materials and labour for carrying out the building work; and

(b) does not include allowance for any of the following—

(i) the supply of the person's own labour;

(ii) the making of a profit by the person for carrying out the building work;

(iii) costs incurred by the person in supplying materials and labour if, in the circumstances, the costs were not reasonably incurred; and

(c) is not more than any amount agreed to, or purportedly agreed to, as the price for carrying out the building work; and

(d) does not include any amount paid by the person that may fairly be characterised as

being, in substance, an amount paid for the person's own direct or indirect benefit.

**26 Amendment of s 67K (Limits for retention amounts and securities for building contracts other than subcontracts)**

Section 67K(1), after 'principal'—

*insert—*

or a special purpose vehicle

**27 Amendment of s 67L (Limits for retention amounts and securities for subcontracts)**

Section 67L—

*insert—*

- (3) Subsection (1) does not apply to a subcontract if the contracting party for the building contract is a special purpose vehicle.

**28 Amendment of s 83 (Proceeding in tribunal stops action by commission)**

Section 83, heading, after 'stops'—

*insert—*

**unilateral**

**29 Amendment of s 84 (Tribunal to decide about rectification or completion work)**

- (1) Section 84, heading—

*omit, insert—*

**84 Action by commission while proceeding in tribunal**

- (2) Section 84(1)—

*omit, insert—*

- (1) This section applies if the tribunal has the management of a building dispute under section 83.
- (3) Section 84—  
*insert—*
- (6) The commission may apply, as provided under the QCAT Act, to the tribunal for approval that the commission may act in relation to the dispute.
- (7) The tribunal may grant the approval with or without conditions.

**30 Amendment of sch 1 (Transitional and validating provisions)**

Schedule 1—

*insert—*

**Part 10 Transitional provision for Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2013**

**52 Application of s 42 (Unlawful carrying out of building work)**

- (1) Section 42(4) applies to building work carried out on or after 1 July 1992, unless the entitlement to payment for the carrying out of the building work was—
- (a) before the commencement of this section, decided by—
- (i) a court; or



- (ii) the tribunal; or
  - (iii) an arbitrator or another entity authorised to make a binding decision about the entitlement; or
- (b) before 2 March 1999, the subject of—
- (i) a claim or counterclaim filed in a court; or
  - (ii) an application made to the tribunal; or
  - (iii) a reference to an arbitrator or another entity authorised to make a binding decision about the entitlement; or
- (c) provided for as a term of a binding agreement entered into before the commencement of this subsection, but only if the binding agreement—
- (i) is between—
    - (A) 1 or more consumers and 1 or more building contractors; or
    - (B) 1 or more building contractors and 1 or more other building contractors; and
  - (ii) was entered into to resolve a dispute between some or all of the parties to the binding agreement; and
  - (iii) is not the contract for the carrying out of the building work as originally entered into, or as originally entered into and as subsequently varied.
- (2) In this section—

***tribunal*** means the former Queensland Building Tribunal previously established under this Act, part 7, before amendment of this Act under the repealed *Queensland Building Tribunal Act 2000*.

### 31 Insertion of new sch 1A

After schedule 1—

*insert—*

## **Schedule 1A Exemptions from requirement to hold contractor's licence**

section 42(2)

### **1 Employees**

An unlicensed person who carries out, in the course of employment, building work (other than fire protection work) for which the person's employer holds a licence of the appropriate class under this Act does not contravene section 42(1).

### **2 Subcontractors**

(1) An unlicensed person who, as a subcontractor, carries out, or undertakes to carry out, building work (other than fire protection work) for a licensed trade contractor, does not contravene section 42(1) if the work is within the scope of the building work allowed by the class of licence held by the contractor.

(2) In this section—

*licensed trade contractor* means a licensed contractor other than the following—

- (a) a licensed builder;
- (b) a licensed contractor who holds a contractor's licence authorising the licensee to carry out completed building inspections.

