



Queensland

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

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

Current as at 30 September 2020

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

Contents

		Page
Part 1	Preliminary	
1	Short title	5
2	Commencement	5
3	Declaration that regulation is made under COVID-19 Emergency Response Act 2020, s 24	5
4	Application of regulation	5
5	Interpretation	6
6	When person suffers excessive hardship because of COVID-19 emergency	6
7	Operation of provisions about inconsistency with Act	7
Part 2	Residential tenancies	
Division 1	Moratorium on evictions	
8	Moratorium on evictions	8
Division 2	Extending residential tenancy agreements	
9	Extension of fixed term agreements	9
10	Extending short tenancy statements	10
Division 5	Entry to premises	
17	Restriction on lessor or lessor's agent entering premises	11
18	Alternative arrangements for inspections	12
Division 6	Repairs and maintenance	
19	Release from particular obligations of lessors—routine repairs and maintenance	13
20	Notice to remedy lessor's breach—routine repairs and maintenance	14
Division 7	Domestic violence	
Subdivision 1	Leaving premises	

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

Contents

21	Right to leave	15
22	Notice ending tenancy	15
23	Lessor’s response to notice ending tenancy	16
24	Effect of notice ending tenancy if sole tenant	16
25	Effect of notice ending tenancy if more than 1 tenant	17
26	Payment of rental bond	17
27	Supporting evidence for notice ending tenancy	18
28	Top-ups to rental bond	19
29	Reletting costs not recoverable	19
30	Application to tribunal about notice ending tenancy	19
31	Confidentiality	20
Subdivision 2	Other matters	
32	Tenant’s obligations generally	21
33	Changing locks	21
34	Application for termination for domestic violence	22
Division 8	Ending of agreements	
40	Misuse of notice to leave	23
Division 10	Compensation	
43	Reletting costs	23
44	Limits on reletting costs	24
Division 12	Tenancy databases	
46	Restriction on listing on tenancy database	25
Part 3	Rooming accommodation	
Division 1	Moratorium on evictions	
47	Moratorium on evictions	26
Division 2	Extending rooming accommodation agreements	
48	Extension of fixed term agreements	28
Division 5	Entry to resident’s room	
55	Restriction on provider or provider’s agent entering resident’s room	29
56	Alternative arrangements for inspections	31
Division 6	Repairs and maintenance	
57	Release from particular obligations of providers—routine repairs and maintenance	32
58	Notice to remedy provider’s breach—routine repairs and maintenance 33	
Division 7	Domestic violence	

Subdivision 1	Leaving rental premises	
59	Right to leave	34
60	Notice ending residency	34
61	Provider’s response to notice ending residency	34
62	Effect of notice ending residency if sole resident	35
63	Effect of notice ending residency if coresidents	35
64	Payment of rental bond	36
65	Supporting evidence for notice ending residency	36
66	Top-ups to rental bond	37
67	Reletting costs not recoverable	38
68	Application to tribunal about notice ending residency	38
69	Confidentiality	39
Subdivision 2	Other matters	
70	Resident’s obligations generally	39
71	Changing locks	40
72	Application for termination for domestic violence	40
Division 8	Ending of agreements	
75	Misuse of notice to leave if rental premises being sold	41
Division 10	Compensation	
78	Reletting costs	41
79	Limits on reletting costs	42
Division 12	Tenancy databases	
81	Extension of chapter 9 of the Act for rooming accommodation	43
82	Restriction on listing on tenancy database	45
Part 4	General provisions	
83	Extensions of time to complete particular processes	46
84	Additional grounds to be considered by tribunal in deciding applications 47	
85	Evidence of suffering excessive hardship because of COVID-19 emergency	48
86	False or misleading documents about excessive hardship because of COVID-19 emergency	49
87	Summary offences	49
88	Minister may make guidelines	49
Part 5	Transitional and saving provisions	
Division 1	Transitional provision for SL No. 57 of 2020	
89	Transitional provision—offences against moratorium provisions	50

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

Contents

Division 2	Transitional provisions for Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Amendment Regulation 2020	
90	Definition for division	50
91	Continuation of particular notices	50
92	Unpaid rent—residential tenancy	51
93	Unpaid rent—rooming accommodation	52
94	Tenancy variation agreements	53
95	Residency variation agreements	54
96	Rental bonds	55
97	Notices to leave without grounds	55
98	Termination for excessive hardship	55
Schedule 1	Dictionary	57

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

Part 1 Preliminary

1 Short title

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

2 Commencement

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

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

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

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

Note—

This regulation expires 31 December 2020. See the *COVID-19 Emergency Response Act 2020*, section 24(8).

4 Application of regulation

This regulation applies to—

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

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

5 Interpretation

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

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

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

Examples—

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

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

7 Operation of provisions about inconsistency with Act

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

Part 2 Residential tenancies

Division 1 Moratorium on evictions

8 Moratorium on evictions

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

Maximum penalty—50 penalty units.

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

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

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

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

Division 2 Extending residential tenancy agreements

9 Extension of fixed term agreements

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

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

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

10 Extending short tenancy statements

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

Division 5 Entry to premises

17 Restriction on lessor or lessor's agent entering premises

- (1) This section applies in relation to the following grounds for entry to premises by a lessor or lessor's agent mentioned in section 192 of the Act—
 - (a) to inspect the premises (Act, s 192(1)(a));
 - (b) to make routine repairs to, or carry out maintenance of, the premises (Act, s 192(1)(b));
 - (c) if repairs or maintenance have been made or carried out under section 192(1)(b) of the Act—within 14 days after the completion of the repairs or maintenance, to inspect the repairs or maintenance (Act, s 192(1)(c));
 - (d) to show the premises to a prospective buyer or tenant (Act, s 192(1)(f));
 - (e) to allow a valuation of the premises to be carried out (Act, s 192(1)(g));
 - (f) if the lessor or agent believes, on reasonable grounds, the premises have been abandoned (Act, s 192(1)(h));
 - (g) if the lessor or agent has given the tenant a notice to remedy a breach of the agreement that is a significant breach—within 14 days after the end of the allowed remedy period, to inspect to ascertain whether the tenant has remedied the breach (Act, s 192(1)(i)).
- (2) The lessor or lessor's agent must not enter the premises on a ground mentioned in subsection (1) if—
 - (a) a person at the premises is subject to a quarantine direction; or
 - (b) the lessor or agent is subject to a quarantine direction; or
 - (c) the entry would contravene a public health direction; or
 - (d) the tenant refuses entry to the premises because the tenant, or another person staying at the premises, is a vulnerable person.

