

South Australia

Residential Tenancies Act 1995

An Act to regulate the relationship of landlord and tenant under residential tenancy agreements; and for other purposes.

Contents

Part 1—Preliminary

- 1 Short title
- 3 Interpretation
- 4 Presumption of periodicity in case of short fixed terms
- 5 Application of Act

Part 2—Administration

- 6 Administration of this Act
- 7 Ministerial control of administration
- 8 The Commissioner's functions
- 10 Annual report

Part 3—South Australian Civil and Administrative Tribunal

Division 3—The Tribunal's jurisdiction

- 24 Jurisdiction of Tribunal
- 25 Application to Tribunal
- 25A Registrar may make orders in certain cases

Division 5—Procedural powers of Tribunal

- 32 Intervention of designated housing agency
- 33 Amendment of proceedings

Division 7—Orders

- 35 Special powers to make orders

Division 8—Obligation to give reasons for decisions

- 39 Reasons for decisions
- 39A Time for application for review or instituting appeal

Part 4—Mutual rights and obligations of landlord and tenant

Division A1—Before entering into residential tenancy agreement

- 47A Prospective tenant to be notified of sale of premises
- 47B Prospective tenant—requirements relating to provision of information

47C Advertising premises and misleading etc conduct

Division 1—Entering into residential tenancy agreement

48 Information to be provided by landlords to tenants

49 Residential tenancy agreements

50 Cost of preparing agreement

51 False information from tenant

Division 2—Discrimination against tenants with children

52 Discrimination against tenants with children

Division 3—Rent

52A Premises to be offered for rent at fixed amount

52B Special provision relating to assessments etc of prospective tenants

53 Permissible consideration for residential tenancy

54 Rent in advance

55 Variation of rent

56 Excessive rent

56A Manner etc of payment of rent

57 Landlord's duty to keep proper records of rent and other payments

58 Duty to provide statement or give receipt for rent

58A Payment of rent by electronic transaction

59 Accrual and apportionment of rent

60 Abolition of distress for rent

Division 4—Bonds

61 Bond

62 Receipt of bond and transmission to Commissioner

63 Repayment of bond

Division 5—Tenant's entitlement to possession and quiet enjoyment

64 Vacant possession etc

65 Quiet enjoyment

Division 6—Security of premises

66 Security of premises

66A Altering locks etc for premises in certain circumstances

66B Application to Tribunal to alter etc locks or security devices without consent

Division 6A—Keeping of pets on premises

66C Keeping of pets on premises

66D Grounds for refusing pets being kept on premises

66E Tenant may seek Tribunal orders

66F Continuation of approval to keep pet on premises

66G Limitation of landlord's liability

Division 7—Landlord's obligation in regard to condition of the premises

67 Cleanliness

67A Occupation of premises that do not comply with minimum housing standards

67B Testing and remediation in relation to drug contamination

68 Landlord's obligation to repair

68A Minimum efficiency standards

Division 8—Tenant's obligations in relation to the premises and ancillary property

- 69 Tenant's responsibility for cleanliness, damage and loss
- 70 Alteration of premises

Division 9—Tenant's conduct on the premises

- 71 Tenant's conduct

Division 9A—Landlord's obligation to advise of sale of premises

- 71A Sale of residential premises

Division 10—Landlord's right of entry

- 72 Right of entry

Division 11—Statutory charges

- 73 Statutory charges
- 73A Agreements relating to installation of solar energy systems
- 73B Excessive water usage charges

Division 12—Assignment and sub-letting

- 74 Assignment and sub-letting by tenant
- 74A Tenant may apply to Tribunal
- 74B Landlord cannot demand or receive fee for giving consent

Division 13—Tenant's vicarious liability

- 75 Vicarious liability

Division 13A—Maximum liability for rent payable following tenant's termination of fixed term tenancy

- 75A Maximum liability for rent payable following tenant's termination of fixed term tenancy

Division 14—Harsh or unconscionable terms

- 76 Harsh or unconscionable terms

Division 14A—Tenant information

- 76A Preliminary
- 76B Dealing with tenant information and prospective tenant information
- 76C Powers of Tribunal

Division 15—Miscellaneous

- 77 Accelerated rent and liquidated damages
- 78 Duty of mitigation
- 78A Compensation for expenses

Part 5—Termination of residential tenancy agreements**Division 1—Termination generally**

- 79 Termination of residential tenancy
- 79A Agreement for fixed term continues if not terminated

Division 1A—Termination following death of sole tenant

79B Termination following death of sole tenant

Division 2—Termination by the landlord

- 80 Notice of termination by landlord on ground of breach of agreement
- 80A Termination by landlord on ground of drug contamination
- 81 Termination because possession is required by landlord for certain purposes
- 82 Termination of residential tenancy by community housing providers with members who are tenants
- 83 Termination by landlord on ground prescribed
- 83A Notice to be given at end of fixed term
- 83B Termination where agreement frustrated
- 84 Tribunal must approve certain terminations
- 84A Compensation for termination in certain circumstances

Division 3—Termination by tenant

- 85 Notice of termination by tenant on ground of breach of the agreement
- 85AA Notice of termination by tenant for successive breaches of agreement
- 85A Termination by tenant if residential premises for sale
- 85B Notice of termination by tenant due to condition of premises
- 85C Notice of termination by tenant in certain circumstances
- 85D Notice of termination by tenant on ground of domestic abuse
- 86 Termination by tenant without specifying a ground of termination
- 86A Notice to be given at end of fixed term
- 86B Termination where agreement frustrated

Division 4—Termination by the Tribunal

- 87 Termination on application by landlord
- 88 Termination on application by tenant
- 89 Termination based on hardship
- 89A Termination based on domestic abuse
- 90 Tribunal may terminate tenancy if tenant's conduct unacceptable

Division 4A—Tribunal may make orders in relation to retaliatory behaviour and circumstances of domestic abuse

- 90A Tribunal may make orders in relation to retaliatory behaviour
- 90B Tribunal may make orders in relation to circumstances of domestic abuse

Division 5—Notices of termination

- 91 Form of notice of termination
- 91A Prohibition on letting premises after notice of termination
- 92 Termination of periodic tenancy
- 92A Notice of termination void if no action taken

Division 6—Repossession of premises

- 93 Order for possession
- 94 Abandoned premises
- 95 Repossession of premises
- 96 Forfeiture of head tenancy not to result automatically in destruction of right to possession under residential tenancy agreement

Division 7—Abandoned property

- 97 Abandoned property
- 97A Offence to deal with abandoned property in unauthorised way
- 97B Action to deal with abandoned property other than personal documents
- 97C Action to deal with abandoned personal documents

Division 8—Enforcement of orders for possession

- 99 Enforcement of orders for possession

Part 5A—Residential tenancy databases

- 99A Definitions
- 99B Application
- 99C Extra-territorial operation of Part
- 99D Notice of usual use of database
- 99E Notice of listing if database used
- 99F Listing can be made only for particular breaches by particular persons
- 99G Further restriction on listing
- 99H Ensuring quality of listing—landlord's or agent's obligation
- 99I Ensuring quality of listing—database operator's obligation
- 99J Providing copy of personal information listed
- 99K Keeping personal information listed
- 99L Powers of Tribunal
- 99M Notifying relevant non-parties of Tribunal order about listing

Part 6—Residential Tenancies Fund

- 100 Residential Tenancies Fund
- 101 Application of income
- 102 Accounts and audit

Part 7—Rooming houses

Division 1—Interpretation

- 103 Interpretation

Division 1A—Registration of proprietors of designated rooming houses

- 103A Interpretation
- 103B Proprietors must be registered to carry on business relating to designated rooming houses
- 103C Registration
- 103D Annual return and fee
- 103E Notification of change in circumstances
- 103F Cancellation or suspension of registration
- 103G Review by Tribunal

Division 2—Rooming house agreements

- 104 Standard terms of rooming house agreements
- 105 Copies of written agreements

Division 3—House rules

- 105A House rules
- 105B Amendment of house rules
- 105C Application to Tribunal if house rules are considered unreasonable

105D Availability of house rules

Division 4—Mutual rights and obligations of proprietors and residents

Subdivision 1—Rent and other charges

- 105E Permissible consideration and statutory charges
- 105F Rent in advance
- 105G Duty to provide statement or give receipt for payments
- 105H Payment of rent by electronic transaction
- 105I Rent increases
- 105J Rent decreases

Subdivision 2—Bonds

- 105K Bond
- 105L Receipt of bond and transmission to Commissioner
- 105M Repayment of bond

Subdivision 3—Other obligations of proprietor

- 105N Use and enjoyment of room and facilities
- 105O Security of premises and personal property
- 105P Obligation to repair and keep room and premises clean
- 105PA Minimum efficiency standards
- 105Q Sale of rooming house

Subdivision 4—Other obligations of resident

- 105R General obligations of resident

Subdivision 5—Miscellaneous

- 105S Accelerated rent and liquidated damages
- 105T Goods not to be taken in lieu of amounts owing to proprietor

Division 5—Termination of rooming house agreement

- 105U Termination of rooming house agreement
- 105UA Termination based on abuse of rooming house resident
- 105V Abandoned room
- 105W Abandoned property

Part 8—Dispute resolution

Division 1—Conciliation

Subdivision 1—Definitions for this Division

- 106 Definitions

Subdivision 2—Conciliation of dispute by Commissioner

- 107 Conciliation of dispute by Commissioner

Subdivision 4—Duties and procedure

- 108A Functions of Commissioner in conciliation of dispute
- 108B Procedure
- 108C Restriction on evidence

Division 2—Intervention

109 Power to intervene

Division 3—Powers of the Tribunal

110 Powers of Tribunal

111 Conditional and alternative orders

112 Restraining orders

Division 4—Representation

113 Representation

114 Remuneration of representative

Division 5—Other matters

114A Internal review in relation to certain orders

Part 9—Miscellaneous

115 Contract to avoid Act

117 Notice by landlord not waived by acceptance of rent

117A Liability to prosecution not to derogate from civil liability

118 Exemptions

119 Tribunal may exempt agreement or premises from provision of Act

120 Service

121 Regulations and fee notices

Schedule 1—Transitional provisions—*Residential Tenancies (Miscellaneous) Amendment Act 2013*

1 Interpretation

2 Operation of amendments

3 Registrar and deputy registrars

4 Jurisdiction of Tribunal

5 Interest payable on repayment of bond

6 Abandoned property

7 Application to existing house rules

8 Other provisions

Schedule 2—Transitional provisions—*Residential Tenancies (Miscellaneous) Amendment Act 2016*

1 Interpretation

2 Operation of amendments

Schedule 3—Transitional provisions—*Residential Tenancies (Miscellaneous) Amendment Act 2023*

1 Interpretation

2 Operation of amendments

3 Abandoned property

4 Internal review

5 Other provisions

Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Residential Tenancies Act 1995*.

3—Interpretation

- (1) In this Act, unless the contrary intention appears—

abuse and **act of abuse** have the same meaning as in the *Intervention Orders (Prevention of Abuse) Act 2009*;

ancillary property means property (not forming part of premises subject to a residential tenancy agreement) that is provided by the landlord, either under the residential tenancy agreement or independently of the agreement, for use by the tenant;

bailiff means a bailiff appointed under the *South Australian Civil and Administrative Tribunal Act 2013*;

bond means an amount a tenant is required to pay under a residential tenancy agreement, or an agreement collateral to a residential tenancy agreement, as security for the performance of obligations under a residential tenancy agreement;

collateral agreement, in relation to a residential tenancy agreement for residential premises in a prescribed retirement village, includes a domestic services agreement that a tenant of the premises is required to enter into as a condition of the residential tenancy agreement or otherwise as a condition of admission as a resident of the village;

Commissioner means the Commissioner for Consumer Affairs;

controlled drug has the same meaning as in the *Controlled Substances Act 1984*;

co-tenant means a tenant who is 1 of 2 or more tenants under a residential tenancy agreement;

decision, of the Tribunal, has the same meaning as in the *South Australian Civil and Administrative Tribunal Act 2013*;

Deputy President means a Deputy President of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*;

Deputy Registrar means a Deputy Registrar of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*;

domestic abuse means an act of abuse committed by a person against a domestic associate or a former domestic associate of the person;

domestic associate—2 persons are domestic associates, 1 of the other, if—

- (a) they are married to each other; or
- (b) they are domestic partners; or

-
- (c) they are in some other form of intimate personal relationship in which their lives are interrelated and the actions of 1 affect the other; or
 - (d) 1 is the child, stepchild or grandchild, or is under the guardianship, of the other (regardless of age); or
 - (e) 1 is a child, stepchild or grandchild, or is under the guardianship, of a person who is or was formerly in a relationship with the other under paragraph (a), (b) or (c) (regardless of age); or
 - (f) 1 is a child and the other is a person who acts in *loco parentis* in relation to the child; or
 - (g) 1 is a child who normally or regularly resides or stays with the other; or
 - (h) they are brothers or sisters or brother and sister; or
 - (i) they are otherwise related to each other by or through blood, marriage, a domestic partnership or adoption; or
 - (j) they are related according to Aboriginal or Torres Strait Islander kinship rules or are both members of some other culturally recognised family group; or
 - (k) 1 is the carer (within the meaning of the *Carers Recognition Act 2005*) of the other;

domestic facility requiring instructions means an appliance or device provided by a landlord for the use of a tenant for which it would be reasonable to expect the tenant to require instructions;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

domestic services agreement means an agreement with a tenant of residential premises in a prescribed retirement village for the provision of domestic services (such as meals, cleaning, gardening and laundry of linen);

drug related conduct means conduct of a kind prescribed by the regulations in relation to a controlled drug;

exempt animal means—

- (a) an assistance animal within the meaning of the *Equal Opportunity Act 1984*; or
- (b) a therapeutic animal within the meaning of section 88A of the *Equal Opportunity Act 1984*;

Fund means the Residential Tenancies Fund;

housing assessment order has the same meaning as in the *Housing Improvement Act 2016*;

housing demolition order has the same meaning as in the *Housing Improvement Act 2016*;

housing improvement order has the same meaning as in the *Housing Improvement Act 2016*;

intervention order means an intervention order issued by a court under the *Intervention Orders (Prevention of Abuse) Act 2009*;

landlord means—

- (a) the person who grants the right of occupancy under a residential tenancy agreement; or
- (b) a successor in title to the tenanted premises whose title is subject to the tenant's interest,

and includes a prospective landlord and a former landlord;

lawyer means a person entitled to practise the profession of the law under the *Legal Practitioners Act 1981*;

notice to vacate has the same meaning as in the *Housing Improvement Act 2016*;

personal documents means official documents, photographs, correspondence or other documents that it would be reasonable to expect a person might wish to keep;

preliminary rent control notice has the same meaning as in the *Housing Improvement Act 2016*;

premises includes a part of premises;

prescribed retirement village means a complex of residential premises or a number of separate complexes of residential premises that would be a retirement village within the meaning of the *Retirement Villages Act 2016* except that no resident or prospective resident of the village pays an ingoing contribution (within the meaning of that Act) in consideration for, or in contemplation of, admission as a resident of the village;

President means the President of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*;

registered community housing provider means a community housing provider registered under the *Community Housing Providers National Law*;

Registrar means the Registrar of the Tribunal appointed under the *South Australian Civil and Administrative Tribunal Act 2013*;

rent consists of—

- (a) the amount payable under a residential tenancy agreement for the right to occupy premises for a period of the tenancy; and
- (b) if the residential tenancy agreement is for residential premises in a prescribed retirement village and there is a domestic services agreement collateral to the residential tenancy agreement—the amount payable under the domestic services agreement for the period of the tenancy referred to in paragraph (a);

rent control notice means a notice under Part 3 Division 3 of the *Housing Improvement Act 2016* fixing the maximum rent payable for premises;

residential premises means premises for occupation as a place of residence;

residential tenancy agreement means an agreement (other than a rooming house agreement) under which a person grants another person, for valuable consideration, a right (which may, but need not, be an exclusive right¹) to occupy premises for the purpose of residence;

Note—

An agreement under which a person grants another person, for valuable consideration, a right to occupy for residential purposes a building on land (such as a studio or "granny flat") that is located adjacent to or near the primary residence on the land and which the other person has exclusive access to, and possession of, is a residential tenancy agreement.

rooming house means residential premises in which 2 or more rooms are available, for valuable consideration, for residential occupation;

rooming house agreement means an agreement under which accommodation is provided (with or without meals, or other facilities or services) in a rooming house;

rooming house proprietor means a person who carries on a business involving the provision of accommodation under rooming house agreements;

rooming house resident means a person who boards or lodges in a rooming house;

statutory charges means—

- (a) rates or charges imposed under the *Local Government Act 1999*; and
- (b) rates or charges imposed under the *Water Industry Act 2012*; and
- (c) land tax under the *Land Tax Act 1936*; and
- (d) levies under the *Emergency Services Funding Act 1998*; and
- (e) levies under the *Landscape South Australia Act 2019*; and
- (f) any charges of a kind imposed under an Act and declared by regulation to be statutory charges;

tenancy dispute means—

- (a) a claim under a residential tenancy agreement, a rooming house agreement, or an agreement collateral to a residential tenancy agreement or a rooming house agreement; or
- (b) a dispute between parties or former parties to a residential tenancy agreement, a rooming house agreement, or an agreement collateral to a residential tenancy agreement or a rooming house agreement, about matters arising under the agreement or this Act; or
- (c) any matter that may be the subject of an application under this Act to the Tribunal;

tenant means the person who is granted a right of occupancy under a residential tenancy agreement or a person to whom the right passes by assignment or operation of law and includes a prospective tenant or a former tenant;

Tribunal means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

- (2) If this Act provides for something to be done within a specified period from a particular day, the period will be taken not to include the particular day.

- (3) If this Act provides that action may be taken after the expiration of a specified period of days, the period will be taken to be a period of clear days.
- (4) For the purposes of this Act, a residential tenancy agreement includes an agreement granting a corporation the right to occupy premises that are occupied, or that are intended to be occupied, as a place of residence by a natural person.
- (5) For the purposes of this Act—
 - (a) a reference to a rooming house is taken to include a reference to a designated rooming house (within the meaning of Part 7 Division 1A); and
 - (b) a reference to a rooming house agreement is taken to include a designated rooming house agreement (within the meaning of Part 7 Division 1A); and
 - (c) a reference to a rooming house proprietor is taken to include a reference to a designated rooming house proprietor (within the meaning of Part 7 Division 1A).

Note—

- 1 However, it should be noted that the Act confers certain protections against intrusion on the premises by the landlord. Hence, even if the agreement does not, in its terms, confer an exclusive right to occupation, the Act will (at least in some respects) assimilate the right of occupation to the exclusive right conferred by a lease.

4—Presumption of periodicity in case of short fixed terms

- (1) If a residential tenancy agreement is entered into for a short fixed term, the agreement is taken to be an agreement for a periodic tenancy with a period equivalent to the length of the fixed term unless the landlord establishes that—
 - (a) the tenant genuinely wanted a tenancy ending at the end of the short fixed term and the term was fixed at the tenant's request; or
 - (b) before the residential tenancy agreement was entered into—
 - (i) the landlord gave the tenant a notice containing a warning in the form required by regulation; and
 - (ii) the tenant signed a statement in the form required by regulation acknowledging that the tenant did not expect to continue in possession of the premises after the end of the term stated in the agreement.
- (2) A *short fixed term* is a term of 90 days or less.

5—Application of Act

- (1) This Act does not apply to—
 - (a) an agreement giving a right of occupancy in—
 - (i) a hotel or motel; or
 - (ii) an educational institution, college, hospital or nursing home; or

Example—

An agreement under which a right of occupancy is given to a student in accommodation provided within an educational institution or college would not be an agreement to which this Act applies (but this Act would apply, subject to this Act, to an agreement under which a right of occupancy is given to a student in accommodation that is not within an educational institution or college).

- (iii) club premises; or
- (iv) a home for aged or disabled persons administered by an eligible organisation under the *Aged or Disabled Persons Care Act 1954* of the Commonwealth; or
- (v) a retirement village within the meaning of the *Retirement Villages Act 2016* (other than an agreement of a kind referred to in section 57 of that Act); or
- (vi) a supported residential facility within the meaning of the *Supported Residential Facilities Act 1992*; or
- (vii) prescribed premises, or premises of a prescribed class; or
- (ab) an agreement to which the *Residential Parks Act 2007* applies; or
- (b) an agreement (other than a rooming house agreement) under which a person boards or lodges with another; or
- (c) an agreement genuinely entered into for the purpose of conferring on a person a right to occupy premises for a holiday; or
- (d) an agreement conferring a right to occupy premises for the purpose of residence but under which no rent is payable; or

Example—

An agreement under which families exchange houses for an agreed period would not be a residential tenancy agreement if no rent were payable under the agreement.

- (e) an agreement for the sale of land that confers a right to occupy premises for a period of 28 days or less on a party to the agreement; or
 - (f) a mortgage; or
 - (g) an agreement arising under a scheme in which—
 - (i) a complex of adjacent premises is owned by a company; and
 - (ii) the premises are let by the company to persons who jointly have a controlling interest in the company; or
 - (h) a prescribed agreement or an agreement of a prescribed class.
- (1a) The regulations may exclude prescribed classes of agreements that relate to land owned (wholly or in part) by the South Australian Housing Trust, or by a subsidiary of the South Australian Housing Trust, from the operation of subsection (1)(e).
- (1b) For the purposes of this Act, an agreement conferring a right to occupy premises for a fixed term of 60 days or longer is to be taken, in the absence of proof to the contrary, not to be an agreement referred to in subsection (1)(c).