### **3 Partnerships**

An unlicensed person who carries out, or undertakes to carry out, building work (other than fire protection work) in partnership with another person who is licensed to carry out building work of the relevant class does not contravene section 42(1).

*Note—*

Section 56 states that a licensed contractor may carry on business under the contractor's licence in partnership with an unlicensed person subject to the conditions stated in the section.

### **4 Owner-builders**

An unlicensed person who holds an owner-builder permit does not contravene section 42(1) by carrying out building work permitted under the permit.

### **5 Design work by landscape architects**

An unlicensed person who carries out, or undertakes to carry out, design work does not contravene section 42(1) if—

- (a) the person carries on business as a landscape architect; and
- (b) the person carries out the design work, or undertakes to carry it out, as part of the person's work as a landscape architect; and
- (c) the design work is of a type ordinarily carried out as an appropriate or necessary component of a landscape architect's work.

### **6 Consumers**

A consumer who engages 1 or more licensed contractors to carry out building work for the consumer does not contravene section 42(1) if the

consumer does not provide building work services for the work.

*Examples of a consumer who does not provide building work services—*

- a consumer who engages a licensed builder to build, and carry out all building work services for, a new residence
- a consumer who, as a principal, enters into construction management trade contracts for building work and engages a construction manager for building work services for the work

## 7 Other licences

A person who holds any of the following licences does not contravene section 42(1) only by doing something permitted under the licence—

- (a) a nominee supervisor's licence;
- (b) a site supervisor's licence;
- (c) a fire protection occupational licence.

## 8 Head contracts to carry out building work

- (1) An unlicensed person who enters into a contract to carry out building work does not contravene section 42(1) merely because the person entered into the contract if the building work—
  - (a) is not residential construction work or domestic building work; and
  - (b) is to be carried out by a person (an *appropriately licensed contractor*) who is licensed to carry out building work of the relevant class.
- (2) Also, the unlicensed person does not contravene section 42(1) merely because the person—

- (a) directly or indirectly causes the building work to be carried out by an appropriately licensed contractor; or
  - (b) enters into another contract, with an appropriately licensed contractor, to carry out the work.
- (3) However, subsection (1) ceases to apply to the unlicensed person if the person causes or allows any of the building work to be carried out by a person who is not licensed to carry out building work of the relevant class.

## 9 Tenders and offers

An unlicensed person who submits a tender to carry out building work or makes an offer to carry out building work does not contravene section 42(1) merely because the person submits the tender or makes the offer if the building work—

- (a) is not residential construction work or domestic building work; and
- (b) is to be carried out by a person who is licensed to carry out building work of the relevant class.

## 10 Public-private partnerships

- (1) This section applies to a special purpose vehicle that undertakes to carry out building work under a public-private partnership.
- (2) The special purpose vehicle does not contravene section 42(1) merely because the vehicle undertakes to carry out the building work if the work is to be carried out by a person (an *appropriately licensed contractor*) who is licensed to carry out building work of the relevant class.

- (3) Also, the special purpose vehicle does not contravene section 42(1) merely because the special purpose vehicle—
  - (a) directly or indirectly causes the building work to be carried out by an appropriately licensed contractor; or
  - (b) enters into a contract, with an appropriately licensed contractor, to carry out the work.
- (4) However, this section ceases to apply to the special purpose vehicle if the special purpose vehicle causes or allows any of the building work to be carried out by a person who is not licensed to carry out building work of the relevant class.

## 11 Prescribed government projects

- (1) This section applies to an unlicensed person who, by doing any of the following, undertakes to carry out building work for a prescribed government project—
  - (a) enters into a contract with a government entity to carry out building work for the project;
  - (b) submits a tender to a government entity to carry out building work for the project;
  - (c) makes an offer to a government entity to carry out building work for the project.
- (2) The unlicensed person does not contravene section 42(1) merely because the person undertakes to carry out the building work if the work—
  - (a) is of a class prescribed, under a regulation, for the prescribed government project; and
  - (b) is to be carried out by a person (an *appropriately licensed contractor*) who is

---

licensed to carry out building work of the relevant class.

