

# Residential Tenancies and Rooming Accommodation (Transitional) Regulation 2024

## Human Rights Certificate

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, Meaghan Scanlon MP, Minister for Housing, Local Government and Planning and Minister for Public Works, provide this human rights certificate with respect to the *Residential Tenancies and Rooming Accommodation (Transitional) Regulation 2024* (Transitional Regulation) made under the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act).

In my opinion, the Transitional Regulation is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

### Overview of the Subordinate Legislation

The *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024* (RTRAOLA Act) amended the RTRA Act and received Assent on 6 June 2024.

A reform that commenced on Assent applies the annual rent increase frequency limit to the property instead of the tenancy. Supporting amendments were also made to enable a renter to request evidence of the date of the last rent increase and ensure existing and new renters know of the date of the last rent increase by requiring lessors, rooming accommodation providers and their agents to provide this information on tenancy agreements and written notices of a rent increase.

The RTRAOLA Act established a head of power for a Transitional Regulation to enable transitional or savings provisions to be prescribed about any matter necessary to transition from the operation of the RTRA Act as in force before its amendment by the RTRAOLA Act to the operation of the RTRA Act from commencement of those amendments, for which the RTRAOLA Act does not make provision. This head of power provides that it and any transitional regulation made under it will sunset 2 years after it commences.

An amendment moved during consideration in detail were transitional provisions to address concerns about a lessor's or provider's ability to comply with the requirement to provide written evidence of the date of the last rent increase if they recently purchased the property and do not hold such evidence. The transitional provision in the RTRAOLA Act does not remove the requirement to provide evidence of the date of the last rent increase or include the date of the last rent increase in the tenancy agreement or written notice of a rent increase where a property was purchased in the 12 months prior to commencement and the new owner does not hold the information.

The Transitional Regulation clarifies that lessors, providers and their agents are not required to disclose the date of the last rent increase for the rental property if the property was the subject of a residential tenancy agreement or a rooming accommodation agreement in the 12 months prior to commencement and was purchased in this period and they do not hold information

about the date of the last rent increase. It will ensure they are not in breach of the RTRAOLA Act or subject to penalties if they are unable to comply with the relevant disclosure provisions in the RTRAOLA Act, because they purchased the property in the 12 months prior to the provisions of the RTRAOLA Act commencing.

The Transitional Regulation will commence from the date of notification.

## **Human Rights Issues**

### **Human rights relevant to the Amendment Regulation (Part 2, Divisions 2 and 3 of the *Human Rights Act 2019*)**

The Transitional Regulation clarifies requirements for lessors, providers and their agents in relation to disclosing the date of the last rent increase for a rental property further to amendments made by the RTRAOLA Act to the RTRA Act.

The human right relevant to the Transitional Regulation are as follows:

- Property rights (section 24)
- Protection of families and children (section 26)

### Consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 HR Act)

Any limit on the above human rights is reasonable and justified as follows:

- Nature of the human right—What is at stake is the ability of tenants and residents to obtain information that confirms whether their lessor or provider is complying with their obligations under the RTRA Act to not increase the rent more than once per year. This Transitional Regulation will relieve lessors, providers and their agents of the obligation to provide information about the date of the previous rent increase if they do not hold this information because they recently purchased the property.
  - This amendment engages the property rights of lessors and providers by relieving them of the obligation to provide information about when the rent was last increased if they do not possess this information because they recently purchased the rental premises.
  - This amendment engages the right to protection of families and children. This right is engaged because lessors and providers will, in some limited cases, not be required to provide the date of the last rent increase to families who rent the property. This may affect tenants and residents' ability to know when a rent increase may occur and to plan and budget for a rent increase. By not having access to this information, tenants and residents are more at risk of financial stress and therefore a protection for tenants and residents to help them live securely and with dignity is not available to them.
- Purpose—The purpose of the limitation is to ensure that lessors and providers are not subject to penalties for failing to provide information that is not in their possession or under their control. At the same time, this limitation potentially applies to a small cohort of lessors, providers and their agents who do not possess or control this information because they recently purchased the property. This is consistent with a free and democratic society based on human dignity, equality and freedom.

- Relationship between limitation and its purpose—The limitation will be effective to achieve the purpose.
- Less restrictive alternatives—The alternative would be to require lessors and providers to attempt to obtain the information. However, it is likely that in many cases the previous owners of the property will not respond to requests for the information or respond in a timely way.
- Fair balance—In the circumstances, I am satisfied the proposed amendments to be moved during consideration in detail strike a fair and reasonable balance between the rights of tenants and residents and those of lessors and providers.

## **Conclusion**

I consider that the Transitional Regulation is compatible with human rights under the *Human Rights Act 2019* because it limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Human Rights Act.

**THE HONOURABLE MEAGHAN SCANLON MP**  
MINISTER FOR HOUSING, LOCAL GOVERNMENT AND PLANNING AND  
MINISTER FOR PUBLIC WORKS

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