- (1c) For the purposes of this Act, a residential tenancy agreement for residential premises in a prescribed retirement village is to be taken not to be an agreement under which a person boards or lodges with another.
- (2) The following provisions of this Act (and only those provisions) apply to residential tenancy agreements under which the South Australian Housing Trust or a subsidiary of the South Australian Housing Trust is the landlord, to residential tenancies arising under those agreements and to related disputes—
 - (a) Part 3 (*South Australian Civil and Administrative Tribunal*);
 - (ab) Section 65 (*Quiet enjoyment*);
 - (b) Section 66 (*Security of premises*);
 - (ba) Section 67B (*Testing and remediation in relation to drug contamination*);
 - (c) Section 71 (*Tenant's conduct*);
 - (caa) Section 80A (*Termination by landlord on ground of drug contamination*);
 - (ca) Section 87 (*Termination on application by landlord*);
 - (cb) Section 89A (*Termination based on domestic abuse*);
 - (d) Section 90 (*Tribunal may terminate tenancy where tenant's conduct unacceptable*);
 - (e) Section 93 (*Order for possession*);
 - (f) Section 99 (*Enforcement orders for possession*);
 - (g) Division 3 of Part 8 (*Powers of the tribunal*);
 - (h) Division 4 of Part 8 (*Representation*).

Part 2—Administration

6—Administration of this Act

The Commissioner is responsible for the administration of this Act.

7—Ministerial control of administration

The Commissioner is, in the administration of this Act, subject to control and direction by the Minister.

8—The Commissioner's functions

The Commissioner has the following functions:

- (a) investigating and researching matters affecting the interests of parties to residential tenancy agreements and rooming house agreements; and
- (b) publishing reports and information on subjects of interest to the parties to residential tenancy agreements and rooming house agreements; and
- (c) giving advice (to an appropriate extent) on the provisions of this Act and other subjects of interest to the parties to residential tenancy agreements and rooming house agreements; and

- (d) investigating suspected infringements of this Act and taking appropriate action to enforce the Act; and
- (e) making reports to the Minister on questions referred to the Commissioner by the Minister and other questions of importance affecting the administration of this Act; and
- (f) administering the Fund.

10—Annual report

- (1) The Commissioner must, on or before 31 October in each year, prepare and forward to the Minister a report on the administration of this Act for the year ending on the preceding 30 June.
- (2) The report must include a report on the administration of the Fund.
- (3) The Minister must, within six sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

Part 3—South Australian Civil and Administrative Tribunal

Division 3—The Tribunal's jurisdiction

24—Jurisdiction of Tribunal

- (1) The Tribunal has—
 - (a) exclusive jurisdiction to hear and determine a tenancy dispute;
 - (b) subject to the regulations—jurisdiction to hear and determine claims or disputes arising from tenancies granted for residential purposes by the South Australian Housing Trust or a subsidiary of the South Australian Housing Trust, or arising under agreements collateral to such tenancies (including such agreements that may involve a third party).
- (2) However, the Tribunal does not have jurisdiction to hear and determine a monetary claim if the amount claimed exceeds \$40 000 unless the parties to the proceedings consent in writing to the claim being heard and determined by the Tribunal (and if consent is given, it is irrevocable).
- (3) If a monetary claim is above the Tribunal's jurisdictional limit, the claim and any other claims related to the same tenancy may be brought in a court competent to hear and determine a claim founded on contract for the amount of the claim.
- (4) A court in which proceedings are brought under subsection (3) may exercise the powers of the Tribunal under this Act and, to such extent as may be necessary and appropriate, the powers of the Tribunal under the *South Australian Civil and Administrative Tribunal Act 2013*.
- (5) If the plaintiff in proceedings brought in a court under this section recovers less than \$40 000, the plaintiff is not entitled to costs unless the court is satisfied that there were reasonable grounds for the plaintiff to believe that the plaintiff was entitled to \$40 000 or more.

25—Application to Tribunal

Despite any requirement under the *South Australian Civil and Administrative Tribunal Act 2013*, a requirement to give notice of an application under this Act—

- (a) may, if relevant, be directed to an occupier or subtenant of premises; and
- (b) if paragraph (a) applies, need not address the occupier or subtenant by name.

25A—Registrar may make orders in certain cases

The Registrar or a Deputy Registrar of the Tribunal may make an order in relation to a tenancy dispute with the written consent of the parties to the dispute (and such an order operates as an order of the Tribunal).

Division 5—Procedural powers of Tribunal

32—Intervention of designated housing agency

- (3) The Tribunal may, on the application of a designated housing agency, allow the designated housing agency to intervene in proceedings before the Tribunal when a registered community housing provider is a party to the proceedings.
- (4) If a designated housing agency is allowed to intervene in proceedings, it may intervene in the manner and to the extent directed by the Tribunal, and on other conditions determined by the Tribunal.
- (5) In this section—

designated housing agency means—

- (a) the Minister responsible for the administration of the *Community Housing Providers (National Law) (South Australia) Act 2013*; or
- (b) the South Australian Housing Trust.

33—Amendment of proceedings

The Tribunal may amend proceedings if satisfied that the amendment will contribute to the expeditious and just resolution of the questions in issue between the parties.

Division 7—Orders

35—Special powers to make orders

- (1) The Tribunal may make an order in the nature of an injunction (including an interim injunction) or an order for specific performance.
- (2) However, a member of the Tribunal who is not a legally qualified member (within the meaning of the *South Australian Civil and Administrative Tribunal Act 2013*) cannot make an order under subsection (1) without the approval of the President or a Deputy President of the Tribunal.
- (6) The Tribunal may, in the exercise of its jurisdiction, make ancillary or incidental orders.

Division 8—Obligation to give reasons for decisions

39—Reasons for decisions

The Tribunal must, if requested by a person affected by a decision of the Tribunal, where written reasons have not been given, state in writing the reasons for the Tribunal's decision.

39A—Time for application for review or instituting appeal

Furthermore, if the reasons for a decision of the Tribunal have not been given in writing and—

- (a) an applicant for review of the decision of the Tribunal under section 70 of the *South Australian Civil and Administrative Tribunal Act 2013*; or
- (b) a person appealing against a decision of the Tribunal under section 71 of the *South Australian Civil and Administrative Tribunal Act 2013*,

requests the Tribunal within 1 month of the making of the decision to state the reasons in writing, the time for making the application for review or instituting the appeal (as the case may be) runs from the time when the person receives the written statement of reasons.

Part 4—Mutual rights and obligations of landlord and tenant

Division A1—Before entering into residential tenancy agreement

47A—Prospective tenant to be notified of sale of premises

A landlord must ensure that a prospective tenant is advised, before entering into a residential tenancy agreement, if the landlord has advertised, or intends to advertise, the residential premises for sale and of any existing sales agency agreement for the sale of the residential premises.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

47B—Prospective tenant—requirements relating to provision of information

- (1) A landlord, or an agent of a landlord, must not request the provision of prescribed information from a prospective tenant or any other person (except in prescribed circumstances).

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

- (2) Subsection (1) does not apply to—

- (a) an entity, or a class of entities, prescribed by the regulations; or
- (b) a provider of a housing assistance program, or a class of housing assistance programs, prescribed by the regulations.

- (2a) A prospective tenant must not give a landlord, or an agent of a landlord, false information or a falsified document in connection with an application to enter a residential tenancy agreement.
- Maximum penalty: \$20 000.
- Expiation fee: \$1 200.
- (3) The regulations may include requirements relating to the provision of information to or by a prospective tenant in connection with the prospective tenant applying to enter into a residential tenancy agreement (including requirements relating to the manner or form in which information is to be provided).
- (4) A person who contravenes a requirement prescribed under subsection (3) is guilty of an offence.
- Maximum penalty: \$20 000.
- Expiation fee: \$1 200.

47C—Advertising premises and misleading etc conduct

- (1) A landlord, or an agent of a landlord, who advertises or otherwise offers premises for rent under a residential tenancy agreement must display or distribute the prescribed information relating to the agreement in accordance with the requirements determined by the Commissioner.
- Maximum penalty: \$35 000.
- Expiation fee: \$2 000.
- (2) A landlord, or an agent of a landlord, must not induce a tenant to enter into a residential tenancy agreement by any statement, representation or promise that the landlord or agent knows to be false, misleading or deceptive or by knowingly concealing a material fact of a kind prescribed by the regulations.
- Maximum penalty: \$35 000.
- Expiation fee: \$2 000.

Division 1—Entering into residential tenancy agreement

48—Information to be provided by landlords to tenants

- (1) A landlord must ensure that a tenant is given, before or at the time the landlord and tenant enter into a residential tenancy agreement, a written notice setting out—
- (a) if an agent is acting for the landlord—the agent's name, telephone number and postal or email address for service of documents; and
 - (b) the landlord's full name and postal or email address for service of documents (which must not be the agent's address for service); and
 - (c) if no agent is acting for the landlord—the landlord's telephone number; and
 - (d) the full name and address of any person with superior title to the landlord; and
 - (e) if the landlord is a company—the address of the registered office of the company; and

(ea) if electricity is supplied to the premises via a connection point that is part of an embedded network—the prescribed information relating to the supply of electricity; and

(f) any other information required by the Commissioner.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

- (2) A landlord must take reasonable steps to ensure that a tenant is given, before or at the time the tenant commences occupation of the premises under a residential tenancy agreement, manufacturers' manuals, or written or oral instructions, about the operation of any domestic facilities requiring instructions.

Note—

Domestic facilities requiring instructions should also be listed in the tenancy agreement—see section 69(3a).

- (3) If a person succeeds another as the landlord, the new landlord must, within 14 days, ensure that the tenant is given a written notice setting out—
- (a) if an agent is acting for the new landlord—the agent's name, telephone number and postal or email address for service of documents; and
 - (b) the new landlord's full name and postal or email address for service of documents (which must not be the agent's address for service); and
 - (c) if no agent is acting for the new landlord—the new landlord's telephone number; and
 - (d) if the new landlord is a company—the address of the registered office of the company; and
 - (e) any other information required by the Commissioner.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

- (4) If a name, postal or email address or telephone number of which the landlord is required to notify the tenant under this section changes, the landlord must, within 14 days of becoming aware of the change, notify the tenant in writing of the change.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

- (5) In this section—

embedded network has the same meaning as in the *National Electricity Rules*.

49—Residential tenancy agreements

- (1) A written residential tenancy agreement entered into after the commencement of this section must—
- (a) state clearly in a prominent position at the beginning of the agreement that—
 - (i) the agreement is a residential tenancy agreement; and
 - (ii) the parties to the agreement should consider obtaining legal advice about their rights and obligations under the agreement; and

- (b) set out—
 - (i) if an agent is acting for the landlord—the agent's name, postal or email address and telephone number, and, if the agent is registered as an agent under the *Land Agents Act 1994*, his or her registration number under that Act; and
 - (ii) the landlord's full name and postal or email address for service of documents (which must not be the agent's address for service); and
 - (iii) if no agent is acting for the landlord—the landlord's telephone number; and
 - (iv) the tenant's name; and
 - (v) the address of the residential premises; and
 - (vi) the terms of the agreement, including—
 - (A) the amount of rent payable; and
 - (B) the interval between rental payment times; and
 - (C) the method by which rent is to be paid; and
 - (D) the amount of the bond; and
 - (E) any agreement reached as to responsibility for rates and charges for water supply; and
 - (F) responsibility for insurance of the premises and the contents of the premises; and
 - (G) any other terms of the agreement (including, for example, terms in relation to pets or responsibility for repairs); and
 - (c) be dated and signed by the parties to the agreement; and
 - (d) comply with any other requirements prescribed by the regulations.
- (2) A provision of a residential tenancy agreement that does not comply with subsection (1) that requires the tenant to pay a bond is unenforceable.
- (3) A landlord must not enter into a residential tenancy agreement unless the landlord or an agent acting for the landlord has first given the tenant a written guide that explains the tenant's rights and obligations under such an agreement and is in the form approved by the Commissioner for the purposes of this section.
- Maximum penalty: \$25 000.
- Expiation fee: \$1 200.
- (4) The matters specified or agreed in a written residential tenancy agreement entered into after the commencement of this section may not be varied unless the variation is in writing and dated and signed by the landlord and tenant.
- (5) A landlord under a written residential tenancy agreement must keep a copy of the agreement, and any variation of the agreement, whether in paper or electronic form, for at least 2 years following termination of the agreement.
- Maximum penalty: \$25 000.
- Expiation fee: \$1 200.

- (6) If a landlord (or an agent acting for a landlord) invites or requires a tenant or prospective tenant to sign a written residential tenancy agreement, the landlord must ensure that—
- (a) the tenant receives a copy of the residential tenancy agreement when the tenant signs it; and
 - (b) if the agreement has not then been signed by the landlord, a copy of the agreement, as executed by all parties, is delivered to the tenant within 21 days after the tenant gives the agreement back to the landlord or the landlord's agent to complete its execution.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

- (7) Subject to subsection (2), a failure to comply with this section does not make the residential tenancy agreement illegal, invalid or unenforceable.

50—Cost of preparing agreement

The cost of preparing a written residential tenancy agreement must be borne by the landlord.

Note—

Residential tenancy agreements are exempt from stamp duty.

51—False information from tenant

A tenant must not give a landlord false information about the tenant's identity or place of occupation.

Maximum penalty: \$20 000.

Division 2—Discrimination against tenants with children

52—Discrimination against tenants with children

- (1) A person must not refuse to grant a tenancy to another on the ground that it is intended that a child should live on the premises.

Maximum penalty: \$25 000.

- (2) A person must not—

- (a) instruct a person not to grant; or
 - (b) state an intention (by advertisement or in any other way) not to grant,
- a tenancy on the ground that it is intended that a child should live on the premises.

Maximum penalty: \$25 000.

- (3) However, this section does not apply if the landlord, or an agent appointed by the landlord to manage the premises, resides in the premises to which the tenancy relates.

Division 3—Rent

52A—Premises to be offered for rent at fixed amount

- (1) A landlord, or an agent of a landlord, must not advertise or otherwise offer premises for rent under a residential tenancy agreement unless the rent under the agreement is advertised or offered as a fixed amount.
Maximum penalty: \$20 000.
Expiation fee: \$1 200.
- (2) Nothing in subsection (1) prevents a person from placing a sign at or near premises for rent that—
 - (a) advertises or offers premises for rent; and
 - (b) does not state an amount of rent for premises.
- (3) A landlord, or an agent of a landlord, must not solicit or otherwise invite an offer of an amount of rent under a residential tenancy agreement that is higher than the advertised amount of rent for the premises.
Maximum penalty: \$20 000.
Expiation fee: \$1 200.
- (4) This section does not apply to—
 - (a) the South Australian Housing Trust or a subsidiary of the South Australian Housing Trust; or
 - (b) a registered community housing provider.

52B—Special provision relating to assessments etc of prospective tenants

- (1) A person acting in trade or commerce (other than an agent of a landlord) must not provide an assessment or rating of the suitability of a prospective tenant to enter into a residential tenancy agreement if a basis of the assessment or rating relates to—
 - (a) in the case of premises advertised or otherwise offered for rent as a fixed amount under the residential tenancy agreement—the fact that the amount of rent that the prospective tenant is willing to pay under the residential tenancy agreement is higher than the fixed amount; or
 - (b) in any other case—the amount of rent that the prospective tenant is willing to pay under the residential tenancy agreement.
Maximum penalty: \$20 000.
- (2) A person must not, except in prescribed circumstances, require or receive from a prospective tenant a payment (however described) for the provision of an assessment or rating of the suitability of the prospective tenant to enter into a residential tenancy agreement.
Maximum penalty: \$20 000.
Expiation fee: \$1 200.

53—Permissible consideration for residential tenancy

- (1) A person must not require or receive from a tenant or prospective tenant a payment, other than rent or a bond (or both), for a residential tenancy or the renewal or extension of a residential tenancy.
Maximum penalty: \$25 000.
Expiation fee: \$1 500.
- (2) However—
 - (a) the landlord may lawfully require or receive consideration for an option to enter into a residential tenancy agreement but, in that case, the following condition applies:
 - (i) if the prospective tenant enters into the residential tenancy agreement, the landlord must apply the consideration towards rent payable under the agreement;
 - (ii) if the prospective tenant does not exercise the option to enter into the residential tenancy agreement, the landlord may retain the consideration; and
 - (b) if the consumption of water at the premises is separately metered, the landlord may require the tenant to reimburse the landlord for rates and charges for water consumption that are based on the amount of water used at the premises pursuant to the residential tenancy agreement or a collateral agreement; and
 - (c) the landlord may lawfully require or receive a payment of a class the landlord is authorised to require or receive by another provision of this Act or under the regulations.

54—Rent in advance

- (1) A person must not require¹ the payment of more than two weeks' rent under a residential tenancy agreement before the end of the first two weeks of the tenancy.
Maximum penalty: \$25 000.
Expiation fee: \$1 200.
- (2) If rent has been paid under a residential tenancy agreement, a person must not require¹ a further payment of rent until the end of the last period for which rent has been paid.
Maximum penalty: \$25 000.
Expiation fee: \$1 200.
- (3) A person must not require another to give a post-dated cheque or other post-dated negotiable instrument in payment of rent under a residential tenancy agreement.
Maximum penalty: \$25 000.
Expiation fee: \$1 200.

Note—

- 1 The prohibition is against *requiring* payment of rent for more than two weeks in advance. Hence, if a tenant voluntarily elects to pay rent for more than two weeks in advance, the landlord (or the landlord's agent) may lawfully accept the payment.

55—Variation of rent

- (1) The landlord may increase the rent payable under a residential tenancy agreement by giving written notice to the tenant specifying the date as from which the increase takes effect.
- (2) However—
 - (a) the right to increase the rent may be excluded or limited by the terms of the residential tenancy agreement; and
 - (b) if the tenancy is for a fixed term, the residential tenancy agreement is taken to exclude an increase in rent during the term unless it specifically allows for an increase in rent; and
 - (c) the date fixed for an increase of rent must be at least 12 months after the date of the agreement or, if there has been a previous increase of rent under this section, the last increase and at least 60 days after the notice is given but—
 - (i) if a rent control notice that has applied in respect of the rented property ceases to be in force, the landlord may, by notice given under this section within 60 days after the rent control notice ceases to be in force, increase the rent for the premises from a date falling at least 14 days after the notice is given; and
 - (ii) if the landlord is a registered community housing provider, and the residential tenancy agreement provides for variation of rent in accordance with the tenant's income, the landlord may increase the rent on the ground of a variation in the tenant's income from a date falling at least 14 days after the notice of the increased rent is given; and
 - (iii) if the landlord is a registered community housing provider under a residential tenancy agreement that allows the landlord to change the basis of calculating the rent payable under the agreement, and the landlord gives the tenant written notice that there is to be a change in the basis of calculating rent as from a specified date (which must be at least 60 days after the notice is given and at least 12 months from the date of the agreement, or if there has been a previous change in the basis of rent calculation, at least 12 months from the date of the last such change), the rent may be increased to accord with the new basis of rent calculation as from the specified date without further notice under this section.
- (2a) Despite subsections (1) and (2), the rent payable under a residential tenancy agreement may be increased at any time by mutual agreement between the landlord and the tenant.
- (2b) However, an increase of rent under subsection (2a) must be at least 12 months after the date on which the residential tenancy agreement was entered into or, if there has been a previous increase of rent under this section, the last increase.
- (3) The rent payable under a residential tenancy agreement may be reduced by mutual agreement between the landlord and the tenant.
- (4) A reduction of rent may be made on a temporary basis so that the rent reverts to the level that would have been otherwise applicable at the end of a specified period.

- (5) If the rent payable under a residential tenancy agreement is increased or reduced under this section, the terms of the agreement are varied accordingly.
- (6) This section does not affect the operation of a provision of a residential tenancy agreement under which the rent payable under the agreement changes automatically at stated intervals on a basis set out in the agreement.
- (7) For the purposes of this section, a series of residential tenancy agreements between the same parties (whether on the same terms or otherwise) and relating to the same premises is treated as a single residential tenancy agreement unless at least 12 months have elapsed since rent for the premises was fixed or last increased.

56—Excessive rent

- (1) The Tribunal may, on application by a tenant, declare that the rent payable under a residential tenancy agreement is excessive.
- (1a) If an application under subsection (1) is made on the basis of an increase of rent under section 55, the application must be made within 90 days after the notice of increased rent is given.
- (2) In deciding whether the rent payable under a residential tenancy agreement is excessive, the Tribunal must have regard to—
 - (a) the general level of rents for comparable premises in the same or similar localities; and
 - (b) the estimated capital value of the premises at the date of the application; and
 - (c) the outgoings for which the landlord is liable under the agreement; and
 - (d) the estimated cost of services provided by the landlord and the tenant under the agreement; and
 - (e) the nature and value of furniture, equipment and other personal property provided by the landlord for the tenant's use; and
 - (f) the state of repair and general condition of the premises; and
 - (fa) the estimated cost of goods and services provided under any domestic services agreement collateral to the residential tenancy agreement; and
 - (fb) if the rent was purportedly increased under section 55(2a)—whether the tenant was put under undue pressure to agree to the increase; and
 - (fc) without limiting paragraph (fb), if the rent has been increased—whether the increase was disproportionate considering the amount of rent payable; and
 - (g) other relevant matters.
- (3) If the Tribunal finds, on an application under this section, that the rent payable under a residential tenancy agreement is excessive, the Tribunal may, by order—
 - (a) fix the rent payable for the premises and vary the agreement by reducing the rent payable under the agreement accordingly; and
 - (b) fix a date (which cannot be before the date of the application) from which the variation takes effect; and
 - (c) fix a period (which cannot exceed one year) for which the order is to remain in force.