- (3) The lessor's agent can refuse to enter the premises if the agent reasonably believes the entry would contravene subsection (2).
- (4) To remove any doubt, it is declared that—
 - (a) the rules of entry continue to apply other than to the extent entry is prohibited under subsection (2); and
 - (b) the tenant may refuse entry to the lessor or the lessor's agent if the entry would contravene subsection (2); and
 - (c) the following grounds for entry are not affected by this section—
 - (i) to comply with the *Fire and Emergency Services Act 1990* in relation to smoke alarms (Act, s 192(1)(d));
 - (ii) to comply with the *Electrical Safety Act 2002* in relation to approved safety switches (Act, s 192(1)(e));
 - (iii) if the tenant agrees (Act, s 192(1)(j));
 - (iv) in an emergency (Act, s 192(1)(k));
 - (v) if the lessor or agent believes on reasonable grounds that the entry is necessary to protect the premises or inclusions from imminent or further damage (Act, s 192(1)(l)).
- (5) This section overrides section 195 of the Act to the extent of the inconsistency between this section and section 195 of the Act.
- (6) In this section—

significant breach see section 192(2) of the Act.

18 Alternative arrangements for inspections

- (1) This section applies if—
 - (a) a lessor or lessor's agent seeks to enter the premises to carry out an inspection under section 192(1)(a) or (f) of the Act; and

- (b) the tenant refuses entry to the premises because the tenant, or another person staying at the premises, is a vulnerable person.

Note—

The lessor or agent must not enter the premises—see section 17.

- (2) The tenant must allow the lessor or agent to carry out the inspection by—
 - (a) a virtual inspection; or
 - (b) video conferencing with the lessor or agent; or
 - (c) the tenant giving the lessor or agent access to photographs or video of the premises and its inclusions of sufficient visual quality to enable the lessor or agent to judge the condition of the premises and inclusions.
- (3) No costs are payable by the tenant for allowing an inspection under subsection (2).
- (4) In this section—

virtual inspection means an electronic means of conducting a visual inspection of a premises and its inclusions.

Division 6 Repairs and maintenance

19 Release from particular obligations of lessors—routine repairs and maintenance

- (1) This section applies to a lessor's obligations under section 185, 186 or 187 of the Act.
- (2) If the obligation is inconsistent with a public health direction or social distancing, the lessor is released from the obligation to the extent of the inconsistency.
- (3) If compliance with the obligation requires the lessor to enter the premises and the lessor is unable to enter the premises under section 17, the lessor is released from the obligation while the lessor is unable to enter the premises.

- (4) Subsection (5) applies if—
 - (a) the lessor must make repairs or carry out maintenance to the premises to comply with the obligation; and
 - (b) either of the following is not available to the lessor—
 - (i) a tradesperson or other person needed to make the repairs or carry out the maintenance;
 - (ii) supplies needed to make the repairs or carry out the maintenance.
- (5) The lessor is released from the obligation until the tradesperson or supplies become available to the lessor.
- (6) However, this section does not release the lessor from an obligation to make emergency repairs.
- (7) A notice to remedy breach is of no effect if the notice relates to an obligation from which the lessor is released under this section.
- (8) This section overrides sections 185, 186 and 187 of the Act to the extent of the inconsistency between this section and those sections of the Act.

20 Notice to remedy lessor’s breach—routine repairs and maintenance

- (1) Subsection (2) applies if—
 - (a) a tenant gives a lessor a notice to remedy breach; and
 - (b) the breach relates to an obligation from which the lessor is released under section 19(2).
- (2) The allowed remedy period for the notice is extended until whichever of the following happens first—
 - (a) the day the obligation stops being inconsistent with a public health direction or social distancing;
 - (b) the day the COVID-19 emergency period ends.
- (3) Subsection (4) applies if—

- (a) the tenant gives the lessor a notice to remedy breach;
and
 - (b) the breach relates to an obligation from which the lessor is released under section 19(5).
- (4) The allowed remedy period for the notice is extended until whichever of the following happens first—
- (a) the day the necessary tradesperson or supplies become available;
 - (b) the day the COVID-19 emergency period ends.
- (5) This section overrides sections 325 and 328 of the Act to the extent of the inconsistency between this section and those sections of the Act.

Division 7 Domestic violence

Subdivision 1 Leaving premises

21 Right to leave

If a tenant believes he or she can no longer safely continue to occupy premises because of domestic violence committed against the tenant, the tenant may end the tenant's interest in the residential tenancy agreement by giving the lessor a notice that complies with section 22.

22 Notice ending tenancy

- (1) The tenant's notice exercising the right to end the tenant's interest in the residential tenancy agreement under section 21 must—
- (a) be in the approved form; and
 - (b) be given to the lessor; and
 - (c) be supported by the evidence mentioned in section 27.

- (2) The notice is supported by evidence if—
 - (a) a copy of the evidence is included with the notice when given to the lessor; or
 - (b) the tenant allows the lessor or lessor’s agent to inspect the evidence.
- (3) A notice that complies with this section is a *notice ending tenancy*.