(3) Also, the unlicensed person does not contravene section 42(1) merely because the person—

(a) directly or indirectly causes the building work to be carried out by an appropriately licensed contractor; or

(b) enters into a contract, with an appropriately licensed contractor, to carry out the work.

(4) However, this section ceases to apply to the unlicensed person if the person causes or allows any of the building work to be carried out by a person who is not licensed to carry out building work of the relevant class.

(5) In this section—

***government entity*** means the State, the Commonwealth or a local government, or any of their authorities or agencies.

***prescribed government project*** means a project, prescribed under a regulation, involving building work to be carried out—

(a) for, or on behalf of, a government entity; and

(b) by 1 or more private sector entities.

## **32 Amendment of sch 2 (Dictionary)**

(1) Schedule 2, both definitions *building contract*—  
*omit.*

(2) Schedule 2—  
*insert—*

***building contract***—

(a) for part 3E—see section 67AAA; and

- (b) for part 4A—see section 67AAA; and
- (c) for schedule 1, part 2—see schedule 1, section 8; and
- (d) otherwise—means a contract or other arrangement for carrying out building work in Queensland.

*private sector entity* means an entity that is not owned, either wholly or partly, by the State, the Commonwealth or a local government, or any of their authorities or agencies.

*public-private partnership* means an arrangement between the following entities with the purpose of financing, designing, constructing, maintaining or operating public infrastructure—

- (a) the State, the Commonwealth or a local government, or any of their authorities or agencies;
- (b) 1 or more private sector entities.

*special purpose vehicle* means an entity—

- (a) established for the purpose of carrying out a public-private partnership; and
- (b) declared by the Treasurer by gazette notice to be a special purpose vehicle for this Act.

## Part 4

## Amendment of Guide, Hearing and Assistance Dogs Act 2009

### 33 Act amended

This part amends the *Guide, Hearing and Assistance Dogs Act 2009*.



**34 Amendment of s 3 (Objects of Act)**

(1) Section 3(2)(a), before ‘particular’—

*insert—*

places of accommodation and

(2) Section 3(2)(b), before ‘particular’—

*insert—*

places of accommodation and

**35 Amendment of pt 2, hdg (Guide, hearing and assistance dogs in public places and public passenger vehicles)**

Part 2, heading, after ‘in’—

*insert—*

**places of accommodation,**

**36 Amendment of s 6 (Definitions for pt 2)**

Section 6—

*insert—*

***accompanied handler*** means—

- (a) a person with a disability who is accompanied by the certified guide, hearing or assistance dog the person relies on to reduce the person’s need for support; or
- (b) an approved trainer, employee trainer or puppy carer who is accompanied by a guide, hearing, assistance or trainee support dog.

***certified guide, hearing or assistance dog*** means a guide, hearing or assistance dog that is certified under part 4.

***place of accommodation*** includes the following—

- (a) a house or flat;

- (b) a hotel or motel;
- (c) a boarding house or hostel;
- (d) a caravan or caravan site;
- (e) a manufactured home under the *Manufactured Homes (Residential Parks) Act 2003*;
- (f) a site within the meaning of the *Manufactured Homes (Residential Parks) Act 2003*, section 13;
- (g) a camping site.