- (4) The Tribunal may, on application by the landlord, vary or revoke an order under this section if satisfied that it is just to do so.
- (5) If, while an order remains in force under this section, a landlord asks for or receives rent for the premises to which the order relates exceeding the amount fixed by the order, the landlord is guilty of an offence.

56A—Manner etc of payment of rent

- (1) A landlord under a residential tenancy agreement must ensure that rent may be paid by the tenant under the agreement in a reasonably convenient manner and, in particular, must permit the tenant to pay by at least 1 means that is electronic and does not involve the collection of rent from the tenant by a third party who charges a fee for the collection service.

Maximum penalty: \$25 000.

Expiation fee: \$1 500.

- (2) A person must not charge or receive from a tenant a fee for the payment of rent by, or collection of rent from, the tenant.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

57—Landlord's duty to keep proper records of rent and other payments

- (1) A landlord under a residential tenancy agreement must ensure that the following information is recorded in respect of payments received under the agreement:
 - (a) the date on which the payment was received;
 - (b) the name of the person making the payment;
 - (c) the amount paid;
 - (d) the address of the premises to which the payment relates;
 - (e) if the payment is for rent—the period of the tenancy to which the payment relates;
 - (f) if the payment is a bond—a statement of that fact;
 - (g) if the payment is not for rent or a bond—a description of the purpose of the payment, including, if applicable, the period of time to which the payment relates.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

- (2) A person must not—
 - (a) make a false entry in a record of a payment received under a residential tenancy agreement; or
 - (b) falsify the record in any other way.

Maximum penalty: \$25 000.

58—Duty to provide statement or give receipt for rent

- (1) A landlord under a residential tenancy agreement must, at the written request of the tenant, give the tenant a statement of the information recorded by the landlord under section 57(1) in respect of the rent received during the period specified in the request (and such statement must be given to the tenant within 7 days of the making of the request).

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (2) If a tenant pays rent other than into an ADI account, the person who receives the rent must, within 48 hours after receiving the rent, give the tenant a receipt setting out the information required to be recorded by the landlord under section 57(1) in respect of the rent received.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

58A—Payment of rent by electronic transaction

If a tenant pays rent into an ADI account kept by the landlord or the landlord's agent, the payment will be taken to have been made when it is credited to the ADI account.

59—Accrual and apportionment of rent

- (1) The rent payable under a residential tenancy agreement accrues from day to day.
- (2) If rent is paid in advance, and the tenancy ends before the end of the period for which rent has been paid, the landlord must refund the appropriate proportion of the amount paid to the tenant or apply it towards other liabilities of the tenant to the landlord.

60—Abolition of distress for rent

A landlord is not entitled to distrain goods of a tenant for non-payment of the rent payable under a residential tenancy agreement.

Division 4—Bonds

61—Bond

- (1) A person must not—
- (a) require more than one bond for the same residential tenancy agreement; or
 - (b) require the payment of a bond exceeding the relevant limit.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

- (1a) A bond must—

- (a) be paid to the Commissioner or the landlord in the manner and form approved by the Commissioner; and
- (b) be accompanied by the information determined by the Commissioner.

- (1b) For the purposes of this section, a payment of an amount by way of a bond to a landlord's agent will be taken to be a payment to the landlord.

- (2) If at least two years have elapsed since a bond was given or last increased, the landlord may by written notice to the tenant require the tenant to increase the bond by a specified additional amount, within a specified period (which must be at least 60 days from the date of the notice), but not so that the total amount of the bond exceeds the relevant limit.
- (2a) A requirement under subsection (2) has effect as if it were a term of the residential tenancy agreement.
- (3) The **relevant limit** is—
 - (a) if the rent payable under the agreement does not exceed an amount (which must be at least \$250 per week) prescribed by regulation for the purposes of this paragraph—four weeks rent under the agreement;
 - (b) if the rent payable under the agreement exceeds an amount prescribed by regulation for the purposes of this paragraph—six weeks rent under the agreement.
- (4) The relevant limit is, in the first instance, calculated by reference to the rent—or if the rent varies, the lowest rent—payable during the first six months of the tenancy (expressed as a weekly rent) and if there is to be an increase in the amount of the bond, the relevant limit is calculated by reference to the rent (expressed as a weekly rent) payable when the notice of increase is given.
- (5) For the purposes of determining the relevant limit, any amount payable under a domestic services agreement collateral to the residential tenancy agreement is not to be regarded as rent.

62—Receipt of bond and transmission to Commissioner

- (1) A person must, within 48 hours after receiving an amount paid by way of a bond, give the person who paid a receipt stating the date payment was received, the name of the person from whom the payment was received, the amount paid, and the address of the premises to which the payment relates.
Maximum penalty: \$25 000.
Expiation fee: \$1 200.
- (2) A person who receives an amount by way of a bond must pay the amount of the bond to the Commissioner in the manner and form approved by the Commissioner and accompanied by the information determined by the Commissioner within the period allowed by regulation.
Maximum penalty: \$35 000.
Expiation fee: \$2 000.
- (3) If the Commissioner receives an amount by way of a bond for a residential tenancy agreement from a person who is not the landlord, the Commissioner must, as soon as is reasonably practicable after receiving the amount, notify the landlord or the landlord's agent (as determined by the Commissioner) of the receipt of the amount in accordance with the regulations.
- (4) If the Commissioner receives an amount apparently by way of a bond and the Commissioner is satisfied that the amount is not within the ambit of the definition of a bond under this Act, the Commissioner may refund the amount in accordance with the regulations.

63—Repayment of bond

- (1) An application may be made to the Commissioner for—
 - (a) payment of the whole amount of the bond either to the landlord or the tenant; or
 - (b) payment of a specified amount of the bond to the landlord and the balance to the tenant.
- (2) The application—
 - (a) must be in a manner and form approved by the Commissioner; and
 - (b) may be made jointly by the landlord and the tenant or by either the landlord or the tenant.
- (3) If the application is undisputed, the Commissioner must pay out the amount of the bond as specified in the application.
- (4) If an application is liable to be disputed, the Commissioner must give the respondent written notice of the application (in a form the Commissioner considers appropriate) and inform the respondent that, if the respondent wants to dispute the application, a written notice of dispute must be lodged with the Commissioner within the prescribed period after the date the notice is given to the respondent.
- (5) If the respondent does not give the Commissioner written notice of dispute within the prescribed period after the day on which the Commissioner's notice under subsection (4) is given to the respondent, the Commissioner may pay out the amount of the bond as proposed in the application.
- (5a) However, if the application is made by the landlord alone more than 12 months after the termination of the residential tenancy agreement—
 - (a) the Commissioner must refer the application to the Tribunal for determination; and
 - (b) the Tribunal may authorise payment of the amount of the bond as proposed in the application if the Tribunal is satisfied, on the basis of information provided by the landlord, that the landlord is entitled to the payment.
- (6) If the Commissioner receives a written notice of dispute before the amount of the bond is paid out under subsection (5), the Commissioner must refer the dispute to the Tribunal for determination.
- (7) Despite a preceding subsection, if—
 - (a) the bond has been provided or paid on behalf of the tenant by a third party prescribed by the regulations, or in circumstances prescribed by the regulations; and
 - (b) the Commissioner is given notice of the third party's interest in accordance with the regulations,then—
 - (c) the third party is entitled to make application to the Commissioner for the payment of the whole, or a specified part, of the bond; and
 - (d) —

- (i) if the application is made with the consent of the landlord—the Commissioner must pay out the amount of the bond as specified in the application;
 - (ii) in any other case—the Commissioner must give the landlord and, if the tenant is still in possession of the premises, the tenant, written notice of the application (in a form the Commissioner considers appropriate) and—
 - (A) if the Commissioner does not receive a written notice of dispute from the party or parties to whom the notice of the application was given within the prescribed period after the date on which the original notice is given—the Commissioner may pay out the amount of the bond as proposed in the application;
 - (B) in any other case—the Commissioner must refer the matter to the Tribunal for determination.
- (8) If a payment is made under subsection (7) and the tenant is still in possession of the premises, the landlord may require the tenant to provide a new bond in accordance with section 61.
- (9) If—
 - (a) a bond is provided on behalf of the tenant by a third party prescribed by the regulations in circumstances prescribed by the regulations; and
 - (b) the landlord makes application to the Commissioner for the payment of the whole, or a specified part, of the amount payable under the bond,then—
 - (c) if the application is made with the consent of the third party—the Commissioner must pay out the amount as specified in the application;
 - (d) in any other case—the Commissioner must give the third party and, if the tenant is still in possession of the premises, the tenant, written notice of the application (in a form the Commissioner considers appropriate) and—
 - (i) if the Commissioner does not receive a written notice of dispute from the party or parties to whom the notice of the application was given within the prescribed period after the date on which the original notice is given—the Commissioner may pay out the amount as proposed in the application;
 - (ii) in any other case—the Commissioner must refer the matter to the Tribunal for determination.
- (10) If a payment is made under subsection (9), the third party must reimburse the Fund to the extent of the payment.
- (11) A payment under this section will be made from the Fund.
- (12) For the purposes of the payment of an amount of a bond under this section, the Registrar may disclose to the Commissioner the details of a decision or order given or made by the Tribunal the disclosure of which would otherwise be contrary to a direction or order of the Tribunal.

- (13) For the purposes of this section—
- (a) an application is undisputed if it is a joint application by the landlord and the tenant; or an application by the landlord that the whole of the amount of the bond be paid to the tenant; or an application by the tenant that the whole of the amount of the bond be paid to the landlord;
 - (b) an application that does not fall into any of those categories is liable to be disputed;
 - (c) if the application was made by the landlord, each tenant is a respondent; if the application was made by a tenant, the landlord and any other tenant are the respondents.
- (14) Despite any provision of this section, the following provisions apply to the repayment of a bond under a residential tenancy agreement where there are co-tenants, other than if the whole amount of the bond is to be paid to the landlord:
- (a) if the application proposes that none of the bond is to be paid to the landlord and the landlord agrees to the application—
 - (i) in the case of an application that proposes that the bond be paid to the co-tenants in shares that are not equal and each co-tenant consents to their share as proposed—the Commissioner must pay the bond as specified in the application; or
 - (ii) in the case of an application that proposes that the bond be paid to the co-tenants in equal shares—the Commissioner must pay the bond to all co-tenants in equal shares;
 - (b) if the application proposes the payment of a specified amount of the bond to the landlord and the balance to the co-tenants, and the amount proposed to be paid to the landlord is agreed to by the landlord—
 - (i) in a case where the balance payable to the co-tenants is to be paid in shares that are not equal and each co-tenant consents to their share as proposed—the Commissioner must pay the bond as specified in the application; or
 - (ii) in a case where the balance payable to the co-tenants is to be paid in equal shares and at least 1 of the co-tenants consents—the Commissioner may pay the bond as specified in the application.
- (15) If the Commissioner acts under subsection (14) in relation to an application, the application is not liable to be disputed.
- (16) Despite any provision of this section, an application by or on behalf of a landlord for the payment of the whole or a specified amount of a bond to the landlord must be made—
- (a) within the prescribed period after the end of the tenancy to which the bond relates; and
 - (b) in the manner and form determined by the Commissioner.
- (17) The regulations may modify or disapply a provision of this section for the purposes of an electronic system approved by the Commissioner for the repayment of bonds.

Division 5—Tenant's entitlement to possession and quiet enjoyment

64—Vacant possession etc

- (1) It is a term of a residential tenancy agreement that the tenant is entitled to vacant possession of the premises (except for a part of the premises in respect of which a right to exclusive possession is not given by the agreement) from the day the tenancy begins.
- (2) It is a term of a residential tenancy agreement that there is no legal impediment of which the landlord has, or ought to have knowledge, to the tenant's occupation of the premises for the period of the tenancy as a place of residence.

65—Quiet enjoyment

- (1) It is a term of a residential tenancy agreement that—
 - (a) the tenant is entitled to quiet enjoyment of the premises without interruption by the landlord or a person claiming under the landlord or with superior title to the landlord's title; and
 - (b) the landlord will not cause or permit an interference with the reasonable peace, comfort or privacy of the tenant in the tenant's use of the premises; and
 - (c) the landlord will take reasonable steps to prevent other tenants of the landlord in occupation of adjacent premises from causing or permitting interference with the reasonable peace, comfort or privacy of the tenant in the tenant's use of the premises.
- (2) If the landlord causes or permits interference with the reasonable peace, comfort or privacy of the tenant in the tenant's use of the premises in circumstances that amount to harassment of the tenant, the landlord is guilty of an offence.

Maximum penalty: \$35 000.

Division 6—Security of premises

66—Security of premises

- (1) Subject to this Division, it is a term of a residential tenancy agreement that—
 - (a) the landlord will take reasonable steps to provide and maintain the locks and other devices that are necessary to ensure the premises are reasonably secure; and
 - (b) neither the landlord nor the tenant will alter or remove a lock or security device or add a lock or security device without the consent of the other; and
 - (c) neither the landlord nor the tenant will unreasonably withhold his or her consent to the alteration, removal or addition of a lock or security device by, and at the expense of, the other.
- (2) A landlord or tenant who, without reasonable excuse, contravenes the term of the agreement arising under subsection (1)(b) is guilty of an offence.

Maximum penalty: \$35 000.

- (3) If the landlord's agent, without reasonable excuse, alters or removes a lock or security device, or adds a lock or security device, without the tenant's consent, the agent is guilty of an offence.

Maximum penalty: \$35 000.

66A—Altering locks etc for premises in certain circumstances

- (1) If—

- (a) a tenant under a residential tenancy agreement is excluded from the premises because of an order of a prescribed kind relating to domestic abuse or personal safety (a *relevant order*); and
- (b) a person to whom a relevant order relates in a manner prescribed by the regulations (a *protected person*) is also a party to the residential tenancy agreement or has been living at the premises as their primary place of residence,

the protected person may alter any lock or security device of the premises, whether or not the protected person is a party to the residential tenancy agreement.

- (2) As soon as practicable after a protected person alters a lock or security device, the protected person must—

- (a) give the landlord or landlord's agent—
 - (i) a key to the lock or security device; and
 - (ii) either a certified extract or a copy of the relevant order; and
- (b) give a key to the lock or security device to the parties to the residential tenancy agreement, other than the tenant excluded from the premises.

- (3) A landlord or landlord's agent must not disclose a certified extract or a copy of a relevant order received under this section except in accordance with the regulations.

Maximum penalty: \$50 000.

Expiation fee: \$2 000.

66B—Application to Tribunal to alter etc locks or security devices without consent

- (1) If a tenant under a residential tenancy agreement believes that the landlord is unreasonably withholding their consent contrary to the term of the agreement set out in section 66(1)(c), the tenant may apply to the Tribunal for a determination that the consent of the landlord to the alteration, removal or addition of a lock or security device is not required.
- (2) If, after giving each party an opportunity to be heard, the Tribunal determines that consent is not required, the tenant may alter, remove or add the lock or security device without the landlord's consent.

Division 6A—Keeping of pets on premises

66C—Keeping of pets on premises

- (1) A tenant may—
 - (a) keep a pet on premises rented under a residential tenancy agreement with the approval of the landlord; and
 - (b) keep an exempt animal on premises rented under a residential tenancy agreement without the approval of the landlord.
- (2) A tenant may apply to the landlord, or an agent of a landlord, for approval under subsection (1).
- (3) An application under subsection (2) must—
 - (a) be made in a manner and form determined by the Commissioner; and
 - (b) comply with any other requirements set out in the regulations.
- (4) A landlord, or an agent of the landlord, must, within 14 days after receipt of an application under subsection (2), give the tenant a written notice setting out—
 - (a) whether the landlord approves or refuses the tenant's application; and
 - (b) if the landlord approves the tenant's application subject to conditions—the conditions of the approval; and
 - (c) if the landlord refuses the tenant's application—
 - (i) the grounds for the refusal; and
 - (ii) the reasons the landlord believes the grounds for the refusal apply to the application.
- (5) If a landlord, or an agent of the landlord, fails to give the tenant a written notice within the period specified in subsection (4), or gives the tenant a notice that does not comply with that subsection, the landlord will be taken to have given approval to the keeping of the pet specified in the application on the relevant premises.
- (6) An approval under subsection (5) is taken to be subject to any conditions determined by the Commissioner for the purposes of this subsection.
- (7) A landlord may, by notice in writing to the tenant, impose, vary or revoke a condition of an approval given (or taken to be given) at any time.
- (8) An approval given by a landlord, or an agent of the landlord, under this section may be subject to conditions if the conditions—
 - (a) relate only to keeping the pet on the premises; and
 - (b) are reasonable having regard to the type of pet and the nature of the premises; and
 - (c) are stated in the written approval given to the tenant under subsection (4) or in a written notice given to the tenant under subsection (7).

- (9) Without limiting subsection (8)(b), the following conditions of an approval are taken to be reasonable:
- (a) a condition requiring the pet to be effectively restrained while a landlord or an agent of the landlord is entering or at the premises in the exercise of a right of entry to the premises under section 72;
 - (b) if the pet is not a type of pet ordinarily kept inside—a condition requiring the pet to be kept outside on the premises;
 - (c) if the pet is allowed inside the premises—a condition requiring carpets in the premises to be cleaned to a professional standard at the end of the tenancy.
- (10) A condition of a landlord's approval for a tenant to keep a pet on premises is void if the condition—
- (a) would require the tenant to buy goods or services from the landlord or a specified person or business; or
 - (b) would require the tenant to pay an amount in the nature of an incentive (other than rent, a bond or another amount required or authorised to be paid under this or any other Act); or
 - (c) would require the tenant to pay an amount in the nature of a penalty or liquidated damages; or
 - (d) would increase the rent or bond payable by the tenant; or
 - (e) would require any form of security from the tenant.
- (11) This section is in addition to, and does not derogate from, a provision of any other Act or law that relates to the keeping of animals.

66D—Grounds for refusing pets being kept on premises

For the purposes of this Division, the following are the only grounds for a landlord to refuse a tenant's application for approval to keep a pet on premises:

- (a) keeping the pet would exceed a reasonable number of animals being kept on the premises;
- (b) the premises are unsuitable for keeping the pet because of a lack of appropriate fencing, open space or another thing necessary to humanely accommodate the pet;
- (c) keeping the pet would pose an unacceptable risk to the health or safety of a person, including, for example, because the pet is venomous;
- (d) keeping the pet would contravene a law;
- (e) keeping the pet would contravene a by-law or rule applying to the premises under this or any other Act or law;
- (f) the tenant has not agreed to the reasonable conditions proposed by the landlord for approval to keep the pet, provided that the conditions are in accordance with section 66C(8) to (10) (inclusive);
- (g) the animal stated in the request is not a pet;
- (h) if the premises is a moveable dwelling premises—keeping the pet would contravene a condition of a licence applying to the premises;

- (i) any other ground prescribed by regulation.

66E—Tenant may seek Tribunal orders

- (1) If a tenant receives a notice under section 66C(4) refusing their application for approval under section 66C(2), the tenant may, in a manner and form determined by the Tribunal, apply to the Tribunal for an order under this section.
- (2) Subject to this section, the Tribunal may, on an application under this section, make 1 or more of the following orders:
 - (a) an order confirming the refusal of approval to the keeping of a pet on premises rented under a residential tenancy agreement;
 - (b) an order varying or revoking a condition of an approval under section 66C;
 - (c) an order permitting a pet to be kept on premises rented under a residential tenancy agreement;
 - (d) such ancillary or other orders as the Tribunal considers appropriate.
- (3) The Tribunal may only make an order under subsection (2)(a) if it is satisfied that it is reasonable to refuse approval to the keeping of a pet in accordance with section 66D.
- (4) Before making an order under subsection (2)(c), the Tribunal must have regard to reasonable conditions proposed by the landlord for approval to keep the pet in accordance with section 66C(8) to (10) (inclusive).
- (5) An order under subsection (2)(a), (c) or (d) remains in force—
 - (a) for the period specified by the Tribunal in the order; or
 - (b) if no such period is specified, until further order by the Tribunal,whether or not a new residential tenancy agreement is entered in respect of the relevant premises during the period.

66F—Continuation of approval to keep pet on premises

Without limiting section 66E(5), if a pet is authorised to be kept on premises under this Division, the approval to keep the pet on the premises continues for the life of the pet and is not affected by any of the following:

- (a) the ending of a residential tenancy agreement, if the tenant continues occupying the premises under a new agreement;
- (b) a change in the landlord or landlord's agent.

66G—Limitation of landlord's liability

A landlord, or an agent of a landlord, has no additional duty of care to a person arising in relation to an approval under section 66C or an order under section 66E.

Division 7—Landlord's obligation in regard to condition of the premises

67—Cleanliness

It is a term of a residential tenancy agreement that the landlord will ensure that the premises, and ancillary property, are in a reasonable state of cleanliness when the tenant goes into occupation of the premises.

67A—Occupation of premises that do not comply with minimum housing standards

- (1) Without limiting sections 64, 66, 67, 67B and 68, a landlord under a residential tenancy agreement must ensure that the premises comply with the prescribed minimum housing standards under the *Housing Improvement Act 2016* on or before the day on which the tenant enters into occupation of the premises.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (2) If premises do not comply with the standards referred to in subsection (1) on or immediately after the day on which the tenant enters into occupation of the premises, the tenant may request the landlord to carry out urgent repairs to the premises to ensure that the premises comply with the standards.