23 Lessor’s response to notice ending tenancy

- (1) This section applies if the tenant gives a notice ending tenancy to the lessor.
- (2) The lessor must inform the tenant of each of the following matters—
 - (a) whether the lessor intends to apply to the tribunal to have the notice set aside because it does not comply with section 22;
 - (b) if there are other tenants for the residential tenancy agreement—
 - (i) that the other tenants will be informed the tenant is vacating the premises; and
 - (ii) when the other tenants will be informed the tenant is vacating the premises; and
 - (iii) that the agreement continues for other tenants.

24 Effect of notice ending tenancy if sole tenant

- (1) This section applies if—
 - (a) the tenant gives a notice ending tenancy to the lessor; and
 - (b) the tenant is the sole tenant for the residential tenancy agreement.
- (2) The agreement ends on the later of the following days—

- (a) the day that is 7 days after the notice is given to the lessor;
- (b) the day the tenant hands over vacant possession of the premises.

25 Effect of notice ending tenancy if more than 1 tenant

- (1) This section applies if—
 - (a) the tenant (the *vacating tenant*) gives a notice ending tenancy to the lessor; and
 - (b) the tenant is not the sole tenant for the residential tenancy agreement.
- (2) The vacating tenant's interest in the agreement ends on the later of the following days—
 - (a) the day that is 7 days after the notice is given to the lessor;
 - (b) the day the tenant vacates the premises.
- (3) Seven days after the day the vacating tenant's interest in the agreement ends under subsection (2), the lessor must give each remaining tenant for the agreement a written notice informing the tenant that—
 - (a) the vacating tenant's interest in the agreement has ended; and
 - (b) the agreement continues for the remaining tenant; and
 - (c) the remaining tenants must top-up the rental bond under section 28 and the day (the *stated day*) by which the top-up must be made.
- (4) The stated day must not be less than 1 month after the remaining tenants are given the notice under subsection (3).

26 Payment of rental bond

- (1) This section applies if—

- (a) a residential tenancy agreement is terminated, or a tenant's interest in an agreement ends, under this subdivision; and
 - (b) the tenant applies to the authority for payment of a rental bond under section 125 of the Act.
- (2) The notice ending tenancy is taken to be a notice of intention to leave.
- (3) The handover day for the notice is taken to be the day the agreement is terminated or the tenant's interest in the agreement ends.
- (4) Sections 327, 331 and 332 of the Act do not apply for the notice.

27 Supporting evidence for notice ending tenancy

The supporting evidence for a notice ending tenancy is—

- (a) any of the following under the *Domestic and Family Violence Protection Act 2012*—
 - (i) a protection order;
 - (ii) a temporary protection order;
 - (iii) a police protection notice;
 - (iv) an interstate order; or
- (b) an injunction for personal protection under the *Family Law Act 1975* (Cwlth), section 68B(1)(a) or (b) or section 114(1)(a); or
- (c) a report, in the approved form, about domestic violence signed by any of the following entities—
 - (i) a doctor;
 - (ii) a social worker;
 - (iii) a refuge or crisis worker;
 - (iv) a domestic and family violence support worker or case manager;

- (v) an Aboriginal and Torres Strait Islander medical service;
- (vi) a solicitor.

28 Top-ups to rental bond

- (1) This section applies if—
 - (a) the amount held by the authority for the rental bond for a residential tenancy agreement is less than the amount of the rental bond required under the agreement; and
 - (b) the shortfall mentioned in paragraph (a) is because a tenant's interest in the agreement has ended under section 25(2).
- (2) The remaining tenants must top-up the rental bond for the agreement if given a written notice complying with section 25(3) and (4).
- (3) The remaining tenants *top-up* the rental bond by paying an amount to the authority that is sufficient to restore the rental bond to the amount required under the agreement.

29 Reletting costs not recoverable

- (1) This section applies if a residential tenancy agreement is terminated under section 24(2).
- (2) Despite any term of the agreement to the contrary, the tenant is not liable for costs incurred by the lessor in reletting the premises.

30 Application to tribunal about notice ending tenancy

- (1) This section applies if a tenant gives, or purports to give, the lessor a notice ending tenancy.
- (2) The lessor may, within 7 days of receiving the notice, apply to the tribunal for an order setting aside the notice because it does not comply with section 22.

- (3) An application made under subsection (2) is taken to be an urgent application for the Act.
- (4) The tribunal may make the order only if satisfied the notice does not comply with section 22.
- (5) In deciding whether to make the order, the tribunal—
 - (a) must have regard to whether or not the evidence supporting the notice is evidence mentioned in section 27; but
 - (b) can not examine—
 - (i) whether or not the tenant experienced domestic violence; or
 - (ii) the tenant’s belief as to whether or not the tenant can safely continue to occupy the premises.
- (6) This section overrides section 415 of the Act to the extent of the inconsistency between this section and section 415 of the Act.

31 Confidentiality

- (1) This section applies to any of the following persons who have had access to evidence supporting a notice ending tenancy—
 - (a) a lessor;
 - (b) a lessor’s agent;
 - (c) a person (an *employee*) who has access to the evidence in the course of the person’s employment.
- (2) The person must not disclose the evidence to any other person other than in the following circumstances—
 - (a) a lessor disclosing the evidence to the lessor’s agent;
 - (b) a lessor’s agent disclosing the evidence to the lessor;
 - (c) an employee of a lessor’s agent disclosing the evidence to the agent;
 - (d) a lessor or lessor’s agent disclosing the evidence to the tribunal.

Maximum penalty—100 penalty units.

Subdivision 2 Other matters

32 Tenant's obligations generally

- (1) The obligations of a tenant under section 188 of the Act do not apply to the extent the obligations would have the effect of requiring the tenant to repair, or compensate the lessor for, damage to the premises or its inclusions caused by domestic violence experienced by the tenant.
- (2) This section overrides section 188 of the Act to the extent of the inconsistency between this section and section 188 of the Act.

