

Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Regulation 2024

Explanatory notes for Subordinate Legislation 2024 No. 160

Made under the

Residential Tenancies and Rooming Accommodation Act 2008
State Penalties Enforcement Act 1999

General Outline

Short title

Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Regulation 2024 (Amendment Regulation).

Authorising law

Section 520 of the *Residential Tenancies and Rooming Accommodation Act 2008*
Section 165 of *State Penalties Enforcement Act 1999*

Policy objectives and the reasons for them

The *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024* (RTRAOLA Act) was passed by Parliament on 23 May 2024 and received assent on 6 June 2024.

The RTRAOLA Act amends the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act) to strengthen the rights of renters, stabilise rents in the private rental market, including by banning all forms of rent bidding from Assent, and provide better pathways to resolve issues in tenancies. The reforms also help to ease cost of living pressures for renting Queenslanders.

The policy objectives of the Amendment Regulation are to support provisions of the RTRAOLA Act that will commence on 30 September 2024 and provide the Residential Tenancies Authority (RTA) with more enforcement options in response to rent bidding offences that commenced on Assent.

The RTRAOLA Act provisions commencing 30 September 2024 will help to alleviate cost of living pressures for renters and enhance the RTA's compliance and

enforcement ability. Specifically, they will limit the maximum amount of rental bonds; require utility charges to be promptly passed on; require that renters be offered a fee-free rent payment method; limit reletting costs to a prescribed amount according to how much of the lease has expired; expand a provision to make it an offence to give the RTA a false or misleading document; and allow the RTA to share confidential information with the Office of Fair Trading and the Department of Housing, Local Government, Planning and Public Works.

Consequential amendments are required to the Residential Tenancies and Rooming Accommodation Regulation 2009 (RTRA Regulation) to achieve the RTRAOLA Act policy objectives and make the RTRA Regulation consistent with the amended RTRA Act. These consequential amendments update and amend the standard terms in general tenancy, moveable dwelling and rooming accommodation agreements by updating references to rent payment methods to require fee-free options, removing the prescribed weekly rent limit that previously determined when the maximum bond amount applied, requiring utility charges to be passed on promptly and limiting reletting costs in breaklease situations.

Amendments to the State Penalties Enforcement Regulation 2014 (SPE Regulation) are also required to enable the RTA to issue penalty infringement notices for a rent bidding offence that commenced on Assent in relation to residential tenancy agreements and rooming accommodation agreements. An amendment is also required to correct a referencing error.

Achievement of policy objectives

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

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

The Amendment Regulation also removes the reference to a prescribed weekly rent limit that previously determined when the maximum bond amount applied to a tenancy. This will support reforms that set the maximum rental bond that can be charged for any type of tenancy arrangement as four times the weekly rent.

The Amendment Regulation amends Schedule 1 (Infringement notice offences and fines for nominated laws) of the SPE Regulation to allow the RTA to issue penalty infringement notices for rent bidding offences relating to rent in advance.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the *Residential Tenancies and Rooming Accommodation Act 2008* and the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024*.

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

The additional penalty infringement notices included in the SPE Regulation have been assessed in accordance with the guidelines and endorsed by the Department of Justice and Attorney-General for inclusion. The new penalties do not apply retrospectively and a person will not be subject to new penalties for conduct they have already engaged in.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Benefits and costs of implementation

The Amendment Regulation will provide clarity, uniformity and alignment to the residential rental sector and support them to transition their systems and agreements to rental law reforms commencing on 30 September 2024.

As these amendments are consequential to amendments made by the RTRAOLA Act no additional costs are expected.

Consistency with fundamental legislative principles

Rental law reforms have the potential to infringe several Fundamental Legislative Principles relating to the rights and liberties of individuals, including that legislation should not abrogate statutory or common law rights without sufficient justification and proportion and relevance.

The RTRAOLA Act and consequential amendments to the RTRA Regulation limit the amount of reletting costs payable when a renter breaks the lease. As these amendments limit the total amount of compensation that can be sought by a property owner when a lease is broken by a renter, the amendments may be inconsistent with the property rights of owners. The amendments are intended to ensure that renters do not incur excessive costs by ending a fixed term agreement early so that breaking a lease does not create a barrier for renters to access more suitable housing. Ensuring that renters can access more affordable housing or alternative housing options (such as living with family members or entering social housing), is particularly important in

the context of rising rental costs and cost-of-living pressures being experienced by many Queenslanders and justifies potential departure from fundamental legislative principles.

The amendments to the SPE Regulation make sections 57AA and 76AB, the soliciting, inviting or accepting an offer of an amount of rent in advance for a premises that is more than the amount allowed under the RTRA Act, a penalty infringement notice offence. Restricting the amount of rent in advance limits the amount a property owner can receive in exchange for renting premises, which is potentially inconsistent with the property rights of individuals.

To the extent the amendments are a departure from fundamental legislative principles, this is justified as the restriction applies only to the amount of payment that can be required or accepted when the premises is advertised for rent, but not during a tenancy, and, it is necessary to prevent rent bidding, which distorts the market, and to ensure prospective renters whose financial means are lesser than those of other prospective renters have a fair opportunity to secure housing.

Consultation

No consultation was undertaken with stakeholders as the changes give effect to policy established through the RTRAOLA Act which has been subject to rigorous consultation and the amendments are consequential.

In accordance with the Queensland Government Better Regulation Policy, an Impact Analysis Statement (IAS) has been prepared and approved by the Director-General, DHLGPPW and Minister for Housing, Local Government and Planning and Minister for Public Works. The IAS found, in summary, that the proposed amendments are minor and machinery in nature and does not result in a substantive change to regulatory policy or new impacts on business, government or the community.