67B—Testing and remediation in relation to drug contamination

- (1) If a landlord becomes aware that drug related conduct has occurred on premises subject to, or proposed to be subject to, a residential tenancy agreement, or ancillary property, the landlord must as soon as reasonably practicable give the tenant notice that the premises or ancillary property (or both, as the case requires) will be tested for contamination.

- (2) If a notice is given to a tenant under this section and the landlord has not, within 1 month after giving the notice, conducted testing of the relevant premises in accordance with any requirements of the regulations the landlord is guilty of an offence.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (3) If premises are contaminated according to testing conducted under this section, it is a term of a residential tenancy agreement relating to the premises that the landlord will ensure the contamination is remediated as soon as is reasonably practicable such that the premises comply with the prescribed minimum housing standards under the *Housing Improvement Act 2016*.

68—Landlord's obligation to repair

- (1) It is a term of a residential tenancy agreement that the landlord—
- (a) will ensure that the premises, and ancillary property, are in a reasonable state of repair at the beginning of the tenancy and will keep them in a reasonable state of repair having regard to their age, character and prospective life; and
 - (b) will comply with statutory requirements affecting the premises.
- (1a) The obligation to repair applies even though the tenant had notice of the state of disrepair before entering into occupation.
- (2) However—
- (a) the landlord will not be regarded as being in breach of the obligation to repair unless—
 - (i) the landlord has notice of the defect requiring repair; and

- (ii) the landlord fails to act with reasonable diligence to have the defect repaired; and
 - (b) if the landlord is a registered community housing provider, the regulations may limit the extent of the obligation imposed by subsection (1).
- (3) If—
 - (a) premises or ancillary property are in a state of disrepair that does not arise from a contravention of the residential tenancy agreement by the tenant; and
 - (b) the state of disrepair is, unless remedied, likely to result in personal injury or damage to property or undue inconvenience; and
 - (c) the landlord—
 - (i) has been notified of the state of disrepair by the tenant but has failed to take reasonable action to remedy the state of disrepair; or
 - (ii) has not been notified of the state of disrepair despite the tenant's reasonable attempts to do so,then the tenant is entitled—
 - (d) to reasonable compensation from the landlord in respect of any damage to property resulting from the state of disrepair after the tenant has notified, or made a reasonable attempt to notify, the landlord of the state of disrepair (however, the tenant must take reasonable steps to mitigate any loss and is not entitled to compensation for damage that could have been avoided by those steps); and
 - (e) to recover from the landlord reasonable costs incurred by the tenant in having the state of disrepair remedied, but only if the repairs are carried out by a person who is licensed to carry out the necessary work and the person provides the landlord with a report on the work carried out and the apparent cause of the state of disrepair.
- (5) The Tribunal may, on application by the tenant, order the landlord to pay to the tenant compensation to which the tenant is entitled under this section.

68A—Minimum efficiency standards

It is a term of a residential tenancy agreement that the landlord will ensure that the requirements prescribed by the regulations relating to energy and water efficiency are complied with in relation to appliances, fittings or fixtures installed or replaced on or after the commencement of this section by the landlord at the premises.

Note—

This requirement does not apply to appliances, fittings and fixtures that were installed by the landlord on the premises before the day on which this section commences (even though those appliances, fittings and fixtures remain in use on the premises on and after that day) but will apply when those appliances, fittings and fixtures are replaced on or after that day.

Division 8—Tenant's obligations in relation to the premises and ancillary property

69—Tenant's responsibility for cleanliness, damage and loss

- (1) It is a term of a residential tenancy agreement that the tenant—
 - (a) must keep the premises and ancillary property in a reasonable state of cleanliness; and
 - (ab) must replace, or compensate the landlord for the reasonable cost of replacing, any ancillary property lost or destroyed while in the care of the tenant; and
 - (b) must notify the landlord of damage to the premises or ancillary property; and
 - (c) must not intentionally or negligently cause or permit damage to the premises or ancillary property.
- (2) A tenant who intentionally causes serious damage to the premises or ancillary property is guilty of an offence.
Maximum penalty: \$25 000.
- (3) It is a term of a residential tenancy agreement that, at the end of the tenancy, the tenant must give the premises and ancillary property back to the landlord in reasonable condition and in a reasonable state of cleanliness.
- (3a) If a tenant unintentionally causes damage to the premises or ancillary property as a result of the use of a domestic facility requiring instruction, the landlord is not entitled to compensation for the damage unless—
 - (a) the domestic facility is listed in the residential tenancy agreement as a domestic facility requiring instruction; and
 - (b) the landlord complied with section 48(2) in relation to the domestic facility.
- (4) In deciding whether premises or other property is in reasonable condition, its condition when the tenant took possession of it, and the probable effect of reasonable wear and tear since that time, must be taken into account.

70—Alteration of premises

- (1) It is a term of a residential tenancy agreement that a tenant must not, without the landlord's written consent, make an alteration or addition to the premises.
- (1a) It is a term of a residential tenancy agreement that a landlord will not unreasonably withhold his or her consent to an alteration or addition to the premises—
 - (a) that is necessary to ensure the provision of infrastructure or a service of a prescribed kind; or
 - (b) that is a minor alteration or addition; or
 - (c) if the tenant has a disability within the meaning of the *Equal Opportunity Act 1984*—that is reasonable and necessary for the tenant and would not significantly change, or affect the structure of, the premises; or

- (d) if the tenant has mobility or access needs relating to their age—that is reasonable and necessary for the tenant and would not significantly change, or affect the structure of, the premises.
- (1ab) Without limiting a landlord's right to refuse consent to an alteration or addition, the landlord may refuse consent if—
 - (a) a valid notice of termination has been given to the tenant in connection with an imminent change of possession, use or ownership of the premises; or
 - (b) the alteration or addition—
 - (i) would significantly change the premises; or
 - (ii) would require modifications to other premises or a part of the premises that the tenant uses in common with the landlord or another tenant of the landlord; or
 - (iii) would result in noncompliance with any other Act or law; or
 - (c) any action required to restore the premises to the condition the premises were in immediately before the alteration or addition is not reasonably practicable in the circumstances.
- (1b) Subsection (1) does not apply in relation to an alteration or addition required under a housing improvement order or a housing demolition order that the tenant has been authorised to carry out under section 19 of the *Housing Improvement Act 2016* by the Minister responsible for the administration of that Act.
- (2) A tenant may remove a fixture affixed to the premises by the tenant unless its removal would cause damage to the premises.
- (2a) Unless otherwise agreed between the landlord and the tenant—
 - (a) the cost of an alteration or addition to the premises made by the tenant is to be borne by the tenant; and
 - (b) at the end of the tenancy, the tenant must return the premises to its former state as if the alteration or addition had not been made.
- (2b) Subsection (2a) applies regardless of whether the alteration or addition was made pursuant to a consent of the landlord or otherwise.
- (3) If a tenant causes damage to the premises by making an alteration or addition to the premises or by removing a fixture, the tenant must notify the landlord and, at the option of the landlord, repair the damage or compensate the landlord for the reasonable cost of repairing the damage.

Division 9—Tenant's conduct on the premises

71—Tenant's conduct

It is a term of a residential tenancy agreement that—

- (a) the tenant must not use the premises, or cause or permit the premises to be used, for an illegal purpose; and
- (b) the tenant must not cause or permit a nuisance; and

- (c) the tenant must not cause or permit an interference with the reasonable peace, comfort or privacy of another person who resides in the immediate vicinity of the premises.

Division 9A—Landlord's obligation to advise of sale of premises

71A—Sale of residential premises

- (1) It is a term of a residential tenancy agreement that—
 - (a) the landlord will give the tenant written notice of the landlord's intention to sell the residential premises not later than 14 days after the landlord enters into a sales agency agreement for the sale of the premises or determines to make the premises available for inspection by prospective purchasers; and
 - (b) the residential premises will not be advertised for sale or made available for inspection by prospective purchasers before the day falling 14 days after the tenant is given notice of the landlord's intention to sell the premises.
- (2) It is a term of a residential tenancy agreement that, if a contract is entered into for the sale of the residential premises, the landlord must, not less than 14 days before the day of settlement under the contract or, if the day of settlement is less than 14 days after the day on which the contract is entered into, as soon as possible after the contract is entered into, give the tenant written notice of the name of the purchaser under the contract and the date from which rent is to be paid to him or her.
- (3) A landlord who, without reasonable excuse, contravenes a term of the agreement arising under this section is guilty of an offence.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

Division 10—Landlord's right of entry

72—Right of entry

- (1) It is a term of a residential tenancy agreement that the landlord (or an agent of the landlord) may enter the premises—
 - (a) in an emergency; or
 - (b) to collect rent (if a reasonable alternative method of payment of rent not involving attendance at the premises has been offered to, but not accepted by, the tenant)—
 - (i) not more than once each week; and
 - (ii) only at a time previously arranged with the tenant (which may only be outside normal hours if the arrangement has been made no more than 7 days before the day of entry); or
 - (c) to inspect the premises—
 - (i) not more than 4 times in a year (or, if an order of the Tribunal has permitted otherwise under subsection (5c), in accordance with that order); and

- (ii) only in accordance with a written notice given to the tenant no less than 7 and no more than 28 days before the day of entry—
 - (A) stating the purpose of the proposed entry and the date of the proposed entry; and
 - (B) specifying a period of up to 2 hours (which must be within normal hours) within which the proposed entry will occur, (however, if the premises are in a remote location or it is necessary for the landlord or agent to be accompanied by a person for the purposes of the inspection, the notice need not specify a 2 hour period within which the proposed entry is to occur, but the entry must occur within normal hours); or
- (ca) to inspect the premises in accordance with an order of the Tribunal under section 89A(4)(b); or
- (d) to carry out garden maintenance, but only—
 - (i) at a time previously arranged with the tenant no more than 7 days before the day of entry; or
 - (ii) in accordance with a written notice given to the tenant no less than 7 and no more than 14 days before the day of entry stating the purpose of the proposed entry and the date and time (which must be within normal hours) of the proposed entry; or
 - (iii) at the request of the tenant; or
- (e) to carry out necessary maintenance (other than garden maintenance) or repairs (other than in an emergency), but only at the request of the tenant, or at a time within normal hours of which the tenant has been given at least 48 hours notice; or
- (ea) to carry out the requirements of a housing assessment order or housing improvement order at a reasonable time of which the tenant has been given at least 48 hours notice; or
- (f) to show the premises to prospective tenants—
 - (i) at the request of the tenant; or
 - (ii) during the period of 28 days preceding the termination of the tenancy agreement, but only on a reasonable number of occasions and only at a time within normal hours of which the tenant has been given reasonable notice; or
- (g) to show the premises to prospective purchasers, on not more than 2 occasions in any 7 day period (unless the tenant has agreed otherwise), but only—
 - (i) at a time previously arranged with the agreement of the tenant (who must not unreasonably refuse to agree to times when the premises are to be available for inspection by prospective purchasers); or
 - (ii) if agreement cannot be reached with the tenant—at a time within normal hours as ordered by the Tribunal, on application by the landlord, if the Tribunal is satisfied that the tenant is unreasonably withholding their agreement; or

- (h) if the landlord has given the tenant notice of a breach of the residential tenancy agreement under section 80—to determine whether the breach has been remedied, but only in accordance with a written notice in the prescribed form given to the tenant no less than 7 and no more than 14 days before the day of entry stating the purpose of the proposed entry and the date and time (which must be within normal hours) of the proposed entry; or
 - (i) for some other genuine purpose, but only—
 - (i) in accordance with a written notice given to the tenant no less than 7 and no more than 14 days before the day of entry and stating the purpose of the proposed entry and the date and time (which must be within normal hours) of the proposed entry; or
 - (ii) with the consent of the tenant; or
 - (j) if the landlord believes on reasonable grounds that the tenant has abandoned the premises.
- (2) It is a term of a residential tenancy agreement that if the tenant has indicated to the landlord that he or she wishes to be present during the period when the landlord or landlord's agent is at the premises, the landlord (or an agent of the landlord) may not enter the premises unless a reasonable effort has been made to arrange for the visit to occur at a time when it is convenient for the tenant to be present (having regard to the work and other commitments of both the tenant and the persons entering the premises).
- (3) Subsection (2) does not apply to entry under subsection (1)(a), (h) or (j).
- (4) It is a term of a residential tenancy agreement that neither the landlord nor an agent of the landlord may enter the premises otherwise than in accordance with the preceding subsections.
- (5) This section does not apply to a part of the premises that the tenant uses in common with the landlord or another tenant of the landlord.
- (5a) For the purposes of subsection (1)(c), (ca), (f), (g) and (h), the regulations may prescribe requirements relating to the production, distribution or publication of documents or records in connection with the relevant entry onto the premises.
- (5b) A landlord who contravenes a requirement under subsection (5a) is guilty of an offence.
Maximum penalty: \$25 000.
Expiation fee: \$1 200.
- (5c) The Tribunal may, on application by the landlord or an agent of the landlord, order that the landlord or agent is permitted to inspect the premises more than 4 times in a year if the Tribunal is satisfied that such an order is necessary because of the state of the premises or any other prescribed circumstance.
- (6) In this section—
normal hours means the hours between 8am and 8pm on any day other than a Sunday or public holiday.

Division 11—Statutory charges

73—Statutory charges

- (1) Subject to this Division, it is a term of a residential tenancy agreement that the landlord must bear all statutory charges imposed in respect of the premises.
- (2) Subject to subsections (3) to (5) (inclusive)—
 - (a) rates and charges for a prescribed service are to be borne as agreed between the landlord and tenant; or
 - (b) in the absence of an agreement, the following provisions apply:
 - (i) if the consumption of the prescribed service to the premises is separately metered—
 - (A) rates and charges for the prescribed service that are based on the level of consumption at the premises are to be borne by the tenant; and
 - (B) rates and charges for the prescribed service that are not based on the level of consumption at the premises are to be borne by the landlord;
 - (ii) in any other case—rates and charges for the prescribed service are to be borne by the landlord.
- (3) A tenant is not required to pay rates and charges for a prescribed service in accordance with subsection (2) if the landlord fails to provide a copy of the invoice for those rates and charges within 30 days of the issue of the invoice by the authority responsible for the supply of the prescribed service.
- (4) A landlord must ensure that an amount borne by a tenant under an agreement under subsection (2)(a) or under subsection (2)(b)(i)(A) in relation to the consumption of water at the premises is reduced by—
 - (a) in the case of a tenant on land held as a single title consisting of a single place of residence—the water security rebate amount; or
 - (b) in the case of a tenant on land held as a single title consisting of more than 1 place of residence—the proportionate water security rebate amount,(and if the reduction under this subsection results in a negative amount, 0 is to be substituted for that amount).
- (5) If, during the period to which an invoice applies for which a landlord obtained the benefit of the water security rebate amount, the premises to which the rebate relates were subject to more than 1 residential tenancy agreement, the landlord must ensure that a reduction under subsection (4) is applied to the amount borne by a tenant under each tenancy agreement on a pro rata basis according to the number of days in the invoice period for which each tenancy agreement respectively applied at the premises.
- (6) In this section—

prescribed service—each of the following is a prescribed service:

 - (a) the supply of electricity;

- (b) the supply of gas;
- (c) the supply of water;
- (d) the supply of a service of a kind prescribed by the regulations;

proportionate water security rebate amount, in relation to a tenant on land held as a single title consisting of more than 1 place of residence, is the amount that results from dividing the water security rebate amount for that title by the number of places of residence at the land to which the title relates;

water security rebate amount, in relation to rates and charges for consumption of water at residential premises, means the amount specified in an account for those rates and charges (whether before or after the commencement of this definition) as representing the rebate for water security purposes.

73A—Agreements relating to installation of solar energy systems

- (1) A landlord and tenant in respect of a residential tenancy agreement may enter into an agreement under which the tenant is liable for an amount in relation to the costs and charges for the installation of a solar energy system for the premises.
- (2) In this section—

solar energy system means—

- (a) a solar photovoltaic system; or
- (b) a solar hot water system; or
- (c) a solar battery system; or
- (d) any combination of a system or systems referred to in paragraphs (a) to (c); or
- (e) any ancillary equipment related to a system referred to in paragraphs (a) to (d).

73B—Excessive water usage charges

- (1) Subject to this section, if a tenant has been charged for excessive usage of water at the premises caused by a fault in water infrastructure or equipment (both within the meaning of the *Water Industry Act 2012*), or other appliances, fittings or fixtures relating to water supply, on or connected to the premises, the landlord is liable for that part of the excessive usage charge that is additional to an amount of ordinary water usage by the tenant.

Example—

Excessive usage charges caused by a leak in the underground pipe of a water service connected to premises.

- (2) A landlord is not liable for excessive usage charges under subsection (1) unless—
 - (a) the tenant notified the landlord, as soon as practicable, of—
 - (i) the excessive usage charges; and
 - (ii) if the tenant knew or ought reasonably to have known the fault that caused the excessive usage—details of the fault; and
 - (b) the fault was not caused by any action or omission of the tenant.

- (3) Neither a landlord nor a tenant is responsible for any excess usage charges or other costs for a fault caused by any property that is the responsibility of a water industry entity under the *Water Industry Act 2012*.
- (4) A landlord must reimburse a tenant for any reasonable costs incurred by the tenant for diagnosis of the fault referred to in subsection (1) conducted by a suitably qualified person.
- (5) For the purposes of this section, the regulations may make provision in relation to calculating or determining the amount of excessive usage charges (including by making provision in relation to an amount of ordinary water usage by a tenant).

Division 12—Assignment and sub-letting

74—Assignment and sub-letting by tenant

- (1) A tenant under a residential tenancy agreement must not assign or sub-let the whole or any part of the premises without the landlord's written consent.
- (2) A landlord must not unreasonably withhold consent to the assignment or sub-letting of the whole or any part of the premises.
- (3) For the purposes of subsection (2), it is unreasonable to withhold consent if the basis for doing so would constitute discrimination under the *Equal Opportunity Act 1984*.
- (4) For the purposes of subsection (2), it is not unreasonable for a landlord who is a community housing provider registered under the *Community Housing Providers National Law* to withhold consent if the person to whom the premises, or part of the premises, is to be sub-let does not meet the eligibility requirements for the community housing or any membership or other requirements of the provider associated with the occupation of those premises.
- (5) An assignment or sub-letting of the whole or any part of the premises without the landlord's consent is invalid unless the Tribunal has determined that consent is not required.

74A—Tenant may apply to Tribunal

- (1) If a tenant under a residential tenancy agreement believes that the landlord unreasonably withheld their consent to the assignment or sub-letting of the whole or part of the premises, the tenant may apply to the Tribunal for a determination that the consent is not required.
- (2) If, after giving each party an opportunity to be heard, the Tribunal determines that consent is not required, the assignment or sub-letting may proceed without the landlord's consent.

74B—Landlord cannot demand or receive fee for giving consent

- (1) A landlord under a residential tenancy agreement must not—
 - (a) demand or receive a fee or payment for giving consent to the assignment or sub-letting of premises; or

- (b) refuse to consent to an assignment or sub-letting of premises on the ground that the tenant has refused to pay a fee or amount for the consent.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

- (2) If the tenant under a residential tenancy agreement has paid the landlord a fee or amount for the consent to an assignment or sub-letting, the tenant may apply to the Tribunal for an order that the landlord refund to the tenant the amount of the payment.
- (3) This section does not prevent a landlord from requiring a tenant to bear any reasonable expenses that are reasonably incurred by the landlord because of the assignment or sub-letting of premises.

Division 13—Tenant's vicarious liability

75—Vicarious liability

It is a term of a residential tenancy agreement that, if a person is on the premises at the invitation or with the consent of the tenant, the tenant is vicariously responsible for an act or omission by the person that would, if it had been an act or omission of the tenant, have constituted a breach of the agreement.

Division 13A—Maximum liability for rent payable following tenant's termination of fixed term tenancy

75A—Maximum liability for rent payable following tenant's termination of fixed term tenancy

- (1) If a tenant under a residential tenancy agreement for a fixed term terminates the tenancy, the tenant will not be liable to pay more than the following amount of rent under the agreement:
 - (a) if the term of the agreement remaining after the day on which the tenant is to give up vacant possession of the premises is less than 24 months—1 month's rent;
 - (b) in any other case—1 month's rent for each whole 12 month period of the term of the agreement remaining after the day on which the tenant is to give up vacant possession of the premises (provided that a tenant cannot be liable to pay more than 6 months' rent in total under this paragraph).
- (2) Nothing in subsection (1) affects a landlord's entitlement to compensation in relation to the termination of a tenancy in the circumstances referred to in that subsection.

Division 14—Harsh or unconscionable terms

76—Harsh or unconscionable terms

- (1) The Tribunal may, on application by a tenant, make an order rescinding or varying a term of a residential tenancy agreement if satisfied that the term is harsh or unconscionable.
- (2) On making an order under subsection (1), the Tribunal may make consequential changes to the residential tenancy agreement or another related document.

Division 14A—Tenant information

76A—Preliminary

- (1) In this Division—

national privacy principles means the principles stated in Schedule 1 of the *Privacy Act 1988* of the Commonwealth;

prospective tenant information means personal information provided for the purposes of applying to enter into a residential tenancy agreement;

tenant information, in relation to a tenant under a residential tenancy agreement, means personal or financial information provided for the purposes of the residential tenancy.