33 Changing locks

- (1) A tenant may change a lock at the premises if the tenant—
 - (a) believes it is necessary to protect the tenant or an occupant from domestic violence; and
 - (b) engages a qualified tradesperson or locksmith to change the lock.
- (2) If the tenant changes a lock under subsection (1), the tenant must give the lessor a key for the changed lock, unless the lessor agrees to not being given the key.
- (3) Despite subsection (1), the right of the tenant to change a lock is subject to any body corporate by-laws applying to the premises.
- (4) If the tenant changes a lock under subsection (1), the lessor must not, without a reasonable excuse, give a key to the changed lock to any person, other than the lessor's agent, without the tenant's agreement.

Maximum penalty—50 penalty units.

(5) This section overrides section 211 of the Act to the extent of the inconsistency between this section and section 211 of the Act.

(6) In this section—

body corporate by-laws means a by-law under the *Body Corporate and Community Management Act 1997* or *Building Units and Group Titles Act 1980*.

34 Application for termination for domestic violence

(1) A tenant may apply to the tribunal for a termination order because of domestic violence committed against the tenant.

(2) A tenant may apply to the tribunal for an order ending the tenant's interest in a residential tenancy agreement because of domestic violence committed against the tenant by another tenant.

(3) An application made under subsection (1) or (2) is taken to be an urgent application for the Act.

(4) If the tenant applies to the tribunal for an order mentioned in subsection (1) or (2), the tribunal may make the order if satisfied—

(a) the tenant has established the grounds for making the application; and

(b) the domestic violence, that has happened or is likely to happen, justifies terminating the agreement or ending the tenant's interest in the agreement.

(5) In deciding the application, the tribunal must have regard to the following—

(a) the evidence of the domestic violence;

(b) the adverse effects the domestic violence has had or will have on the tenant or another person.

(6) Also, the tribunal may have regard to anything else the tribunal considers relevant.

- (7) This section overrides section 415 of the Act to the extent of the inconsistency between this section and section 415 of the Act.

Division 8 Ending of agreements

40 Misuse of notice to leave

- (1) This section applies if a residential tenancy agreement ends because, before 30 September 2020, the lessor gave the tenant—
- (a) a notice to leave if premises being sold under repealed section 35; or
 - (b) a notice to leave for owner occupation under repealed section 37.

Note—

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

- (2) Unless the lessor has a reasonable excuse, the lessor—
- (a) must not include information in the notice to leave that is false or misleading in a material particular; or
 - (b) must not let the premises to a person under another agreement.

Maximum penalty—50 penalty units.

Division 10 Compensation

43 Reletting costs

- (1) A residential tenancy agreement may include a term requiring the tenant to pay the reasonable costs incurred by the lessor in reletting the premises (*reletting costs*) only if—
- (a) the agreement is for a fixed term; and

- (b) the tenant is made liable under the term only if the tenant terminates the agreement other than in a way permitted under this Act; and
- (c) the only reference in the term to the amount payable by the tenant is a reference to the reasonable costs incurred by the lessor in reletting the premises.

Editor's note—

Reletting costs are often referred to as break lease fees.

- (2) However, a term of a residential tenancy agreement requiring the tenant to pay reletting costs is void if the agreement ends because of—
 - (a) a termination order; or
 - (b) a notice ending tenancy; or
 - (c) a notice of intention to leave given under repealed section 41.

Note—

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

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

44 Limits on reletting costs

- (1) This section applies if—
 - (a) a residential tenancy agreement is a fixed term agreement; and
 - (b) the tenant terminates the agreement other than in a way permitted under the Act; and
 - (c) a term of the agreement provides that the tenant is liable to pay the reasonable costs incurred by the lessor in reletting the premises if the tenant terminates the agreement other than in a way permitted under the Act.

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

Division 12 Tenancy databases

46 Restriction on listing on tenancy database

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

(a) suffering excessive hardship because of the COVID-19 emergency; or

(b) complying with a public health direction.

Maximum penalty—20 penalty units.

(3) However, subsection (2)(a) does not apply if—

(a) the user was the lessor or lessor’s agent under the residential tenancy agreement when the failure happened; and

(b) the other person did not inform the user that the failure to pay the rent, or the ending of the agreement, was because of a circumstance mentioned in subsection (2)(a) or (b).

(4) This section applies in addition to the restrictions on listing personal information in a tenancy database under section 459 of the Act.

(5) In this section—

list see section 457 of the Act.

personal information see section 457 of the Act.

tenancy database see section 457 of the Act.

Part 3 Rooming accommodation

Division 1 Moratorium on evictions

47 Moratorium on evictions

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

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not prevent a provider from ending a rooming accommodation agreement under the Act—
- (a) for any reason other than a failure to pay rent as required under the agreement; or
 - (b) for a failure to pay rent as required under the agreement if the failure was not related to the resident suffering excessive hardship because of the COVID-19 emergency; or
 - (c) as a consequence of having given a notice to leave, or applying to the tribunal for an order terminating the agreement, before 29 March 2020.
- (3) In this section—
- evict*, a resident, means—
- (a) give the resident a notice to leave in relation to the rental premises; or
 - (b) apply to the tribunal for an order terminating the rooming accommodation agreement; or
 - (c) cause the resident to vacate the rental premises by any of the following actions—
 - (i) coercing the resident into agreeing to end the rooming accommodation agreement under section 366(2) of the Act;
 - (ii) preventing the resident from freely accessing the resident's room, including, for example, by changing the locks or intimidating the resident;
 - (iii) causing the resident to vacate the rental premises because of false or misleading information given to the resident by the provider or another person on behalf of the provider;
 - (iv) causing the resident to vacate the rental premises because of acts of intimidation carried out by the provider or another person on behalf of the provider.

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

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

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

Division 2 Extending rooming accommodation agreements

48 Extension of fixed term agreements

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

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

Maximum penalty—50 penalty units.

- (4) On its extension under subsection (3), the rooming accommodation agreement continues on the same terms.
- (5) No costs are payable by the resident for the extension of a rooming accommodation agreement under subsection (3).
- (6) To remove any doubt, it is declared that the extension of the rooming accommodation agreement under subsection (3) does not prevent the agreement ending under section 366 of the Act, subject to the limitations under this regulation.
- (7) This section overrides sections 366 and 381(2) of the Act to the extent of the inconsistency between this section and those sections of the Act.