**term** includes a condition, requirement or practice, whether or not written.

**37 Amendment of s 8 (People with a disability may be accompanied by their guide, hearing and assistance dogs)**

- (1) Section 8(1), after ‘in a’—

*insert—*

place of accommodation,

- (2) Section 8(2), after ‘into a’—

*insert—*

place of accommodation,

**38 Amendment of s 9 (Trainers and puppy carers may be accompanied by guide, hearing, assistance and trainee support dogs)**

- (1) Section 9(1), after ‘in a’—

*insert—*

place of accommodation,

- (2) Section 9(2), after ‘into a’—

*insert—*

place of accommodation,

**39 Amendment of pt 2, div 3, hdg (Obligations of persons exercising control of public places and public passenger vehicles)**

Part 2, division 3, heading, after ‘control of’—

*insert—*

**places of accommodation,**

**40 Amendment of s 11 (Who is a *person exercising control* of a public place or public passenger vehicle)**

(1) Section 11, heading, after ‘of a’—

*insert—*

**place of accommodation,**

(2) Section 11, after ‘*control* of a’—

*insert—*

place of accommodation,

**41 Amendment of s 12 (Identification procedure for handlers and trainers)**

Section 12(2)(a)(ii), after ‘control of a’—

*insert—*

place of accommodation,

**42 Insertion of new s 12A**

After section 12—

*insert—*

## **12A Obligations of persons exercising control of places of accommodation**

- (1) A person exercising control of a place of accommodation must not—
  - (a) refuse to rent accommodation at the place to an accompanied handler because the accompanied handler, while in the place, would be accompanied by a certified guide, hearing, assistance or trainee support dog; or
  - (b) in renting accommodation at the place to an accompanied handler, impose a term that would result in—
    - (i) the accompanied handler paying an extra charge because the dog is present at the place; or
    - (ii) a person with a disability being separated, while in the place, from the guide, hearing or assistance dog that the person relies on to reduce the person's need for support; or
    - (iii) a person with a disability being refused entry to a part of the place because the person would be accompanied by the guide, hearing or assistance dog that the person relies on to reduce the person's need for support.

Maximum penalty—100 penalty units.

- (2) An accompanied handler must comply with the identification procedure when the accompanied handler—
  - (a) in person at a place of accommodation or another place, makes a reservation or application for accommodation at the place of accommodation; or

- (b) arrives at a place of accommodation to begin residing in the accommodation at the place.
- (3) A person does not commit an offence against subsection (1) if it is proved that the accompanied handler did not comply with subsection (2).
- (4) Subsection (1)(b)(iii) does not apply to a term that would result in the person with a disability being refused entry to a part of a place of accommodation where food is ordinarily prepared for consumption by residents of the place or members of the public.

*Note—*

A person with a disability may also have a right of action under the *Disability Discrimination Act 1992* (Cwlth).

**43 Amendment of s 13 (Obligations of persons exercising control of public places and public passenger vehicles)**

Section 13(3), other than the note—

*omit.*

**44 Amendment of sch 4 (Dictionary)**

Schedule 4—

*insert—*

*accompanied handler*, for part 2, see section 6.

*certified guide, hearing or assistance dog*, for part 2, see section 6.

*place of accommodation*, for part 2, see section 6.

*term*, for part 2, see section 6.

## **Part 5**                      **Minor amendments**

### **45**      **Act amended**

The schedule amends the Act it mentions.

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## Schedule                      Minor amendments

section 45

### Residential Tenancies and Rooming Accommodation Act 2008

#### 1            Section 480 and editor's note—

*omit, insert—*

##### **480 Application of Financial Accountability Act 2009**

The authority is a statutory body within the meaning  
of the *Financial Accountability Act 2009*.

#### 2            Section 499 and editor's note—

*omit, insert—*

##### **499 Employing office is statutory body**

- (1) The employing office is a statutory body under—
  - (a) the *Financial Accountability Act 2009*; and
  - (b) the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) For applying the *Financial Accountability Act 2009* to the employing office as a statutory body—
  - (a) the executive officer is taken to be the chairperson of the employing office; and
  - (b) the *Financial Accountability Act 2009* is taken to require the executive officer to consider the annual financial statements and the auditor-general's report as soon as practicable after they are received by the employing office; and

- (c) the *Financial Accountability Act 2009* is taken to require the executive officer to consider any observations, suggestions or comments given to the executive officer as soon as practicable after the executive officer receives them.

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