- (2) This Division does not limit the operation of—

- (a) Part 5A; or
- (b) the national privacy principles.

- (3) This Division does not apply to—

- (a) the South Australian Housing Trust or a subsidiary of the South Australian Housing Trust; or
- (b) a registered community housing provider; or
- (c) an agency or instrumentality of the Commonwealth or the State prescribed by the regulations.

76B—Dealing with tenant information and prospective tenant information

- (1) A person who holds tenant information or prospective tenant information must take such steps as are reasonable in the circumstances to protect the information—

- (a) from misuse, interference or loss; and
- (b) from unauthorised access, modification or disclosure.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

- (2) A person who holds prospective tenant information must take such steps as are reasonable in the circumstances to destroy the prospective tenant information—

- (a) if the person who provided the prospective tenant information consents to the information being dealt with under this paragraph—as soon as practicable after the day that falls 6 months after the date on which the information was provided; or
- (b) if paragraph (a) does not apply—as soon as practicable after the day that falls 30 days after the date on which the relevant residential tenancy agreement was entered into.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

- (2a) A person who holds tenant information must take such steps as are reasonable in the circumstances to destroy the tenant information as soon as practicable after the day that falls 3 years after the date on which the end of the tenancy occurs.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

- (2b) Subsections (2) and (2a) apply subject to any Act of this State or of the Commonwealth relating to the preservation of records.
- (3) A person who holds tenant information or prospective tenant information must not disclose the information except—
- (a) with the consent of the person to whom the information relates; or
 - (b) as required or authorised by this Act, any other Act or law, or a residential tenancy agreement to which the person who provided the information is a party; or
 - (c) in accordance with an order of a court or tribunal; or
 - (d) in prescribed circumstances.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

76C—Powers of Tribunal

- (1) The Tribunal may, on the application of the Commissioner or a person to whom tenant information or prospective tenant information relates, make such orders against a person as may be necessary or expedient in the opinion of the Tribunal to ensure compliance with this Division or any provision of this Division.
- (2) If a person commits an offence against this Division, the Tribunal may, on the application of the Commissioner, make an order requiring the person to comply with conditions specified in the order in relation to tenant information or prospective tenant information held by the person.
- (3) An order under subsection (1) or (2) is effective for such period as may be specified in the order or until further order of the Tribunal.

Division 15—Miscellaneous

77—Accelerated rent and liquidated damages

- (1) If a residential tenancy agreement provides that, upon breach by the tenant of a term about rent or other term of the agreement, the tenant is liable to pay—
 - (a) all or any part of the rent remaining payable under the agreement; or
 - (b) rent of an increased amount; or
 - (c) an amount by way of penalty; or
 - (d) an amount by way of liquidated damages,the provision is void.

- (2) If a residential tenancy agreement provides that, on early or punctual payment of rent, the rent will or may be decreased or the tenant will or may be granted or paid a rebate, refund or other benefit, the tenant is entitled to the reduction, rebate, refund or other benefit in any event.
- (3) If a residential tenancy agreement contains a provision to which this section applies, the landlord is guilty of an offence.
Maximum penalty: \$35 000.
Expiation fee: \$2 000.

78—Duty of mitigation

The rules of the law of contract about mitigation of loss or damage on breach of a contract apply to a breach of a residential tenancy agreement.

78A—Compensation for expenses

- (1) If, as a direct consequence of a tenant being at fault, a landlord reasonably incurs costs or expenses in connection with the residential tenancy agreement, the landlord is entitled to compensation for the costs or expenses.

Note—

Examples of faults that may give rise to compensation for costs or expenses under this section:

- the dishonouring of a cheque provided by the tenant;
 - the failure of a transaction for the transfer of funds from the tenant to the landlord;
 - the loss by the tenant of a record or document.
- (2) The Tribunal may, on application by the landlord, order the tenant to pay to the landlord compensation to which the landlord is entitled under this section.

Part 5—Termination of residential tenancy agreements

Division 1—Termination generally

79—Termination of residential tenancy

A residential tenancy terminates if—

- (b) the landlord or the tenant terminates the tenancy by notice of termination given to the other as required under this Act, including—
 - (i) as a result of a breach of the residential tenancy agreement; or
 - (ii) on a ground prescribed by the regulations as contemplated by this Part; or
- (c) the Tribunal terminates the tenancy; or
- (d) a person having title superior to the landlord's title becomes entitled to possession of the premises under the order of the Tribunal or a court¹; or
- (e) a mortgagee takes possession of the premises under a mortgage; or

- (ea) the tenancy terminates by force of a notice to vacate issued in respect of the premises; or
- (f) the tenant abandons the premises; or
- (g) the tenancy terminates in accordance with Division 1A following the death of the sole tenant; or
- (h) the tenant gives up possession of the premises with the landlord's consent; or
- (i) the interest of the tenant merges with another estate or interest in the land; or
- (j) disclaimer of the tenancy occurs.

Note—

- 1 See section 96.

79A—Agreement for fixed term continues if not terminated

- (1) If a residential tenancy agreement for a fixed term has not terminated before the end of the fixed term or at the end of the fixed term by notice of termination under section 83A or 86A, the agreement continues—
 - (a) as a residential tenancy agreement for a periodic tenancy with a tenancy period equivalent to the interval between rental payment times under the agreement; and
 - (b) with terms of agreement that in other respects are the same as those applying under the agreement immediately before the end of the fixed term.
- (2) This section does not apply in relation to a residential tenancy agreement to which section 4 applies.

Division 1A—Termination following death of sole tenant

79B—Termination following death of sole tenant

- (1) Subject to subsection (2), if the sole tenant of premises subject to a residential tenancy agreement dies, the tenancy terminates 30 days after the death of the tenant.
- (2) If, within 30 days of the death of the tenant—
 - (a) a notice of termination is given under subsection (3) or (4); or
 - (b) an order of the Tribunal is made under subsection (5); or
 - (c) the landlord and the administrator of the deceased tenant's estate or, in the absence of an administrator, the next of kin of the deceased tenant (the **relevant person**) make an agreement in writing; or
 - (d) vacant possession of the premises is given to the landlord,the tenancy terminates on—
 - (e) the day specified in the notice of termination; or
 - (f) the day specified in the order of the Tribunal; or
 - (g) the day agreed by the landlord and the relevant person; or
 - (h) the day on which vacant possession is given,(whichever is the earliest).

- (3) The relevant person may, by notice in writing given to the landlord, terminate the residential tenancy agreement on the day specified in the notice on the ground that the tenant has died.
- (4) The landlord may, by notice in writing given to the relevant person, terminate the residential tenancy agreement on the day specified in the notice on the ground that the tenant has died.
- (5) If the landlord is unable to locate a relevant person for a deceased tenant, the landlord may apply to the Tribunal for the following orders:
 - (a) an order to terminate the residential tenancy agreement on a specified day;
 - (b) an order for possession of the premises the subject of the agreement on a specified day,and the Tribunal may make such orders.
- (6) If the residential tenancy agreement is for a fixed term, the day specified in a notice of termination or an order of the Tribunal under this section may be earlier than the last day of that term.
- (7) In this section—

sole tenant of premises to which a residential tenancy agreement applies means a person—

 - (a) who is the only tenant under the agreement; and
 - (b) if the person has dependants—whose dependants are not in occupation of the premises.

Division 2—Termination by the landlord

80—Notice of termination by landlord on ground of breach of agreement

- (1) If the tenant breaches a residential tenancy agreement, the landlord may give the tenant a written notice in the form required by regulation—
 - (a) specifying the breach; and
 - (b) informing the tenant that if the breach is not remedied within a specified period (which must be a period of at least seven days) from the date the notice is given then—
 - (i) the tenancy is terminated by force of the notice; and
 - (ii) the tenant must give up possession of the premises on or before a day specified in the notice (which, subject to subsection (2)(c), must be at least seven days after the end of the period allowed for the tenant to remedy the breach).
- (2) If notice is given under this section on the ground of a failure to pay rent—
 - (a) the notice is ineffectual unless the rent (or any part of the rent) has remained unpaid in breach of the agreement for not less than 14 days before the notice was given; and
 - (b) the notice is not rendered ineffectual by failure by the landlord to make a prior formal demand for payment of the rent; and

- (c) the day specified in the notice for the tenant to give up possession of the premises if the rent is not paid in accordance with the terms of the notice can be any day after the day on which the tenancy is terminated under the notice¹; and
- (d) if the tenant gives up possession of the premises—
 - (i) the landlord is entitled to compensation for any loss (including loss of rent) caused by the termination of the tenancy (but the landlord must take reasonable steps to mitigate any loss and is not entitled to compensation for loss that could have been avoided by those steps); and
 - (ii) the Tribunal may, on application by the landlord, order the tenant to pay to the landlord compensation to which the landlord is entitled under this paragraph.
- (2a) For the purposes of subsection (2)(d), the regulations may make provision in relation to the matters to which regard must be had in determining whether a landlord has taken reasonable steps to mitigate any loss.
- (3) If notice is given under this section in respect of a residential tenancy agreement that creates a tenancy for a fixed term, the notice is not ineffectual because the day specified as the day on which the tenant is to give up possession of the premises is earlier than the last day of that term.
- (4) The tenant may at any time after receiving a notice under this section and before giving vacant possession to the landlord, apply to the Tribunal for an order—
 - (a) declaring that the tenant is not in breach of the residential tenancy agreement, or has remedied the breach of the agreement, and that the tenancy is not liable to be terminated under this section; or
 - (b) reinstating the tenancy.
- (5) If the Tribunal is satisfied that a tenancy has been validly terminated under this section, but that it is just and equitable to reinstate the tenancy (or would be just and equitable to reinstate the tenancy if the conditions of the order were complied with), the Tribunal may make an order reinstating the tenancy.
- (6) An order reinstating the tenancy under this section may be made on conditions that the Tribunal considers appropriate.
- (7) On an application for an order reinstating the tenancy, the Tribunal may make alternative orders providing for reinstatement of the tenancy if specified conditions are complied with but, if not, ordering the tenant to give up possession of the premises to the landlord.

Note—

- 1 Ie the requirement to give the tenant at least seven days to give up possession of the premises if the tenant remains in default does not apply.

80A—Termination by landlord on ground of drug contamination

A landlord may, by notice of termination given to the tenant, terminate a residential tenancy if—

- (a) the landlord is aware that the tenant has engaged in, or allowed another person to engage in, drug related conduct on the premises or ancillary property; and
- (b) testing for contamination conducted in accordance with section 67B indicates that the premises or ancillary property are contaminated as a result of that drug related conduct.

81—Termination because possession is required by landlord for certain purposes

- (1) A landlord may, by notice of termination given to the tenant, terminate a periodic residential tenancy on the ground that—
 - (a) the landlord requires possession of the premises for demolition; or
 - (b) the landlord requires possession of the premises for repairs or renovations that cannot be carried out conveniently while the tenant remains in possession of the premises; or
 - (c) the landlord requires possession of the premises for—
 - (i) the landlord's own occupation; or
 - (ii) occupation by the landlord's spouse, child or parent; or
 - (iii) occupation by the spouse of the landlord's child or parent; or
 - (d) the landlord has entered into a contract for the sale of the premises under which the landlord is required to give vacant possession of the premises; or
 - (e) the landlord requires possession of the premises for a purpose prescribed by regulation.
- (2) The period of notice given under subsection (1) must be at least 60 days or a period equivalent to a single period of the tenancy (whichever is the longer).
- (2a) A tenant to whom a notice is given under subsection (1)—
 - (a) may give up possession of the premises prior to the end of the period of notice specified in subsection (2); and
 - (b) will not be liable to pay rent after either of the following days:
 - (i) if the tenant gives the landlord at least 7 days written notice of the tenant's intention to give up possession of the premises—the day on which possession is given up;
 - (ii) if the tenant gives the landlord less than 7 days written notice of the tenant's intention to give up possession of the premises—the 7th day after notice is given to the landlord.

- (3) A person must not falsely state the ground of termination in a notice of termination given, or purportedly given, under this section.
Maximum penalty: \$50 000.
Expiation fee: \$2 000.
- (4) A landlord who recovers possession of premises under this section must not, without the consent of the Tribunal, grant a fresh tenancy over the premises within six months after recovering possession.
Maximum penalty: \$35 000.
Expiation fee: \$2 000.

82—Termination of residential tenancy by community housing providers with members who are tenants

- (1) If—
 - (a) a registered community housing provider is a landlord under a residential tenancy agreement; and
 - (b) it is a requirement that the occupant of the premises be a member of the registered community housing provider,the registered community housing provider may, by notice of termination given to the tenant, terminate the residential tenancy on the ground that—
 - (c) the tenant has ceased to be a member of the registered community housing provider; or
 - (d) the tenant no longer satisfies conditions specified in the agreement as essential to the continuation of the tenancy.
- (2) The period of notice under this section must be at least 28 days.

83—Termination by landlord on ground prescribed

- (1) Subject to this Part, a landlord may, by notice of termination given to the tenant, terminate the tenancy on any ground prescribed by the regulations.
- (2) However—
 - (a) a tenancy cannot be terminated under this section if—
 - (i) it is for a fixed term; or
 - (ii) a housing assessment order, housing improvement order, housing demolition order, preliminary rent control notice or rent control notice applies in respect of the premises; or
 - (iii) an order is in force under section 56 (Excessive rent) in respect of the premises or proceedings for such an order have been commenced; and
 - (b) a registered community housing provider cannot terminate a tenancy with a member of the registered community housing provider under this section where it is a requirement that the occupant of the premises be a member of the registered community housing provider.
- (3) The period of notice under this section must be at least 90 days.

83A—Notice to be given at end of fixed term

- (1) A landlord may, by notice of termination given to the tenant, terminate a residential tenancy agreement for a fixed term at the end of the fixed term on any ground prescribed by the regulations.
- (2) The period of notice under subsection (1) must be at least 60 days.
- (3) A tenant to whom a notice of termination is given under this section—
 - (a) may give up possession of the premises before the end of the fixed term; and
 - (b) will not be liable to pay rent after either of the following days:
 - (i) if the tenant gives the landlord at least 7 days written notice of the tenant's intention to give up possession of the premises—the day on which possession is given up;
 - (ii) if the tenant gives the landlord less than 7 days written notice of the tenant's intention to give up possession of the premises—the 7th day after notice is given to the landlord.
- (4) However, subsection (3) does not apply if the notice of termination is on a ground prescribed by the regulations for the purposes of this subsection.

83B—Termination where agreement frustrated

- (1) A landlord may, by notice of termination given to the tenant, terminate a residential tenancy agreement on the ground that, otherwise than as a result of a breach of the agreement, the premises or a substantial portion of the premises—
 - (a) have been destroyed or rendered uninhabitable; or
 - (b) have ceased to be lawfully usable for residential purposes; or
 - (c) have been acquired by compulsory process.
- (2) A notice given under subsection (1)(a) or (b) may terminate the agreement immediately.
- (3) A notice given under subsection (1)(c) must provide for a period of notice of at least 60 days.

84—Tribunal must approve certain terminations

- (1) If—
 - (a) premises to which a residential tenancy agreement applies—
 - (i) have, within the preceding 6 months, been the subject of an inspection by an authorised officer within the meaning of the *Housing Improvement Act 2016* in connection with the administration or enforcement of that Act; or
 - (ii) are subject to a housing assessment order, housing improvement order, housing demolition order, preliminary rent control notice or rent control notice; or
 - (b) an order is in force under section 56 (Excessive rent) in respect of the premises or proceedings for such an order have been commenced,

the landlord may only terminate the tenancy by notice of termination under this Part if—

- (c) the notice of termination is given on—
 - (i) the ground of a breach of a residential tenancy agreement of a kind for which a notice of termination may be effected under section 80; or
 - (ii) a ground of termination of a periodic residential tenancy specified in section 81(1); or
 - (iii) any other ground prescribed by the regulations for the purposes of this subsection; and
 - (d) the Tribunal authorises the notice of termination.
- (2) The Tribunal may authorise a notice of termination under this section if satisfied of the genuineness of the proposed ground on which the notice is to be given.
- (3) This section does not apply to a notice of termination given by the landlord—
- (a) to terminate a residential tenancy agreement for a fixed term at the end of the fixed term; or
 - (b) for a failure to pay rent lawfully owed to the landlord.
- (4) This section does not apply if a notice to vacate applies in respect of the premises.

84A—Compensation for termination in certain circumstances

- (1) If a landlord reasonably incurs costs or expenses of a kind determined by the Commissioner in connection with the termination of a residential tenancy agreement in prescribed circumstances—
- (a) the landlord is entitled to compensation for the costs or expenses; and
 - (b) the Tribunal may, on application by the landlord, order the tenant to pay to the landlord compensation to which the landlord is entitled under this subsection.
- (2) Subsection (1) does not apply in prescribed circumstances.

Division 3—Termination by tenant

85—Notice of termination by tenant on ground of breach of the agreement

- (1) If the landlord breaches a residential tenancy agreement, the tenant may give the landlord a written notice, in the form required by regulation—
- (a) specifying the breach; and
 - (b) informing the landlord that if the breach is not remedied within a specified period (which must be a period of at least seven days) from the date the notice is given the tenancy is terminated by force of the notice from a date that is also specified in the notice (which must be at least seven days after the end of the period allowed for the landlord to remedy the breach).

- (2) The landlord may, before the time fixed in the tenant's notice for termination of the tenancy or the tenant gives up possession of the premises (whichever is the later), apply to the Tribunal for an order—
 - (a) declaring that the landlord is not in breach of the residential tenancy agreement, or has remedied the breach of the agreement, and that the tenancy is not liable to be terminated under this section; or
 - (b) reinstating the tenancy.
- (3) If the Tribunal is satisfied that a tenancy has been validly terminated under this section, but that it is just and equitable to reinstate the tenancy (or would be just and equitable to reinstate the tenancy if the conditions of the order were complied with), the Tribunal may make an order reinstating the tenancy.
- (3a) An order reinstating the tenancy under this section may be made on conditions that the Tribunal considers appropriate.

85AA—Notice of termination by tenant for successive breaches of agreement

- (1) The tenant under a residential tenancy agreement may, by notice of termination given to the landlord, terminate the tenancy if the landlord—
 - (a) breaches a provision of the agreement; and
 - (b) on 2 previous occasions in the period of 12 months before the giving of the notice, has been in breach of the same provision.
- (2) A notice under this section must specify the breach referred to in subsection (1)(a) and the minimum period of notice under this section is 7 days.

85A—Termination by tenant if residential premises for sale

- (1) The tenant under a residential tenancy agreement may, by notice of termination given to the landlord, terminate the tenancy if—
 - (a) within 2 months after the start of the agreement, the landlord enters into a contract for the sale of the residential premises; and
 - (b) the landlord did not, before the residential tenancy agreement was entered into, advise the tenant as required under section 47A.
- (2) A notice of termination under subsection (1) must, if the landlord has given written notice advising the tenant of the contract for the sale of the residential premises (whether in accordance with section 71A(2) or otherwise), be given to the landlord within 2 months after the day on which the notice was given to the tenant.

85B—Notice of termination by tenant due to condition of premises

- (1) The tenant under a residential tenancy agreement may, by notice of termination given to the landlord, terminate the tenancy—
 - (a) if the premises do not comply with the prescribed minimum housing standards under the *Housing Improvement Act 2016*; or
 - (b) if the premises are destroyed totally or to such an extent as to be rendered unsafe; or
 - (c) in prescribed circumstances.

- (2) The minimum period of notice under this section is 7 days.

85C—Notice of termination by tenant in certain circumstances

- (1) The tenant under a residential tenancy agreement may, by notice of termination given to the landlord, terminate the tenancy if—
- (a) the tenant requires care of a kind prescribed by the regulations and needs to vacate the premises in order to obtain that care; or
 - (b) the tenant has been offered and accepted accommodation by the South Australian Housing Trust, a subsidiary of the South Australian Housing Trust or a community housing provider registered under the *Community Housing Providers National Law*; or
 - (c) the tenant requires prescribed temporary crisis accommodation and needs to vacate the premises in order to obtain that accommodation.
- (2) The minimum period of notice under this section is 7 days.

85D—Notice of termination by tenant on ground of domestic abuse

- (1) The tenant under a residential tenancy agreement may, by notice of termination given to the landlord, terminate the tenancy if—
- (a) an intervention order is in force against a prescribed person for the protection of the tenant or a domestic associate of the tenant who normally or regularly resides at the premises; or
 - (b) the tenant or a domestic associate of the tenant who normally or regularly resides at the premises is in any other circumstances of domestic abuse of a kind prescribed by the regulations for the purposes of this section.
- (2) A notice given under subsection (1) must—
- (a) be accompanied by evidence of a prescribed kind; and
 - (b) specify a termination date that is on or after the day on which the notice is given and, in the case of a fixed term agreement, may specify a day before the end of the fixed term.
- (3) A person who is in possession of a document provided as evidence under subsection (2)(a) must ensure that the document is stored and disposed of securely.
Maximum penalty: \$50 000.
Expiation fee: \$2 000.
- (4) A person must not use or disclose a document, or information contained in a document, provided as evidence under subsection (2)(a) except—
- (a) with the consent of the person to whom the document or information relates; or
 - (b) for the purposes of referring the matter to a law enforcement agency, or a person or agency exercising official duties under an Act relating to the care or protection of a child; or

- (c) if the disclosure is reasonably necessary for the protection of the lawful interests of the person disclosing the document or information.

Maximum penalty: \$50 000.

Expiation fee: \$2 000.