Division 5 Entry to resident’s room

55 Restriction on provider or provider’s agent entering resident’s room

- (1) This section applies in relation to the following grounds for entry to a resident’s room by a provider or provider’s agent—
 - (a) to carry out an inspection (Act, s 258);
 - (b) to enter for any of the following reasons (Act, s 259)—
 - (i) to clean the room;
 - (ii) to carry out pest control in the room;

- (iii) to make routine repairs to, or carry out maintenance of, the room or another part of the rental premises;
 - (iv) to show the room to a prospective buyer or resident;
 - (v) to allow a valuation of the rental premises to be carried out.
- (2) The provider or provider's agent must not enter the resident's room on a ground mentioned in subsection (1) if—
 - (a) a person in the room is subject to a quarantine direction; or
 - (b) the provider or agent is subject to a quarantine direction; or
 - (c) the entry would contravene a public health direction; or
 - (d) the resident refuses entry to the room because the resident, or another person staying in the room, is a vulnerable person.
- (3) The provider's agent can refuse to enter the resident's room if the agent reasonably believes the entry would contravene subsection (2).
- (4) To remove any doubt, it is declared that—
 - (a) the rules of entry continue to apply other than to the extent entry is prohibited under subsection (2); and
 - (b) the resident may refuse entry to the provider or the provider's agent if the entry would contravene subsection (2); and
 - (c) the following grounds for entry are not affected by this section—
 - (i) if the resident agrees (Act, s 257);
 - (ii) in an emergency (Act, s 260);
 - (iii) if the provider reasonably believes the room has been abandoned (Act, s 260);

- (iv) to carry out urgent repairs to the rental premises or a facility in the rental premises (Act, s 260).
- (5) This section overrides sections 258 and 259 of the Act to the extent of the inconsistency between this section and those sections of the Act.

56 Alternative arrangements for inspections

- (1) This section applies if—
 - (a) a provider or provider’s agent seeks to enter a resident’s room to carry out an inspection under section 258 of the Act; and
 - (b) the resident refuses entry to the resident’s room because the resident, or another person staying in the room, is a vulnerable person.

Note—

The provider or agent must not enter the premises—see section 55.

- (2) The resident must allow the inspection to be carried out by—
 - (a) a virtual inspection; or
 - (b) video conferencing with the provider or agent; or
 - (c) the resident giving the provider or agent access to photographs or video of the resident’s room and its inclusions of sufficient visual quality to enable the provider or agent to judge the condition of the room and its inclusions.
- (3) No costs are payable by the resident for allowing an inspection under subsection (2).
- (4) In this section—

virtual inspection means an electronic means of conducting a visual inspection of a resident’s room and its inclusions.

Division 6 Repairs and maintenance

57 Release from particular obligations of providers—routine repairs and maintenance

- (1) This section applies to a provider's obligations under section 247 of the Act.
- (2) If the obligation is inconsistent with a public health direction or social distancing, the provider is released from the obligation to the extent of the inconsistency.
- (3) If compliance with the obligation requires the provider to enter a resident's room and the provider is unable to enter the room under section 55, the provider is released from the obligation while the provider is unable to enter the room.
- (4) Subsection (5) applies if—
 - (a) the provider must make repairs or carry out maintenance to the resident's room to comply with the obligation; and
 - (b) either of the following is not available to the provider—
 - (i) a tradesperson or other person needed to make the repairs or carry out the maintenance;
 - (ii) supplies needed to make the repairs or carry out the maintenance.
- (5) The provider is released from the obligation until the tradesperson or supplies become available to the provider.
- (6) However, this section does not release the provider from an obligation to make emergency repairs.
- (7) A notice to remedy breach is of no effect if the notice relates to an obligation from which the provider is released under this section.
- (8) An emergency repair for a rental premises has the meaning given under section 214 of the Act as if—
 - (a) a reference in the section to premises included a reference to the resident's room; and

- (b) a reference in the section to a tenant included a reference to the resident.
- (9) This section overrides section 247 of the Act to the extent of the inconsistency between this section and section 247 of the Act.

58 Notice to remedy provider’s breach—routine repairs and maintenance

- (1) Subsection (2) applies if—
 - (a) a resident gives a provider a notice to remedy breach; and
 - (b) the breach relates to an obligation from which the provider is released under section 57(2).
- (2) The allowed remedy period for the notice is extended until whichever of the following happens first—
 - (a) the day the obligation stops being inconsistent with a public health direction or social distancing;
 - (b) the day the COVID-19 emergency period ends.
- (3) Subsection (4) applies if—
 - (a) the resident gives the provider a notice to remedy breach; and
 - (b) the breach relates to an obligation from which the provider is released under section 57(5).
- (4) The allowed remedy period for the notice is extended until whichever of the following happens first—
 - (a) the day the necessary tradesperson or supplies become available;
 - (b) the day the COVID-19 emergency period ends.
- (5) This section overrides sections 325 and 328 of the Act to the extent of the inconsistency between this section and those sections of the Act.

Division 7 Domestic violence

Subdivision 1 Leaving rental premises

59 Right to leave

If a resident believes he or she can no longer safely continue to occupy rental premises because of domestic violence committed against the resident, the resident may end the resident's interest in the rooming accommodation agreement by giving the provider a notice that complies with section 60.

60 Notice ending residency

- (1) The resident's notice exercising the right to end the resident's interest in the rooming accommodation agreement under section 59 must—
 - (a) be in the approved form; and
 - (b) be given to the provider; and
 - (c) be supported by the evidence mentioned in section 65.
- (2) The notice is supported by evidence if—
 - (a) a copy of the evidence is included with the notice when given to the provider; or
 - (b) the resident allows the provider or provider's agent to inspect the evidence.
- (3) A notice that complies with this section is a ***notice ending residency***.