- (5) A document, or information contained in a document, disclosed under subsection (4) for a particular purpose must not be used for any other purpose by—
 - (a) the person to whom the document or information was disclosed; or
 - (b) any other person who gains access to the document or information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: \$50 000.

Expiation fee: \$2 000.

86—Termination by tenant without specifying a ground of termination

- (1) The tenant under a residential tenancy agreement for a periodic tenancy may, by notice of termination given to the landlord, terminate the tenancy without specifying a ground of termination.
- (2) The minimum period of notice under this section is 21 days or a period equivalent to a single period of the tenancy (whichever is longer).

86A—Notice to be given at end of fixed term

- (1) The tenant under a residential tenancy agreement for a fixed term may, by notice of termination given to the landlord, terminate the tenancy at the end of the fixed term without specifying a ground of termination.
- (2) The period of notice under this section must be at least 28 days.

86B—Termination where agreement frustrated

- (1) A tenant may, by notice of termination given to the landlord, terminate a residential tenancy agreement on the ground that, otherwise than as a result of a breach of the agreement, the premises or a substantial portion of the premises—
 - (a) have been destroyed or rendered uninhabitable; or
 - (b) have ceased to be lawfully usable for residential purposes; or
 - (c) have been acquired by compulsory process.
- (2) A notice given under subsection (1) may terminate the agreement immediately.

Division 4—Termination by the Tribunal

87—Termination on application by landlord

- (1) The Tribunal may, on application by a landlord, terminate a residential tenancy and make an order for possession of the premises if satisfied that—
 - (a) the tenant has committed a breach of the residential tenancy agreement; and
 - (b) the breach is sufficiently serious to justify termination of the tenancy¹.

- (1a) The Tribunal may, on application by a landlord, terminate a residential tenancy and make an order for possession of the premises if satisfied that—
- (a) the tenant has failed to pay rent in breach of the residential tenancy agreement; and
 - (b) on at least 2 occasions in the 12 month period preceding the breach—
 - (i) the tenant was given a notice under section 80 of a breach of the agreement on the ground of a failure to pay rent; and
 - (ii) the notice was not ineffectual within the meaning of section 80(2).
- (1b) On an application under subsection (1a), the Tribunal may make alternative orders providing for the tenant to comply with specified conditions in relation to the payment of rent under the agreement.
- (2) The Tribunal may, on application by a landlord, terminate a residential tenancy and make an order for immediate possession of the premises if the tenant or a person permitted on the premises with the consent of the tenant has, intentionally or recklessly, caused or permitted, or is likely to cause or permit—
- (a) serious damage to the premises; or
 - (b) personal injury to—
 - (i) the landlord or the landlord's agent; or
 - (ii) a person in the vicinity of the premises.

Note—

- 1 A tenancy may be terminated by a notice under section 80 if the tenant fails to remedy a breach after being required to do so by the landlord. This alternative procedure may be appropriate if (for example) the breach is not capable of remedy.

88—Termination on application by tenant

The Tribunal may, on application by a tenant, terminate a residential tenancy and make an order for possession of the premises if satisfied that—

- (a) the landlord has committed a breach of the residential tenancy agreement; and
- (b) the breach is sufficiently serious to justify termination of the tenancy¹.

Note—

- 1 A tenancy may be terminated by a notice under section 85 if the landlord fails to remedy a breach after being required to do so by the tenant. This alternative procedure may be appropriate if (for example) the breach is not capable of remedy.

89—Termination based on hardship

- (1) If the continuation of a residential tenancy would result in undue hardship to the landlord or the tenant, the Tribunal may, on application by the landlord or the tenant, terminate the agreement from a date specified in the Tribunal's order and make an order for possession of the premises as from that day.
- (2) The Tribunal may also make an order compensating a landlord or tenant for loss and inconvenience resulting, or likely to result, from the early termination of the tenancy.

89A—Termination based on domestic abuse

- (1) The Tribunal may, on application by a tenant or a co-tenant, terminate a residential tenancy from a date specified in the Tribunal's order if satisfied—
 - (a) that an intervention order is in force against a person who resides at the residential premises for the protection of—
 - (i) the applicant; or
 - (ii) a domestic associate of the applicant who normally or regularly resides at the residential premises; or
 - (b) that a person who resides at the residential premises has committed domestic abuse against—
 - (i) the applicant; or
 - (ii) a domestic associate of the applicant who normally or regularly resides at the residential premises.
- (2) The Tribunal may, on application by a landlord, terminate a residential tenancy from a date specified in the Tribunal's order if satisfied—
 - (a) that an intervention order is in force against a tenant for the protection of a person who normally or regularly resides at the residential premises; or
 - (b) that a tenant has committed domestic abuse against a person who normally or regularly resides at the residential premises.
- (3) For the purposes of an application under this section, the following persons are parties to proceedings concerning the tenancy dispute:
 - (a) the applicant;
 - (b) the landlord;
 - (c) a tenant or co-tenant;
 - (d) if the application is made under subsection (2)—the person who normally or regularly resides at the residential premises for whose protection an intervention order is in force or against whom domestic abuse has been committed.
- (4) The Tribunal may, on application by a party to proceedings under this section, make 1 or more of the following additional orders:
 - (a) subject to this section, an order requiring the landlord to enter into a new residential tenancy agreement for the remainder of the term of the tenancy with any 1 or more of the following:
 - (i) the applicant or a co-tenant under the terminated agreement;
 - (ii) a person who normally or regularly resides at the residential premises for whose protection an intervention order is in force against a tenant or against whom a tenant has committed domestic abuse;
 - (b) an order that the landlord may enter the residential premises at a time determined by the Tribunal to inspect the premises before a determination is made under this section;
 - (c) an order for possession of the premises on a date specified by the Tribunal;

- (d) if the Tribunal is satisfied that—
 - (i) the applicant did not cause or reasonably cause a breach of the residential tenancy agreement; or
 - (ii) the nature of any breach of the residential tenancy agreement resulted from an act of abuse or domestic abuse against the applicant,
an order that the landlord, landlord's agent or a database operator must not list the applicant's personal information in a residential tenancy database under section 99F(1).
- (5) The Tribunal must not make an order under subsection (4)(a) requiring the landlord to enter into a new residential tenancy agreement with—
 - (a) the person referred to in subsection (1)(a) or (2)(a) against whom an intervention order is in force; or
 - (b) the person referred to in subsection (1)(b) whom the Tribunal is satisfied has committed domestic abuse against an applicant or a domestic associate of the applicant who normally or regularly resides at the residential premises; or
 - (c) the person referred to in subsection (2)(b) whom the Tribunal is satisfied has committed domestic abuse against an applicant,if the landlord indicates, as part of proceedings before the Tribunal, that the landlord considers it would be unreasonable for such an order to be made.
- (6) Before making an order under subsection (4)(a), the Tribunal must be satisfied—
 - (a) that any tenant or co-tenant under the new residential tenancy agreement could reasonably be expected to comply with the obligations under the agreement; and
 - (b) in a case where the landlord is the South Australian Housing Trust or a subsidiary of the South Australian Housing Trust—that any tenant under the new residential tenancy agreement meets the eligibility requirements of the Trust; and
 - (c) in a case where—
 - (i) the landlord is a community housing provider registered under the *Community Housing Providers National Law*; and
 - (ii) the residential premises constitute community housing within the meaning of that Law,
that any tenant under the new residential tenancy agreement meets the eligibility requirements for such community housing and any membership or other requirements of the landlord associated with occupation of those premises.
- (7) If the landlord or any co-tenant objects to an application for the making of an order under subsection (1) or (4)(a), the Tribunal must not make the order unless satisfied that the hardship likely to be suffered by the applicant or a domestic associate of the applicant who normally or regularly resides at the residential premises would, if the order were not made, be greater than any hardship likely to be suffered by the objector as a consequence of the making of the order.

- (8) A new residential tenancy agreement entered into by order of the Tribunal under subsection (4)(a) must be on the same terms and conditions as the terminated tenancy agreement, subject to any changes determined by the Tribunal.
- (9) In considering an application under this section, the Tribunal must have regard to such of the following orders and proceedings (if any) as are relevant to the application:
 - (a) an order, injunction, undertaking, plan, recognisance or other form of obligation imposed or agreement made under the *Family Law Act 1975* of the Commonwealth;
 - (b) an order made under the *Children's Protection Act 1993* or the *Children and Young People (Safety) Act 2017*;
 - (c) an order made under the *Intervention Orders (Prevention of Abuse) Act 2009*;
 - (d) a pending application for an order referred to in paragraph (a), (b) or (c);
 - (e) any other relevant legal proceedings.
- (10) If a residential tenancy is terminated under this section because of an intervention order in force against a co-tenant under the residential tenancy agreement, or because a co-tenant under the agreement has committed domestic abuse, the Tribunal may order the co-tenant to make a payment of compensation to the landlord for loss and inconvenience resulting, or likely to result, from the termination of the tenancy or from any additional order made under subsection (4).
- (11) If the Tribunal finds, in relation to a residential tenancy that is terminated under this section, that 1 or more, but not all, of the co-tenants under the residential tenancy agreement are responsible for damage to the residential premises or ancillary property, the Tribunal may determine that the responsible co-tenant or co-tenants are liable (to the exclusion of other co-tenants) for making any payment of compensation ordered under section 110(1)(c).
- (12) If 1 or more, but not all, of the co-tenants under a residential tenancy agreement are liable under subsection (10) or (11) for making a payment of compensation, the Tribunal may give a direction under section 110(1)(i) that—
 - (a) the bond (if any) be paid to the landlord and any co-tenant who is not liable for making the payment under subsection (10) or (11) (as the case may be) in such proportions as the Tribunal thinks fit; and
 - (b) if the amount of bond payable to a landlord is limited under a direction under paragraph (a)—a co-tenant who is liable for making the payment under subsection (10) or (11) (as the case may be) is liable to pay the remaining amount of the bond payable to the landlord (or if there is more than 1 co-tenant liable for making the payment, that the co-tenants are liable to pay the remaining amount of the bond payable to the landlord in such proportions as the Tribunal thinks fit).

90—Tribunal may terminate tenancy if tenant's conduct unacceptable

- (1) The Tribunal may, on application by an interested person, terminate a residential tenancy and make an order for possession of the premises if it is satisfied that the tenant has—
 - (a) used the premises, or caused or permitted the premises to be used, for an illegal purpose; or

- (b) caused or permitted a nuisance; or
 - (c) caused or permitted an interference with the reasonable peace, comfort or privacy of another person who resides in the immediate vicinity of the premises.
- (2) If the Tribunal terminates a tenancy and makes an order for possession under this section—
 - (a) the Tribunal must specify the day as from which the order will operate, being not more than 28 days after the day on which the orders are made; and
 - (b) the Tribunal may order the landlord—
 - (i) to take such action as is specified in the order for the purpose of taking possession of the premises; and
 - (ii) not to permit the tenant to occupy the premises (whether as a tenant or otherwise) for a specified period or until further order (and any agreement entered into in contravention of such an order is void).
- (2a) However—
 - (a) the Tribunal must not make an order under this section unless the landlord has been given a reasonable opportunity to be heard in relation to the matter; and
 - (b) if the landlord objects to the making of an order under this section, the Tribunal must not make an order unless the Tribunal is satisfied that exceptional circumstances exist justifying the making of the order in any event.
- (3) In this section—

interested person means—

 - (a) the landlord; or
 - (b) a person who has been adversely affected by the conduct of the tenant on which the application is based; or
 - (c) a strata corporation or community corporation representing the interests of persons who have been adversely affected by the conduct of the tenant on which the application is based; or
 - (d) a police officer; or
 - (e) an authorised officer within the meaning of the *Fair Trading Act 1987*.
- (4) If an application relating to a tenant is, or is to be, made under this section by an authorised officer within the meaning of the *Fair Trading Act 1987*, the authorised officer may refer the application to the Commissioner of Police.
- (5) As soon as reasonably practicable following referral of an application under subsection (4), the Commissioner of Police must make available to the authorised officer information to which the Commissioner of Police has access relevant to the application (unless the Commissioner of Police considers there is good reason for withholding the information).

Division 4A—Tribunal may make orders in relation to retaliatory behaviour and circumstances of domestic abuse

90A—Tribunal may make orders in relation to retaliatory behaviour

- (1) The Tribunal may, on application by a tenant or in proceedings relating to the termination or proposed termination of a residential tenancy agreement—
 - (a) declare that a notice of termination under this Act has no effect; or
 - (b) refuse to make an order terminating a residential tenancy agreement,if it is satisfied that a notice of termination given or application made by the landlord was a retaliatory notice or a retaliatory application.
- (2) In addition, the Tribunal may (on its own initiative), if it is satisfied that a notice of termination given or application made by the landlord was a retaliatory notice or a retaliatory application, order the landlord to make a payment of an amount not exceeding \$5 000 into the Fund.
- (3) The Tribunal may find that a notice of termination is a retaliatory notice or that an application is a retaliatory application if it is satisfied that the landlord was wholly or partly motivated to give the notice or make the application for any of the following reasons:
 - (a) the tenant had applied or proposed to apply to the Tribunal for an order;
 - (b) the tenant had taken or proposed to take any other action to enforce a right of the tenant under the residential tenancy agreement, this Act or any other law;
 - (c) an order of the Tribunal was in force in relation to the landlord and tenant.
- (4) A tenant may only make an application to the Tribunal for a declaration under this section if the application complies with the requirements prescribed by the regulations (if any).

90B—Tribunal may make orders in relation to circumstances of domestic abuse

- (1) The Tribunal may, on application by a tenant under a residential tenancy agreement given a notice of termination on a ground prescribed by the regulations for the purposes of this subsection (a **relevant ground**), make an order that the notice of termination is invalid if satisfied that—
 - (a) the tenant or a domestic associate of the tenant who normally or regularly resides at the premises has been, or is being, subjected to domestic abuse; and
 - (b) the relevant ground was caused by an act of a person who has subjected the tenant or a domestic associate of the tenant who normally or regularly resides at the premises to domestic abuse.
- (2) An application under this section must be made within 30 days after the notice of termination is given.

Division 5—Notices of termination

91—Form of notice of termination

- (1) A notice of termination given by a landlord to a tenant must—
 - (a) be in writing and in the form prescribed by regulation¹; and
 - (b) be signed by the landlord or the landlord's agent; and
 - (c) state the address of the premises subject to the tenancy; and
 - (d) state the day on which the tenant is required to give up vacant possession of the premises to the landlord; and
 - (e) specify and give reasonable particulars of the ground of termination; and
 - (ea) in the case of a notice given on a ground prescribed by the regulations for the purposes of this paragraph, be accompanied by written evidence, as approved by the Commissioner from time to time, which supports the ground for giving the notice; and
 - (f) include any further information required by regulation.
- (2) A notice of termination given by a tenant to a landlord must—
 - (a) be in writing and in the form required by regulation¹; and
 - (b) be signed by the tenant or an agent of the tenant; and
 - (c) state the address of the premises subject to the tenancy; and
 - (d) state the day on which the tenant is to give up vacant possession of the premises to the landlord; and
 - (e) if the tenancy is to be terminated on a particular ground—specify and give reasonable particulars of the ground of termination; and
 - (f) include any further information required by regulation.

Note—

- 1 The *Acts Interpretation Act 1915* allows some divergence from the prescribed form providing that the form actually used is to the same effect.

91A—Prohibition on letting premises after notice of termination

- (1) A landlord or a person acting on behalf of a landlord who obtains possession of premises in respect of which a notice of termination has been given on a ground of a kind prescribed by the regulations must not let the premises to a person for use primarily as a residence before the end of 6 months after the date on which the notice was given.
Maximum penalty: \$25 000.
Expiation fee: \$1 200.
- (2) Subsection (1) does not apply if the Tribunal determines that the premises may be let before the end of the period referred to in subsection (1).

92—Termination of periodic tenancy

A notice terminating a periodic tenancy under this Act is not ineffectual because—

- (a) the period of notice is less than would, apart from this Act, have been required at law; or
- (b) the day on which the tenancy is to end is not the last day of a period of the tenancy.

92A—Notice of termination void if no action taken

If—

- (a) a notice of termination is given to a landlord or tenant; and
- (b) the tenant has not given up vacant possession of the residential premises to the landlord within 1 month after the day on which he or she is to do so in accordance with the notice; and
- (c) the landlord has not, within that period, applied to the Tribunal for an order for possession of the premises,

the notice of termination is ineffectual and the residential tenancy will be taken not to have been terminated.

Division 6—Repossession of premises

93—Order for possession

- (1) If a residential tenancy is terminated by notice of termination under this Act or, in the case of a tenancy under which the South Australian Housing Trust is landlord, under the residential tenancy agreement, the landlord may apply to the Tribunal for an order for possession of the premises.

Note—

The landlord may not make the application if the notice of termination is ineffectual under section 92A.

- (2) If the Tribunal is satisfied that the tenancy has been terminated, the Tribunal may make an order for possession of the premises.
- (3) The order for possession will take effect on a date specified by the Tribunal in the order, being a date not more than seven days after the date of the order unless the operation of the order for possession is suspended¹.
- (4) However, if the Tribunal, although satisfied that the landlord is entitled to an order for possession of the premises, is satisfied by the tenant that the grant of an order for immediate possession of the premises would cause severe hardship to the tenant, the Tribunal may—
 - (a) suspend the operation of the order for possession for up to 90 days; and
 - (b) extend the operation of the residential tenancy agreement until the landlord obtains vacant possession of the premises from the tenant.
- (4a) In extending the operation of the residential tenancy agreement, the Tribunal may make modifications to the agreement that it considers appropriate (but the modifications cannot reduce the tenant's financial obligations under the agreement).

- (5) If the tenant fails to comply with an order for possession, the landlord is entitled to compensation for any loss caused by that failure.
- (6) The Tribunal may, on application by the landlord, order the tenant to pay to the landlord compensation to which the landlord is entitled under subsection (5).

Note—

- 1 See subsection (4).

94—Abandoned premises

- (1) The Tribunal may, on application by a landlord—
 - (a) declare that a tenant abandoned premises on a day stated in the declaration; and
 - (b) make an order for immediate possession of the premises.
- (1a) In determining whether a tenant has abandoned premises, the Tribunal may have regard to—
 - (a) any failure by the tenant to pay rent or to carry out obligations under the residential tenancy agreement; and
 - (b) any evidence suggesting that the tenant no longer occupies the premises as a place of residence; and
 - (c) any other matter the Tribunal thinks fit.
- (2) A tenant is taken to have abandoned the premises on the day stated in a declaration under this section.
- (3) If a tenant has abandoned premises, the landlord is entitled to compensation for any loss (including loss of rent) caused by the abandonment.
- (4) However, the landlord must take reasonable steps to mitigate any loss and is not entitled to compensation for loss that could have been avoided by those steps.
- (5) The Tribunal may, on application by the landlord, order the tenant to pay to the landlord compensation to which the landlord is entitled under this section.

95—Repossession of premises

A person must not enter premises for the purpose of taking possession of the premises before, or after, the end of a residential tenancy unless—

- (a) the tenant abandons, or voluntarily gives up possession of, the premises; or
- (ab) the person is authorised to take possession of the premises by force of a notice to vacate issued in respect of the premises; or
- (b) the person is authorised to take possession of the premises under the order of a court or the Tribunal.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

96—Forfeiture of head tenancy not to result automatically in destruction of right to possession under residential tenancy agreement

- (1) A person cannot take possession of residential premises subject to a residential tenancy agreement so as to defeat the tenant's right to possession under the residential tenancy agreement unless an order for possession of the premises is made by a court or the Tribunal.
- (1a) An order under subsection (1) must be served on the tenant and takes effect—
 - (a) in the case of an order made in favour of a mortgagee—30 days after the day on which it is served or at such later time as is specified by the court or the Tribunal; and
 - (b) in any other case—at such time as is specified by the court or the Tribunal.
- (1b) If an order of a kind referred to in subsection (1a)(a) is made, the tenant—
 - (a) is not required to pay any rent, fee or other charge in respect of his or her occupation of the residential premises in the period following service of the order; and
 - (b) is entitled to compensation for any rent paid in respect of that period.
- (1c) The Tribunal may, on application by the tenant, order a person to whom rent has been paid to pay to the tenant compensation to which the tenant is entitled under subsection (1b).
- (2) If a person is entitled to possession of residential premises as against a person who granted a residential tenancy, a court before which proceedings for possession of the premises are brought, or the Tribunal, may, on application by an interested person, vest the residential tenancy agreement in the person who would, but for the agreement, be entitled to possession of the premises so that the tenant holds the premises directly from that person as landlord.
- (3) An order may be made under subsection (2) on terms and conditions the court or Tribunal considers just.

Division 7—Abandoned property

97—Abandoned property

- (1) This Division applies to property (*abandoned property*) that is left on residential premises by a tenant after termination of a residential tenancy agreement.
- (2) Nothing in this Division affects any obligation a landlord may have in relation to property left on the premises under another Act or law.

97A—Offence to deal with abandoned property in unauthorised way

A landlord must not deal with abandoned property otherwise than in accordance with this Division.

Maximum penalty: \$10 000.

97B—Action to deal with abandoned property other than personal documents

- (1) This section applies to abandoned property other than personal documents.

- (2) The landlord may, at any time after recovering possession of the premises, remove from the premises and destroy or dispose of abandoned property consisting of perishable goods.
- (2a) The landlord must, within the period of 2 days after recovering possession of the premises, allow the tenant access to the premises to reclaim abandoned property.
- (3) The landlord may, when at least 2 days have passed after recovering possession of the premises, remove from the premises and destroy or dispose of abandoned property, other than perishable goods, if the value of the property is less than a fair estimate of the cost of removal, storage and sale of the property.
- (4) If there is abandoned property (other than personal documents) on the premises that may not be dealt with under subsection (2) or (3) (***valuable abandoned property***), the landlord must—
 - (a) as soon as practicable, make reasonable attempts to notify the tenant that such property has been found on the premises; and
 - (b) take reasonable steps to keep the property safe for the prescribed period after possession of the premises is recovered.
- (5) A person who is entitled to possession of valuable abandoned property may reclaim the property by paying to the landlord the reasonable costs incurred by the landlord in dealing with the property in accordance with this Division and any other reasonable costs incurred by the landlord as a result of the property being left on the premises.
- (6) If valuable abandoned property is not reclaimed within the prescribed period, the landlord may, subject to the regulations, sell or otherwise lawfully dispose of the property (as if the landlord were the owner of the property).
- (7) If valuable abandoned property is sold in accordance with this section, or if any other abandoned property is sold by the landlord, the landlord—
 - (a) may retain out of the proceeds of sale—
 - (i) the reasonable costs incurred by the landlord in dealing with the property in accordance with this Division and any other reasonable costs incurred by the landlord as a result of the property being left on the premises; and
 - (ii) any amounts owed to the landlord under the residential tenancy agreement; and
 - (b) must pay the balance (if any) to the owner of the property, or if the identity and address of the owner are not known to, or reasonably ascertainable by, the landlord, to the Commissioner for the credit of the Fund.
- (8) If a dispute arises between a landlord and tenant about the exercise of powers conferred by this section, the Tribunal may, on application by either party to the dispute, make orders resolving the matters in dispute.

97C—Action to deal with abandoned personal documents

- (1) This section applies to abandoned property consisting of personal documents.

- (2) The landlord must—
 - (a) as soon as practicable, make reasonable attempts to notify the tenant that the documents have been found on the premises; and
 - (b) take reasonable steps to keep the documents safe for the prescribed period after possession of the premises is recovered.
- (3) If the personal documents are not reclaimed by the tenant within the prescribed period, the landlord may destroy or dispose of the documents.
- (4) Subsection (3) applies subject to any Act relating to the preservation of records.

Division 8—Enforcement of orders for possession

99—Enforcement of orders for possession

- (1) If an order for possession of premises is made by the Tribunal and the person in whose favour the order was made advises the Tribunal, within 14 days of the day on which the order takes effect or such longer period as the Tribunal may allow, that the order has not been complied with—
 - (a) the order is enforceable by a bailiff (and, subject to subsection (3), only by a bailiff); and
 - (b) the bailiff must enforce the order as soon as is practicable after the Tribunal is advised that it has not been complied with.
- (2) A bailiff enforcing an order for possession of premises may enter the premises, ask questions and take all steps as are reasonably necessary for the purpose of enforcing the order.
- (3) A police officer must, if requested by a bailiff, assist the bailiff in enforcing an order for possession.
- (4) In the exercise of the powers conferred by this section a bailiff may use the force that is reasonable and necessary in the circumstances.
- (5) A person must not hinder or obstruct a bailiff in the exercise of the powers conferred by this section.
Maximum penalty: \$50 000.
Expiation fee: \$2 000.
- (6) A person questioned pursuant to this section must not refuse or fail to answer the question to the best of his or her knowledge, information and belief.
Maximum penalty: \$50 000.
Expiation fee: \$2 000.
- (7) However, a person is not obliged to answer a question under this section if to do so might tend to incriminate the person or to make the person liable to a penalty, or would require the disclosure of information that is privileged under the principles of legal professional privilege.

Part 5A—Residential tenancy databases

99A—Definitions

In this Division—

agent of a landlord means a person employed, or otherwise authorised, by the landlord to act as the landlord's agent;

database means a system, device or other thing used for storing information, whether electronically or in some other form;

database operator means an entity that operates a residential tenancy database;

inaccurate, in relation to personal information in a residential tenancy database, includes information that is inaccurate because—

- (a) the information indicates that the person owes a landlord an amount that is more than the bond for a residential tenancy agreement; and
- (b) the amount owed was paid to the landlord more than 3 months after the amount became due;

Note—

If the amount is paid to the landlord within 3 months after the amount became due, the information would be out of date. See definition of *out of date*, paragraph (a).

list personal information in a residential tenancy database means—

- (a) enter the personal information into the database; or
- (b) give the personal information to a database operator or someone else for entry into the database,

and includes amend personal information about a person in the database to include additional personal information about the person;

out of date, in relation to personal information in a residential tenancy database, means the information is no longer accurate because—

- (a) for a listing made on the basis the person owes a landlord an amount that is more than the bond for a residential tenancy agreement—the amount owed was paid to the landlord within 3 months after the amount became due; or
- (b) for a listing made on the basis the Tribunal has made an order terminating the residential tenancy agreement—the order has been set aside, varied or quashed on review or appeal;

personal information means information (including an individual's name) or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion;

residential tenancy database means a database—

- (a) containing personal information—
 - (i) relating to, or arising from, the occupation of residential premises under a residential tenancy agreement; or

- (ii) entered into the database for reasons relating to, or arising from, the occupation of residential premises under a residential tenancy agreement; and
- (b) with an intended purpose of use by landlords or agents of landlords for checking a person's tenancy history for deciding whether a residential tenancy agreement should be entered into with the person.

Note—

For statutory provisions relating to reports provided otherwise than through the use of a residential tenancy database see Part 4 of the *Fair Trading Act 1987*.

99B—Application

This Division does not apply to a residential tenancy database kept by an entity (including a department of the government of a State or Territory) for use only by that entity or its officers, employees or agents.

99C—Extra-territorial operation of Part

- (1) This section applies if—
 - (a) a person does an act, or makes an omission, outside the State in relation to personal information—
 - (i) about a person who resides in the State; or
 - (ii) relating to, or arising from, the occupation of residential premises in the State; or
 - (iii) entered into a residential tenancy database for reasons relating to, or arising from, the occupation of residential premises in the State; and
 - (b) the act or omission would constitute an offence against a provision of this Part if it were done or made by the person within the State.
- (2) The person commits an offence of the same kind as that mentioned in subsection (1)(b) and may be charged with and convicted of the offence.

99D—Notice of usual use of database

- (1) This section applies if—
 - (a) a person (the *applicant*) applies to a landlord, whether or not through the landlord's agent, to enter into a residential tenancy agreement; and
 - (b) the landlord or, if the application is made through the landlord's agent, the landlord or agent usually uses 1 or more residential tenancy databases for deciding whether a residential tenancy agreement should be entered into with a person.
- (2) The landlord or agent must, when the application is made, give the applicant written notice stating the following:
 - (a) the name of each residential tenancy database the landlord or agent usually uses, or may use, for deciding whether a residential tenancy agreement should be entered into with a person;
 - (b) that the reason the landlord or agent uses a residential tenancy database mentioned in paragraph (a) is for checking an applicant's tenancy history;

- (c) for each residential tenancy database mentioned in paragraph (a), how persons may contact the database operator who operates the database and obtain information from the operator.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

- (3) Subsection (2) applies in relation to a residential tenancy database whether or not the landlord or agent intends to use the database for deciding whether a residential tenancy agreement should be entered into with the applicant.
- (4) However, the landlord or agent is not required to give the written notice mentioned in subsection (2) if a written notice stating the matters mentioned in the subsection was given to the applicant not more than 7 days before the application was made.

Example—

The landlord or agent gave a written notice stating the matters mentioned in subsection (2) to the applicant when the applicant obtained the application form and that happened less than 7 days before the applicant made the application.

99E—Notice of listing if database used

- (1) This section applies if—
 - (a) a person (the *applicant*) applies to a landlord, whether or not through the landlord's agent, to enter into a residential tenancy agreement; and
 - (b) the landlord or, if the application is made through the landlord's agent, the landlord or agent uses a residential tenancy database for checking whether personal information about the applicant is in the database; and
 - (c) personal information about the applicant is in the database.
- (2) The landlord or agent must, as soon as possible but within 7 days after using the database, give the applicant a written notice stating—
 - (a) the name of the database; and
 - (b) that personal information about the applicant is in the database; and
 - (c) the name of each person who listed the personal information in the database; and
 - (d) how and in what circumstances the applicant can have the personal information removed or amended under this Division.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

- (3) However, subsection (2)(c) requires the written notice to state the name of a person only if the person is identified in the residential tenancy database as the person who listed the personal information in the database.

99F—Listing can be made only for particular breaches by particular persons

- (1) A landlord, landlord's agent or database operator may only list personal information about a person in a residential tenancy database if—
 - (a) the person was named as a tenant in a residential tenancy agreement that has ended; and

- (b) the person has breached the agreement; and
- (c) because of the breach, either—
 - (i) the person owes the landlord an amount that is more than the bond for the agreement; or
 - (ii) the Tribunal has made an order terminating the residential tenancy agreement; and
- (d) the personal information—
 - (i) relates only to the breach; and
 - (ii) is accurate, complete and unambiguous; and
- (e) the Tribunal has not made an order under section 89A(4)(d) prohibiting the listing.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

- (2) Without limiting subsection (1)(d)(ii), the personal information must indicate the nature of the breach.

Examples of how personal information can indicate nature of breach—

- including the words "rent arrears" in personal information about a person who has breached a residential tenancy agreement by failing to pay rent;
- including the words "damage to premises" in the personal information about a person who has breached a residential tenancy agreement by damaging premises.

99G—Further restriction on listing

- (1) A landlord, landlord's agent or database operator must not list personal information about a person in a residential tenancy database unless the landlord, agent or operator—
 - (a) has, without charging a fee—
 - (i) given the person a copy of the personal information; or
 - (ii) taken other reasonable steps to disclose the personal information to the person; and
 - (b) has given the person at least 14 days to review the personal information and make submissions—
 - (i) objecting to its entry into the database; or
 - (ii) about its accuracy, completeness and clarity; and
 - (c) has considered any submissions made.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

- (2) Subsection (1) does not apply if the landlord, landlord's agent or database operator cannot locate the person after making reasonable enquiries.

- (3) Subsection (1)(b) and (c) do not apply—
 - (a) to information that, at the time of the listing, is contained in publicly available court or Tribunal records; or
 - (b) to a listing involving only an amendment of personal information about a person under section 99H.

99H—Ensuring quality of listing—landlord's or agent's obligation

- (1) This section applies if a landlord or landlord's agent who lists personal information in a residential tenancy database becomes aware that the information is inaccurate, incomplete, ambiguous or out of date.
- (2) The landlord or agent must, within 7 days, give written notice of the following to the database operator who keeps the database:
 - (a) if the information is inaccurate, incomplete, or ambiguous—
 - (i) that the information is inaccurate, incomplete or ambiguous; and
 - (ii) how the information must be amended so that it is no longer inaccurate, incomplete or ambiguous;

Example—

A landlord lists, in a residential tenancy database, personal information about a tenant who owes the landlord an amount that is more than the bond for a residential tenancy agreement. The tenant pays the amount owed to the landlord more than 3 months after the amount became due. The landlord must, within 7 days after the landlord becomes aware of the payment, give the database operator who keeps the database written notice of—

- (a) the personal information being inaccurate; and
 - (b) the details of the payment to be included in the personal information so that it is no longer inaccurate.
 - (b) if the information is out of date—that the information is out of date and must be removed.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

- (3) The landlord or agent must keep a copy of the written notice for 1 year after it was given under subsection (2).

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

99I—Ensuring quality of listing—database operator's obligation

- (1) This section applies if a landlord or landlord's agent who has listed personal information in a tenancy database gives the database operator who operates the database a written notice stating that the personal information must be—
 - (a) amended in a stated way to make it accurate, complete and unambiguous; or
 - (b) removed.

- (2) The database operator must amend the personal information in the stated way, or remove the personal information, within 14 days after the operator is given the written notice.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

99J—Providing copy of personal information listed

- (1) A landlord or landlord's agent who lists personal information about a person in a residential tenancy database must, if asked in writing by the person, give the person a copy of the information within 14 days after the request is made.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

- (2) A database operator must, if asked in writing by a person whose personal information is in the residential tenancy database kept by the operator, give the person a copy of the information within 14 days after the request is made.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

- (3) A landlord, landlord's agent or database operator must not charge a fee for giving personal information under subsection (1) or (2).

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

99K—Keeping personal information listed

- (1) A database operator must not keep personal information about a particular person in the operator's residential tenancy database for longer than—

- (a) 3 years; or
- (b) if, under the national privacy principles, the operator of the database is required to remove the personal information before the end of the 3 year period mentioned in paragraph (a)—the period ending when the information must be removed under the national privacy principles.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

- (2) However, a database operator may keep the person's name in the operator's residential tenancy database for longer than the period stated in subsection (1)(a) or (b) if—

- (a) other personal information about the person in the database is attached to the name; and
- (b) the other personal information is not required to be removed under subsection (1) or another law.

- (3) This section does not limit the operation of another provision of this Part or any other law that requires the removal of the personal information.

- (4) In this section—

national privacy principles means the principles stated in Schedule 3 of the *Privacy Act 1988* of the Commonwealth.

99L—Powers of Tribunal

- (1) The Tribunal may, on the application of the Commissioner or a person whose personal information is in a residential tenancy database, make such orders against a landlord, landlord's agent or database operator as may be necessary or expedient in the opinion of the Tribunal to ensure compliance with this Part or any provision of this Part.
- (2) If a database operator commits an offence against this Part, the Tribunal may, on the application of the Commissioner, make an order requiring the database operator to comply with conditions specified in the order in relation to a residential tenancy database operated by the operator.
- (3) An order under subsection (1) or (2) is effective for such period as may be specified in the order or until further order of the Tribunal.

99M—Notifying relevant non-parties of Tribunal order about listing

- (1) This section applies if—
 - (a) the Tribunal makes an order that a person must, in relation to a residential tenancy database—
 - (i) amend personal information in a stated way; or
 - (ii) remove all or particular personal information about a person; and
 - (b) the person against whom the order is made (the *relevant person*) is not a party to the proceedings before the Tribunal.
- (2) The Tribunal must ensure that a copy of the order is given to the relevant person.

Part 6—Residential Tenancies Fund

100—Residential Tenancies Fund

- (1) The fund entitled the *Residential Tenancies Fund* continues in existence.
- (2) The Fund is to be kept and administered by the Commissioner.
- (3) The Fund consists of the amounts received by the Commissioner by way of bonds, and other amounts paid into the Fund under this Act.
- (4) The Fund may be invested as approved by the Minister.
- (5) The Commissioner will make repayments in respect of bonds from the Fund.
- (6) In this section—

bond includes a bond within the meaning of Part 7.

101—Application of income

- (1) The income derived from investment of the Fund may be applied—
 - (a) towards the costs of—

- (i) administering and enforcing this Act and the *Residential Parks Act 2007*; and
 - (ii) the operation of the Tribunal to the extent that the costs are attributable to proceedings under this Act, the *Residential Parks Act 2007* or the *Retirement Villages Act 1987*; and
 - (ab) for the benefit of an industrial association or organisation registered under a law of the State or of the Commonwealth that the Commissioner is satisfied has a primary purpose of advocating for and representing the interests of tenants, rooming house residents and residents of residential parks; and
 - (b) for the education of landlords, tenants, rooming house proprietors, rooming house residents and park owners and residents of residential parks about their statutory and contractual rights and obligations, and for other educational purposes approved by the Commissioner; and
 - (c) towards the costs of projects directed at providing accommodation, or assistance related to accommodation, for the homeless or other disadvantaged sections of the community; and
 - (d) on research, approved by the Commissioner, into—
 - (i) the availability of rental accommodation within the community; and
 - (ii) areas of social need related to the availability (or non-availability) of rental accommodation or particular kinds of rental accommodation; and
 - (iii) other matters connected with, or arising under, this Act or the *Residential Parks Act 2007*; and
 - (e) for the benefit of landlords, tenants, rooming house proprietors, rooming house residents and park owners and residents of residential parks in other ways approved by the Commissioner; and
 - (f) for any other purposes connected with, or arising under, this Act or the *Residential Parks Act 2007* approved by the Minister or Commissioner.
- (2) In this section, ***residential park***, ***park owner*** and ***resident*** of a residential park have the same respective meanings as in the *Residential Parks Act 2007*.

102—Accounts and audit

- (1) The Commissioner must keep proper accounts of the receipts and payments from the Fund.
- (2) The Auditor-General may at any time, and must at least once in each year, audit the accounts of the Fund.

Part 7—Rooming houses

Division 1—Interpretation

103—Interpretation

In this Part—

bond means an amount a resident is required to pay under a rooming house agreement, or an agreement collateral to a rooming house agreement, as security for the performance of obligations under a rooming house agreement;

house rules—see section 105A;

proprietor means rooming house proprietor;

rent means an amount payable under a rooming house agreement for accommodation at the rooming house;

resident means a rooming house resident.

Division 1A—Registration of proprietors of designated rooming houses

103A—Interpretation

In this Division—

designated rooming house means residential premises in which 5 or more rooms are available, for valuable consideration, for residential occupation;

designated rooming house agreement means an agreement under which accommodation is provided (with or without meals, or other facilities or services) in a designated rooming house;

designated rooming house proprietor means a person registered under section 103C.

103B—Proprietors must be registered to carry on business relating to designated rooming houses

A person must not carry on a business involving the provision of accommodation under designated rooming house agreements unless the person is registered under section 103C.

Maximum penalty:

- (a) in the case of a body corporate—\$250 000;
- (b) in the case of an individual—
 - (i) for a first or second offence—\$50 000; or
 - (ii) for a third or subsequent offence—\$100 000 or 12 months imprisonment or both.

103C—Registration

- (1) The Commissioner may, on application under this section and by notice in writing, register a person to carry on a business involving the provision of accommodation under designated rooming house agreements.

- (2) An application for registration must—
 - (a) be made in a manner and form determined by the Commissioner; and
 - (b) be accompanied by any information or document as may be required by the Commissioner; and
 - (c) be accompanied by the prescribed fee.
- (3) The Commissioner must not register a person under this section unless satisfied that—
 - (a) the person is a fit and proper person to be registered (or in the case of a body corporate, each director of the body corporate (however described) is a fit and proper person to be registered); and
 - (b) holds qualifications and has experience the Commissioner considers appropriate (or in the case of a body corporate, the directors of the body corporate (however described) collectively hold such qualifications or have such experience).
- (4) Registration under this section may be conditional or unconditional.
- (5) The Commissioner may, by notice in writing, amend or revoke a condition of registration.
- (6) A person registered under this section must not refuse or fail to comply with a condition of the registration.

Maximum penalty: \$50 000.
Expiation fee: \$2 000.
- (7) The registration of a person under this section remains in force (except for any period for which it is suspended) until—
 - (a) the registration is surrendered or cancelled; or
 - (b) the person to whom the registration applies dies, or, in the case of a body corporate, the body corporate is dissolved or wound up.

103D—Annual return and fee

- (1) A designated rooming house proprietor must, each year not later than the prescribed date—
 - (a) pay to the Commissioner the prescribed fee; and
 - (b) provide to the Commissioner any information or document required by the Commissioner.
- (2) If a person fails to comply with subsection (1), the Commissioner may, by notice in writing, require the person to so comply.
- (3) If a person fails to comply with the notice under subsection (2) within 28 days of service of the notice, the person's registration will be cancelled by force of this subsection.

103E—Notification of change in circumstances

- (1) If there is a change in any 1 or more of the following names or addresses, a designated rooming house proprietor must, within 14 days of that change, give notice in writing to the Commissioner of the new name or address (as the case may be):
- (a) the business or trading name under which the designated rooming house proprietor carries on business;
 - (b) the residential address of the designated rooming house proprietor;
 - (c) the address of any designated rooming house in relation to which the proprietor carries on business;
 - (d) if the designated rooming house proprietor is a body corporate, the address of the registered corporate office of the proprietor.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (2) A designated rooming house proprietor must, within 14 days after ceasing to carry on a business involving the provision of accommodation under designated rooming house agreements, give written notice to the Commissioner of that fact.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (3) A designated rooming house proprietor must, within 14 days of entering into a partnership to carry on a business involving the provision of accommodation under designated rooming house agreements or ceasing to be in such a partnership, give written notice to the Commissioner of that fact, together with the names of the members of the new or former partnership.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (4) If a person is appointed as a director of a body corporate (however described) that is a designated rooming house proprietor, the proprietor must, within 14 days after that appointment—

- (a) notify the Commissioner in the manner and form approved by the Commissioner of the appointment of the new director; and
- (b) provide the Commissioner with any information required by the Commissioner for the purposes of determining whether the new director meets the standard for registration set out in section 103C(3).

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

103F—Cancellation or suspension of registration

- (1) The Commissioner may, by notice in writing, cancel or suspend the registration of a designated rooming house proprietor if the Commissioner is of the opinion that—
- (a) the person is no longer a fit and proper person to be registered (or, in the case of a body corporate, a director of the body corporate is no longer a fit and proper person to be registered); or

- (b) a prescribed circumstance applies.
- (2) The Commissioner must give the designated rooming house proprietor at least 28 days notice in writing of the Commissioner's intention to cancel or suspend the registration.
- (3) Subsection (2) does not apply if the Commissioner is of the opinion that, were the cancellation or suspension of the registration to be delayed, a person may suffer significant harm, loss or damage.