61 Provider's response to notice ending residency

- (1) This section applies if the resident gives a notice ending residency to the provider.
- (2) The provider must inform the resident of each of the following matters—

- (a) whether the provider intends to apply to the tribunal to have the notice set aside because it does not comply with section 60;
- (b) if there are coresidents for the rooming accommodation agreement—
 - (i) that the coresidents will be informed the resident is vacating the rental premises; and
 - (ii) when the coresidents will be informed the resident is vacating the rental premises; and
 - (iii) that the agreement continues for the coresidents.

62 Effect of notice ending residency if sole resident

- (1) This section applies if—
 - (a) the resident gives a notice ending residency to the provider; and
 - (b) the resident is the sole resident for the rooming accommodation agreement.
- (2) The agreement ends on the later of the following days—
 - (a) the day that is 7 days after the notice is given to the provider;
 - (b) the day the resident vacates the rental premises.

63 Effect of notice ending residency if coresidents

- (1) This section applies if—
 - (a) the resident (the *vacating resident*) gives a notice ending residency to the provider; and
 - (b) the resident is not the sole resident for the rooming accommodation agreement.
- (2) The resident's interest in the agreement ends on the later of the following days—

- (a) the day that is 7 days after the notice is given to the provider;
 - (b) the day the resident vacates the rental premises.
- (3) Seven days after the day the vacating resident's interest in the agreement ends under subsection (2), the provider must give each remaining coresident for the agreement a written notice informing the coresident that—
- (a) the vacating resident's interest in the agreement has ended; and
 - (b) the agreement continues for the coresidents; and
 - (c) the remaining coresidents must top-up the rental bond under section 66 and the day (the *stated day*) by which the top-up must be made.
- (4) The stated day must not be less than 1 month after all remaining coresidents are given the notice under subsection (3).

64 Payment of rental bond

- (1) This section applies if—
 - (a) a rooming accommodation agreement is terminated, or a resident's interest in an agreement ends, under this subdivision; and
 - (b) the resident applies to the authority for payment of a rental bond under section 125 of the Act.
- (2) The notice ending residency is taken to be a notice terminating the agreement.
- (3) The stated day for the notice is taken to be the day the agreement is terminated or the resident's interest in the agreement ends.

65 Supporting evidence for notice ending residency

The supporting evidence for a notice ending residency is—

- (a) any of the following under the *Domestic and Family Violence Protection Act 2012*—
 - (i) a protection order;
 - (ii) a temporary protection order;
 - (iii) a police protection notice;
 - (iv) an interstate order; or
- (b) an injunction for personal protection under the *Family Law Act 1975* (Cwlth), section 68B(1)(a) or (b) or section 114(1)(a); or
- (c) a report, in the approved form, about domestic violence signed by any of the following entities—
 - (i) a doctor;
 - (ii) a social worker;
 - (iii) a refuge or crisis worker;
 - (iv) a domestic and family violence support worker or case manager;
 - (v) an Aboriginal and Torres Strait Islander medical service;
 - (vi) a solicitor.

66 Top-ups to rental bond

- (1) This section applies if—
 - (a) the amount held by the authority for the rental bond for a rooming accommodation agreement is less than the amount of the rental bond required under the agreement; and
 - (b) the shortfall mentioned in paragraph (a) is because a resident's interest in the agreement has ended under section 63(2).
- (2) The remaining coresidents must top-up the rental bond for the agreement if given a written notice complying with section 63(3) and (4).

- (3) The remaining coresidents *top-up* the rental bond by paying an amount to the authority that is sufficient to restore the rental bond to the amount required under the agreement.

67 Reletting costs not recoverable

- (1) This section applies if a rooming accommodation agreement is terminated under section 62(2).
- (2) Despite any term of the agreement to the contrary, the resident is not liable for costs incurred by the provider in reletting the rental premises.

68 Application to tribunal about notice ending residency

- (1) This section applies if a resident gives, or purports to give, the provider a notice ending residency.
- (2) The provider may, within 7 days of receiving the notice, apply to the tribunal for an order setting aside the notice because it does not comply with section 60.
- (3) An application made under subsection (2) is taken to be an urgent application for the Act.
- (4) The tribunal may make the order only if satisfied the notice does not comply with section 60.
- (5) In deciding whether to make the order, the tribunal—
 - (a) must have regard to whether or not the evidence supporting the notice is evidence mentioned in section 64; but
 - (b) can not examine—
 - (i) whether or not the resident experienced domestic violence; or
 - (ii) the resident's belief as to whether or not the resident can safely continue to occupy the rental premises.

- (6) This section overrides section 415 of the Act to the extent of the inconsistency between this section and section 415 of the Act.

69 Confidentiality

- (1) This section applies to any of the following persons who have had access to evidence supporting a notice ending residency—
- (a) a provider;
 - (b) a provider's agent;
 - (c) a person (an *employee*) who has access to the evidence in the course of the person's employment.
- (2) The person must not disclose the evidence to any other person other than in the following circumstances—
- (a) a provider disclosing the evidence to the provider's agent;
 - (b) a provider's agent disclosing the evidence to the provider;
 - (c) an employee of the provider's agent disclosing the evidence to the agent;
 - (d) a provider or provider's agent disclosing the evidence to the tribunal.

Maximum penalty—100 penalty units.

Subdivision 2 Other matters

70 Resident's obligations generally

- (1) The obligations of the resident under section 253 of the Act do not apply to the extent the obligations would have the effect of requiring the resident to repair, or compensate the provider for, damage to the rental premises or its inclusions caused by domestic violence experienced by the resident.

- (2) This section overrides section 253 of the Act to the extent of the inconsistency between this section and section 253 of the Act.

71 Changing locks

- (1) A provider must change or repair the lock that secures entry to a resident's room if the resident believes it is necessary to protect the resident from domestic violence.
- (2) This section overrides section 251 of the Act to the extent of the inconsistency between this section and section 251 of the Act.

72 Application for termination for domestic violence

- (1) A resident may apply to the tribunal for a termination order because of domestic violence committed against the resident.
- (2) A resident may apply to the tribunal for an order ending the resident's interest in a rooming accommodation agreement because of domestic violence committed against the resident by another resident.
- (3) An application made under subsection (1) or (2) is taken to be an urgent application for the Act.
- (4) If the resident applies to the tribunal for an order mentioned in subsection (1) or (2), the tribunal may make the order if satisfied—
 - (a) the resident has established the grounds for making the application; and
 - (b) the domestic violence, that has happened or is likely to happen, justifies terminating the agreement or ending the resident's interest in the agreement.
- (5) In deciding the application, the tribunal must have regard to the following—
 - (a) the evidence of the domestic violence;

- (b) the adverse effects the domestic violence has had or will have on the resident or another person.
- (6) Also, the tribunal may have regard to anything else the tribunal considers relevant.
- (7) This section overrides section 415 of the Act to the extent of the inconsistency between this section and section 415 of the Act.

Division 8 Ending of agreements

75 Misuse of notice to leave if rental premises being sold

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

Note—

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

- (2) Unless the provider has a reasonable excuse, the provider—
 - (a) must not include information in the notice that is false or misleading in a material particular; or
 - (b) must not let the rental premises to a person under another agreement.

Maximum penalty—50 penalty units.

Division 10 Compensation

78 Reletting costs

- (1) A rooming accommodation agreement may include a term requiring the resident to pay the reasonable costs incurred by the provider in reletting the rental premises (*reletting costs*) only if—

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

Editor's note—

Reletting costs are often referred to as break lease fees.

- (2) However, a term of a rooming accommodation agreement requiring the resident to pay reletting costs is void if the agreement ends because of—
 - (a) a termination order; or
 - (b) a notice ending residency; or
 - (c) a notice terminating the agreement under repealed section 76.

Note—

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

79 Limits on reletting costs

- (1) This section applies if—
 - (a) a rooming accommodation agreement is a fixed term agreement; and
 - (b) the resident terminates the agreement other than in a way permitted under the Act; and
 - (c) a term of the agreement provides that the resident is liable to pay the reasonable costs incurred by the provider in reletting the rental premises if the resident terminates the agreement other than in a way permitted under the Act.

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

Division 12 Tenancy databases

81 Extension of chapter 9 of the Act for rooming accommodation

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

- (c) a reference in a provision of that chapter or regulation to a lessor included a reference to a provider; and
 - (d) a reference in a provision of that chapter or regulation to premises included a reference to rental premises.
- (2) Part 4 of the *Residential Tenancies and Rooming Accommodation Regulation 2009* applies in relation to rooming accommodation agreements as if—
- (a) a reference in a provision of that regulation to section 280 of the Act included a reference to section 368 of the Act; and
 - (b) a reference in a provision of that regulation to section 347 of the Act included a reference to section 389 of the Act.
- (3) However, sections 17 and 18 of the *Residential Tenancies and Rooming Accommodation Regulation 2009* do not apply in relation to rooming accommodation agreements.
- (4) This section extends the application of chapter 9 of the Act, and part 4 of the *Residential Tenancies and Rooming Accommodation Regulation 2009*, to—
- (a) residents, providers and provider’s agents; and
 - (b) persons who own or operate a database containing information that—
 - (i) is personal information relating to, or arising from, the occupation of residential premises under a rooming accommodation agreement; or
 - (ii) is used for a purpose relating to a past, current or future occupation of residential premises under a rooming accommodation agreement; and
 - (c) persons who list personal information about other persons in a tenancy database mentioned in paragraph (b).
- (5) In this section—
- list* see section 457 of the Act, as modified under subsection (1).

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

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

82 Restriction on listing on tenancy database

- (1) This section applies to personal information relating to—
 - (a) a failure to pay rent as required under a rooming accommodation agreement; or
 - (b) ending a rooming accommodation agreement.
- (2) A person (a ***user***) must not list personal information about another person in a tenancy database if the failure to pay rent, or the ending of the agreement, happened during the COVID-19 emergency period and was because of the other person—
 - (a) suffering excessive hardship because of the COVID-19 emergency; or
 - (b) complying with a public health direction.Maximum penalty—20 penalty units.
- (3) However, subsection (2)(a) does not apply if—
 - (a) the user was the provider or provider’s agent under the rooming accommodation agreement when the failure happened; and
 - (b) the other person did not inform the user that the failure to pay the rent, or the ending of the agreement, was because of a circumstance mentioned in subsection (2)(a) or (b).
- (4) This section applies in addition to the restrictions on listing personal information in a tenancy database under section 459 of the Act, as modified under section 81.

- (5) In this section—

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

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

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

Part 4 General provisions

83 Extensions of time to complete particular processes

- (1) This section applies if—
 - (a) a person—
 - (i) may apply under the Act to the authority or tribunal within a stated period; or
 - (ii) must respond to an action taken by the authority within a stated period; and
 - (b) the person is unable to make the application, or respond to the action, because of a circumstance mentioned in section 6(2)(a).
- (2) The person may apply to the authority for an extension of time to make the application or respond to the action.
- (3) The application (the *extension application*) must be made within the stated period in the approved form and be accompanied by the evidence required under the approved form.
- (4) The authority may grant the extension application if satisfied the person was unable to make the application, or respond to the action, because of a circumstance mentioned in subsection (1)(b).
- (5) The extension of time granted by the authority may be the period applied for or another period decided by the authority.
- (6) Whether or not the extension application is granted, the stated period is taken to be extended by the number of days taken to

decide the application and give notice of the decision to the applicant.

Example—

If the person made the extension application on the second day of a 7-day period, and the person is informed on the last day of the period that the application was rejected, the period is taken to be extended by 5 days.

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

84 Additional grounds to be considered by tribunal in deciding applications

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

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

- (1) This section applies if a tenant or resident claims to be, or to have been, suffering excessive hardship because of the COVID-19 emergency.
- (2) The lessor or provider may require evidence from the tenant or resident to support the claim if the evidence is similar in nature to the information the lessor or provider required from the tenant or resident to enter into the agreement.

Examples of evidence supporting claim—

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

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

Note—

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

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

the tenant or resident must, as soon as reasonably practicable after the change in circumstances happens, inform the lessor

or provider of the tenant's or resident's changed circumstances.

Maximum penalty—20 penalty units.

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

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

Maximum penalty—50 penalty units.

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

87 Summary offences

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

88 Minister may make guidelines

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

Part 5 **Transitional and saving provisions**

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

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

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

Division 2 **Transitional provisions for Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Amendment Regulation 2020**

90 **Definition for division**

In this division—

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

91 **Continuation of particular notices**

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

- (b) revoke or otherwise end a notice given under the former section before 30 September 2020; or

Examples of notices for paragraph (b)—

- a notice to leave given to a tenant under repealed section 35, 36 or 37
 - a notice of intention to leave given to a lessor under repealed section 41
 - a notice to leave given to a resident under repealed section 73
 - a notice terminating an agreement given to a provider under repealed section 76
- (c) prevent a residential tenancy agreement or a rooming accommodation agreement ending because of a notice mentioned in paragraph (b).
- (2) Subsection (3) applies if, before 30 September 2020, a lessor gave a tenant a notice to leave under repealed section 35, 36 or 37.
- (3) Despite the repeal of section 39 by the amendment regulation, the section, as in force immediately before its repeal, continues in effect for each of the following matters—
- (a) the lessor making an application to the tribunal for a termination order;
 - (b) the application being taken to be an urgent application for the Act;
 - (c) the tribunal making, or refusing to make, the termination order.

- (4) In this section—

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

92 Unpaid rent—residential tenancy

- (1) Subsection (2) applies if repealed section 11 applied in relation to a residential tenancy agreement before 30 September 2020.

- (2) From 30 September 2020, repealed section 11 no longer has effect in relation to the residential tenancy agreement, including, for example, by—
 - (a) preventing the lessor from giving the tenant a notice to remedy breach under section 280 of the Act; and
 - (b) authorising the lessor to request that the tenant enter into a tenancy variation agreement with the lessor.
- (3) Despite the repeal of section 12 by the amendment regulation, if the section applied to a lessor and tenant before 30 September 2020—
 - (a) either party may make a dispute resolution request under repealed section 12(2) as in force immediately before its repeal; and
 - (b) either party may make an application to the tribunal under repealed section 12(3) as in force immediately before its repeal; and
 - (c) the tribunal may make an order under repealed section 12(4) as in force immediately before its repeal.
- (4) Subsection (5) applies if, before 30 September 2020—
 - (a) repealed section 15 applied for an application for a termination order; and
 - (b) the application had not been decided or withdrawn.
- (5) From 30 September 2020—
 - (a) repealed section 15(2) does not limit the ability of the tribunal to grant the application; and
 - (b) section 337 of the Act applies for the application.

93 Unpaid rent—rooming accommodation

- (1) Subsection (2) applies if repealed section 49 applied in relation to a rooming accommodation agreement before 30 September 2020.

- (2) From 30 September 2020, repealed section 49 no longer has effect in relation to the rooming accommodation agreement, including, for example, by—
 - (a) preventing the provider from giving the resident a notice to remedy breach under section 368 of the Act; and
 - (b) authorising the provider to request that the resident enter into a residency variation agreement with the provider.
- (3) Despite the repeal of section 50 by the amendment regulation, if the section applied to a provider and resident before 30 September 2020—
 - (a) either party may make a dispute resolution request under repealed section 50(2) as in force immediately before its repeal; and
 - (b) either party may make an application to the tribunal under repealed section 50(3) as in force immediately before its repeal; and
 - (c) the tribunal may make an order under repealed section 50(4) as in force immediately before its repeal.
- (4) Subsection (5) applies if, before 30 September 2020—
 - (a) repealed section 53 applied for an application for a termination order; and
 - (b) the application had not been decided or withdrawn.
- (5) From 30 September 2020—
 - (a) repealed section 53(2) does not limit the ability of the tribunal to grant the application; and
 - (b) section 337 of the Act applies for the application.

94 Tenancy variation agreements

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

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

95 Residency variation agreements

- (1) This section applies if a residency variation agreement was entered into under repealed section 51 before 30 September 2020.
- (2) The repeal of section 51 does not end, or otherwise alter, the residency variation agreement.
- (3) However, from 30 September 2020—
 - (a) repealed section 52(2) does not apply in relation to the residency variation agreement; and
 - (b) section 105 of the Act applies in relation to an increase in rent at the end of the term of the residency variation agreement.
- (4) If an application is made under the Act to the tribunal about unpaid rent for a period during which the residency variation agreement was in effect, the tribunal must have regard to the agreement in deciding the application.
- (5) Subsection (4) does not limit the matters the tribunal may have regard to in deciding the application.

- (6) To remove any doubt, it is declared that a residency variation agreement may not be entered into after 29 September 2020.

96 Rental bonds

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

97 Notices to leave without grounds

- (1) If, before 30 September 2020, a lessor gave a tenant a notice to leave without grounds in contravention of repealed section 38(1)—

- (a) the notice to leave is of no effect; and

Note—

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

- (b) repealed section 38(2) does not apply in relation to the notice to leave.

- (2) If, before 30 September 2020, a provider gave a resident a notice under section 372 of the Act in contravention of repealed section 74(1)—

- (a) the notice is of no effect; and

Note—

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

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

98 Termination for excessive hardship

- (1) From 30 September 2020, repealed section 42 does not—

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

Schedule 1 Dictionary

section 5

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

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

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

notice ending residency see section 60(3).

notice ending tenancy see section 22(3).

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

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

quarantine direction means—

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

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

vulnerable person means any of the following persons—

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

- (d) an individual whose immune system is compromised.