103G—Review by Tribunal

- (1) A person who is dissatisfied with a reviewable decision may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the decision.
- (2) Subject to subsection (4), an application for review must be made within 28 days of the making of the reviewable decision of the Commissioner.
- (3) The Commissioner must, if so required by a person dissatisfied with a reviewable decision, state in writing the reasons for the reviewable decision.
- (4) If the reasons of the Commissioner are not given in writing at the time of making the reviewable decision and the person (within 28 days of the making of the decision) requires the Commissioner to state the reasons in writing, the time for making an application for review runs from the time at which the person receives written statement of those reasons.
- (5) In this section—
reviewable decision means—
 - (a) a decision of the Commissioner to refuse to register a person under section 103C; or
 - (b) a decision of the Commissioner to cancel or suspend the registration of a designated rooming house proprietor under section 103F.

Division 2—Rooming house agreements

104—Standard terms of rooming house agreements

A rooming house agreement will be taken to include terms prescribed by regulation as standard terms for rooming house agreements.

105—Copies of written agreements

- (1) If a proprietor invites or requires a resident to sign a written rooming house agreement, or a document recording its terms, the proprietor must ensure that—
 - (a) the resident receives a copy of the agreement or other document (for the resident to keep), when the resident signs it; and
 - (b) if the agreement or other document has not been signed by the proprietor, a copy of the agreement or other document, as executed by all parties, is delivered to the resident within 14 days after the resident gives the agreement or other document back to the proprietor to complete its execution.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (2) A rooming house agreement is not rendered void or unenforceable by non-compliance with a requirement of this section.

Division 3—House rules

105A—House rules

- (1) A proprietor of a rooming house may make written rules about conduct or behaviour of the residents.
- (2) A house rule will be void to the extent that—
 - (a) it is made for a purpose other than enhancing the health or safety of persons or the safety of property; or
 - (b) it is inconsistent with this Act or any other Act or law.
- (3) The house rules for a rooming house (as from time to time in force under this section) are to be taken to constitute terms of every rooming house agreement relating to the rooming house.
- (4) The *Legislative Instruments Act 1978* does not apply to house rules.

105B—Amendment of house rules

- (1) A proprietor may make written amendments to house rules for a rooming house.
- (2) An amendment does not have effect unless each resident of the rooming house has been given 7 days written notice of the amendment.
- (3) In this section—

amendment to house rules includes—

 - (a) a variation of a house rule; or
 - (b) the addition to the house rules of a new rule; or
 - (c) the revocation of an existing house rule.

105C—Application to Tribunal if house rules are considered unreasonable

- (1) An application may be made to the Tribunal by a resident of a rooming house for a declaration that a house rule for the rooming house is unreasonable.
- (2) On an application under this section, the Tribunal may, by order—
 - (a) declare the rule or proposed rule to be reasonable; or
 - (b) declare the rule or proposed rule to be unreasonable and, if the Tribunal considers it appropriate, require the proprietor to amend the rule in a specified manner.
- (3) A house rule is void if the Tribunal makes an order that the rule or proposed rule is unreasonable.
- (4) If a proprietor does not amend a house rule as required by order of the Tribunal, the proprietor is guilty of an offence.

Maximum penalty: \$25 000.
Expiation fee: \$2 000.

105D—Availability of house rules

- (1) A rooming house proprietor must—
 - (a) ensure that the house rules (as in force from time to time) are displayed in a prominent place at the rooming house; and
 - (b) at the request of a resident or prospective resident of the rooming house, provide a copy of the house rules (as in force from time to time) to the resident or prospective resident.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (2) However, if the rooming house proprietor has, within the previous 2 months, provided a copy of the house rules to a person, the proprietor need not provide a further copy but, in that case, must make a copy available for inspection by the person.

Division 4—Mutual rights and obligations of proprietors and residents

Subdivision 1—Rent and other charges

105E—Permissible consideration and statutory charges

- (1) A proprietor must not require or receive from a resident or prospective resident a payment, other than rent or a bond (or both), under a rooming house agreement, or as a condition to entering into, renewing or extending a rooming house agreement.

Maximum penalty: \$25 000.

- (2) It is a term of a rooming house agreement that the proprietor must bear all statutory charges imposed in respect of the accommodation.

- (3) However, the proprietor may require a resident to make a payment—

- (a) for rates and charges for water supply; or
- (b) for the provision of electricity, gas or telephone services at the premises; or
- (c) for meals or other facilities or services (such as meals, cleaning and laundry of linen) provided by the proprietor,

if the proprietor has, before the facilities or services were made available or provided to the resident, informed the resident in writing of the basis on which charges for those facilities or services would be made.

- (4) A proprietor must, before requiring a resident to make a payment for facilities or services, give the resident an itemised account setting out the resident's proportional use of the facilities or services.

Maximum penalty: \$20 000.

105F—Rent in advance

- (1) A person must not demand or require another person to pay more than 1 weeks rent under a rooming house agreement before the end of the first week of the period of accommodation under the agreement.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (2) If rent has been paid under a rooming house agreement, a person must not require a further payment of rent until the end of the last period for which rent has been paid.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (3) A person must not require another person to give a post-dated cheque or other post-dated negotiable instrument in payment of rent under a rooming house agreement.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

105G—Duty to provide statement or give receipt for payments

- (1) If a resident makes a payment under a rooming house agreement or an agreement collateral to a rooming house agreement, the proprietor must, at the reasonable request of the resident, give the resident a statement of the relevant information for each payment made during the period specified in the request (and such statement must be given to the resident within 7 days of the making of the request).

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (2) If a resident makes a payment under a rooming house agreement or an agreement collateral to a rooming house agreement other than into an ADI account, the person who receives the payment must, within 48 hours after receiving the payment, give the resident a receipt setting out the relevant information in respect of the payment.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (3) In this section—

relevant information in respect of a payment means—

- (a) the date on which the payment was received; and
- (b) the name of the person making the payment; and
- (c) the amount paid; and
- (d) the address of the premises to which the payment relates; and
- (e) if the payment is for rent—the period of accommodation to which the payment relates; and
- (f) if the payment is a bond—a statement of that fact; and
- (g) if the payment is for facilities or services (other than accommodation)—a description of the facilities or services and the period to which the payment relates.

105H—Payment of rent by electronic transaction

If a resident pays rent into an ADI account kept by the proprietor or the proprietor's agent, the payment will be taken to have been made when it is credited to the ADI account.

105I—Rent increases

- (1) A proprietor may increase the rent payable under a rooming house agreement by giving written notice to the resident specifying the date as from which the increase takes effect.
- (2) However—
 - (a) the right to increase the rent may be excluded or limited by the terms of the rooming house agreement; and
 - (b) if accommodation at the rooming house is to be provided for a fixed term, the rooming house agreement is taken to exclude an increase in rent during the term unless it specifically allows for an increase in rent; and
 - (c) the date fixed for an increase of rent must be at least 6 months after the date of the agreement or, if there has been a previous increase of rent under this section, the last increase and, subject to subsection (3), at least 4 weeks after the notice is given.
- (3) If a rent control notice that has applied in respect of the rooming house ceases to be in force, the proprietor may, by notice given under this section within 4 weeks after the rent control notice ceases to be in force, increase the rent for accommodation at the rooming house from a date falling at least 14 days after the notice is given.
- (4) If the rent payable under a rooming house agreement is increased under this section, the terms of the agreement are varied accordingly.
- (5) This section does not affect the operation of a provision of a rooming house agreement under which the rent payable under the agreement changes automatically on a basis set out in the agreement.
- (6) For the purposes of this section, a series of rooming house agreements between the same parties and relating to accommodation at the same rooming house is treated as a single rooming house agreement unless at least 6 months have elapsed since rent for accommodation at the rooming house was fixed or last increased.

105J—Rent decreases

- (1) The rent payable under a rooming house agreement may be reduced by mutual agreement between the proprietor and the resident.
- (2) The Tribunal may, on application by a resident, make an order for the reduction of rent payable under the rooming house agreement if satisfied that services or facilities ordinarily provided to the resident under the agreement will not be provided by the proprietor for a period of time.
- (3) A reduction of rent may be made on a temporary basis so that the rent reverts to the level that would have been otherwise applicable at the end of a specified period.
- (4) If the rent payable under a rooming house agreement is reduced under this section, the terms of the agreement are varied accordingly.
- (5) This section does not affect the operation of a provision of a rooming house agreement under which the rent payable under the agreement changes automatically on a basis set out in the agreement.

- (6) For the purposes of this section, a series of rooming house agreements between the same parties and relating to accommodation at the same rooming house is treated as a single rooming house agreement unless at least 6 months have elapsed since rent for accommodation at the rooming house was fixed or last increased.

Subdivision 2—Bonds

105K—Bond

- (1) A person must not—
- (a) require more than 1 bond for the same rooming house agreement; or
 - (b) require the payment of a bond exceeding 2 weeks rent under a rooming house agreement.

Maximum penalty: \$25 000.

Expiation fee: \$2 000.

- (2) A bond must—
- (a) be paid to the Commissioner or the proprietor in the manner and form approved by the Commissioner; and
 - (b) be accompanied by the information determined by the Commissioner.
- (3) For the purposes of this section, a payment of an amount by way of a bond to a proprietor's agent will be taken to be a payment to the proprietor.

105L—Receipt of bond and transmission to Commissioner

- (1) A person must, within 48 hours after receiving an amount paid by way of a bond, give the person who paid a receipt stating the date payment was received, the name of the person from whom the payment was received, the amount paid, and the address of the rooming house to which the payment relates.

Maximum penalty: \$25 000.

Expiation fee: \$1 200.

- (2) A person who receives an amount by way of a bond must pay the amount of the bond to the Commissioner in the manner and form approved by the Commissioner and accompanied by the information determined by the Commissioner within the period allowed by regulation.

Maximum penalty: \$35 000.

Expiation fee: \$2 000.

- (3) If the Commissioner receives an amount by way of a bond for a rooming house agreement from a person who is not the proprietor, the Commissioner must, as soon as is reasonably practicable after receiving the amount, notify the proprietor or the proprietor's agent (as determined by the Commissioner) of the receipt of the amount in accordance with the regulations.
- (4) If the Commissioner receives an amount apparently by way of a bond and the Commissioner is satisfied that the amount is not within the ambit of the definition of a bond under this Act, the Commissioner may refund the amount in accordance with the regulations.

105M—Repayment of bond

- (1) An application may be made to the Commissioner for—
 - (a) payment of the whole amount of the bond either to the proprietor or the resident; or
 - (b) payment of a specified amount of the bond to the proprietor and the balance to the resident.
- (2) The application—
 - (a) must be in a manner and form approved by the Commissioner; and
 - (b) may be made jointly by the proprietor and the resident or by either the proprietor or the resident.
- (3) If the application is undisputed, the Commissioner must pay out the amount of the bond as specified in the application.
- (4) If an application is liable to be disputed, the Commissioner must give the respondent written notice of the application (in a form the Commissioner considers appropriate) and inform the respondent that, if the respondent wants to dispute the application, a written notice of dispute must be lodged with the Commissioner within the prescribed period after the date the notice is given to the respondent.
- (5) If the respondent does not give the Commissioner written notice of dispute within the prescribed period after the day on which the Commissioner's notice under subsection (4) is given to the respondent, the Commissioner may pay out the amount of the bond as proposed in the application.
- (6) However, if the application is made by the proprietor alone more than 12 months after the termination of the rooming house agreement—
 - (a) the Commissioner must refer the application to the Tribunal for determination; and
 - (b) the Tribunal may authorise payment of the amount of the bond as proposed in the application if the Tribunal is satisfied, on the basis of information provided by the proprietor, that the proprietor is entitled to the payment.
- (7) If the Commissioner receives a written notice of dispute before the amount of the bond is paid out under subsection (5), the Commissioner must refer the dispute to the Tribunal for determination.
- (8) Despite a preceding subsection, if—
 - (a) the bond has been provided or paid on behalf of the resident by a third party prescribed by the regulations, or in circumstances prescribed by the regulations; and
 - (b) the Commissioner is given notice of the third party's interest in accordance with the regulations,then—
 - (c) the third party is entitled to make application to the Commissioner for the payment of the whole, or a specified part, of the bond; and
 - (d) —

-
- (i) if the application is made with the consent of the proprietor—the Commissioner must pay out the amount of the bond as specified in the application;
 - (ii) in any other case—the Commissioner must give the proprietor and, if the resident is still in possession of the premises, the resident, written notice of the application (in a form the Commissioner considers appropriate) and—
 - (A) if the Commissioner does not receive a written notice of dispute from the party or parties to whom the notice of the application was given within the prescribed period after the date on which the original notice is given—the Commissioner may pay out the amount of the bond as proposed in the application;
 - (B) in any other case—the Commissioner must refer the matter to the Tribunal for determination.
 - (9) If a payment is made under subsection (8) and the resident is still in possession of the premises, the proprietor may require the resident to provide a new bond in accordance with section 105K.
 - (10) If—
 - (a) a bond under a rooming house agreement is provided on behalf of the resident by a third party prescribed by the regulations in circumstances prescribed by the regulations; and
 - (b) the proprietor makes application to the Commissioner for the payment of the whole, or a specified part, of the amount payable under the bond,
 then—
 - (c) if the application is made with the consent of the third party—the Commissioner must pay out the amount as specified in the application;
 - (d) in any other case—the Commissioner must give the third party and, if the resident is still in possession of the premises, the resident, written notice of the application (in a form the Commissioner considers appropriate) and—
 - (i) if the Commissioner does not receive a written notice of dispute from the party or parties to whom the notice of the application was given within the prescribed period after the date on which the original notice is given—the Commissioner may pay out the amount as proposed in the application;
 - (ii) in any other case—the Commissioner must refer the matter to the Tribunal for determination.
 - (11) If a payment is made under subsection (10), the third party must reimburse the Fund to the extent of the payment.
 - (12) A payment under this section will be made from the Fund.
 - (12a) For the purposes of the payment of an amount of a bond under this section, the Registrar may disclose to the Commissioner the details of a decision or order given or made by the Tribunal the disclosure of which would otherwise be contrary to a direction or order of the Tribunal.

- (13) For the purposes of this section—
- (a) an application is undisputed if it is—
 - (i) a joint application by the proprietor and the resident; or
 - (ii) an application by the proprietor that the whole of the amount of the bond be paid to the resident; or
 - (iii) an application by the resident that the whole of the amount of the bond be paid to the proprietor; and
 - (b) an application that does not fall into any of those categories is liable to be disputed; and
 - (c) if the application was made by the proprietor, each resident is a respondent; and
 - (d) if the application was made by a resident, the proprietor and any other resident are the respondents.
- (14) Despite subsection (13)(a), an application that involves payment of an amount to more than 1 resident is only undisputed if—
- (a) it proposes the payment of the amount to the residents in equal shares; or
 - (b) it indicates that each resident agrees to the payment of the bond as proposed in the application,
- (and an application that involves payment of an amount to more than 1 resident that does not comply with paragraph (a) or (b) is liable to be disputed).
- (15) Despite any provision of this section, an application by or on behalf of a proprietor for the payment of the whole or a specified amount of a bond to the proprietor must be made—
- (a) within the prescribed period after the end of the agreement to which the bond relates; and
 - (b) in the manner and form determined by the Commissioner.
- (16) The regulations may modify or disapply a provision of this section for the purposes of an electronic system approved by the Commissioner for the repayment of bonds.

Subdivision 3—Other obligations of proprietor

105N—Use and enjoyment of room and facilities

- (1) It is a term of a rooming house agreement that the proprietor—
- (a) will not unreasonably restrict, or interfere with—
 - (i) the quiet enjoyment of a room or facilities at the rooming house by the resident; or
 - (ii) the reasonable peace, comfort or privacy of the resident in the resident's use of a room or facilities at the rooming house; and
 - (b) will ensure that the resident has reasonable access (at all times) to the resident's room, and to the toilet and bathroom facilities; and

- (c) will exercise his or her right of access to the resident's room in a reasonable manner and will not stay in the room longer than is necessary to achieve the purpose of entry without the resident's consent.
- (2) A proprietor who, without reasonable excuse, contravenes a term of an agreement arising under subsection (1) is guilty of an offence.

Maximum penalty: \$25 000.

105O—Security of premises and personal property

- (1) It is a term of a rooming house agreement that—
 - (a) the proprietor will take reasonable steps to provide and maintain the locks and other devices that are necessary to ensure each resident of the rooming house may make his or her room reasonably secure; and
 - (b) neither the proprietor nor the resident will alter or remove a lock or security device or add a lock or security device without the consent of the other; and
 - (c) neither the proprietor nor the resident will unreasonably withhold his or her consent to the alteration or removal of a lock or security device by the other; and
 - (d) the proprietor will take reasonable steps to ensure the security of personal property of each resident of the rooming house and, for that purpose, will provide each resident with a cupboard, or other similar facility, capable of being locked so as to enable the resident to keep personal property secure within his or her room.
- (2) A proprietor or resident who, without reasonable excuse, contravenes a term of an agreement arising under subsection (1) is guilty of an offence.

Maximum penalty: \$25 000.

105P—Obligation to repair and keep room and premises clean

- (1) It is a term of a rooming house agreement that the proprietor—
 - (a) must ensure that the resident's room and any facilities shared with other residents of the rooming house are in a reasonable state of repair when the resident enters into occupation of the room and must keep them in a reasonable state of repair having regard to their age, character and prospective life; and
 - (b) must ensure that any facilities shared with other residents of the rooming house are kept in a reasonable state of cleanliness; and
 - (c) must comply with statutory requirements affecting the rooming house; and
 - (d) must give the resident not less than 14 days notice of renovations to be carried on at the rooming house; and
 - (e) must, if required to carry out repairs to shared bathroom, toilet or laundry facilities, minimise inconvenience or disruption to the resident and, if necessary, provide temporary substitute facilities.
- (2) The obligation to repair applies even though the resident had notice of the state of disrepair before entering into occupation.

- (3) However, the proprietor will not be regarded as being in breach of the obligation to repair unless the proprietor—
- (a) has notice of the defect requiring repair; and
 - (b) fails to act with reasonable diligence to have the defect repaired.

105PA—Minimum efficiency standards

It is a term of a rooming house agreement that the proprietor will ensure that the requirements prescribed by the regulations relating to energy and water efficiency are complied with in relation to appliances, fittings or fixtures installed or replaced on or after the commencement of this section by the proprietor at the rooming house.

Note—

This requirement does not apply to appliances, fittings and fixtures that were installed by the proprietor in the rooming house before the day on which this section commences (even though those appliances, fittings and fixtures remain in use in the rooming house on and after that day) but will apply when those appliances, fittings and fixtures are replaced on or after that day.

105Q—Sale of rooming house

- (1) It is a term of a rooming house agreement that—
- (a) the proprietor will give the resident written notice of the proprietor's intention to sell the rooming house not later than 14 days after the proprietor enters into a sales agency agreement for the sale of the premises; and
 - (b) the rooming house will not be advertised for sale or made available for inspection by prospective purchasers before the day falling 14 days after the resident is notified of the proprietor's intention to sell the rooming house.
- (2) It is a term of a rooming house agreement that, if the rooming house is sold, the proprietor will give the resident written notice of the name of the purchaser and the date from which rent is to be paid to him or her.
- (3) A proprietor who, without reasonable excuse, contravenes a term of an agreement arising under this section is guilty of an offence.

Maximum penalty: \$20 000.

Expiation fee: \$1 200.

Subdivision 4—Other obligations of resident

105R—General obligations of resident

- (1) It is a term of a rooming house agreement that the resident—
- (a) must not use the rooming house, or cause or permit the rooming house to be used, for an illegal purpose; and
 - (b) must not keep an animal on the rooming house premises without the proprietor's consent; and
 - (c) must keep the resident's room in a condition that does not give rise to a fire or health hazard; and

- (d) must notify the proprietor of damage to the rooming house or to property provided by the proprietor for use by the resident; and
 - (e) must allow the proprietor reasonable access to the resident's room.
- (2) A resident who intentionally causes serious damage to the rooming house is guilty of an offence.
- Maximum penalty: \$25 000.
- Expiation fee: \$1 500.

Subdivision 5—Miscellaneous

105S—Accelerated rent and liquidated damages

- (1) If a rooming house agreement provides that, on breach by the resident of a term about rent or other term of the agreement, the resident is liable to pay—
- (a) all or any part of the rent remaining payable under the agreement; or
 - (b) rent of an increased amount; or
 - (c) an amount by way of penalty; or
 - (d) an amount by way of liquidated damages,
- the provision is void.
- (2) If a rooming house agreement provides that, on early or punctual payment of rent, the rent will or may be decreased or the resident will or may be granted or paid a rebate, refund or other benefit, the resident is entitled to the reduction, rebate, refund or other benefit in any event.
- (3) If a rooming house agreement contains a provision to which this section applies, the proprietor is guilty of an offence.
- Maximum penalty: \$35 000.
- Expiation fee: \$2 000.

105T—Goods not to be taken in lieu of amounts owing to proprietor

A proprietor must not take or dispose of a resident's goods on account of any rent or other amount owing to the proprietor by the resident under the rooming house agreement.

Maximum penalty: \$35 000.

Division 5—Termination of rooming house agreement

105U—Termination of rooming house agreement

- (1) If a resident under a rooming house agreement has abandoned the resident's room, the rooming house agreement is terminated.
- (2) A resident will be taken to have abandoned the resident's room if—
- (a) the Tribunal has made a declaration under section 105V that the resident abandoned the room; or
 - (b) —

- (i) the rent payable under the agreement has remained unpaid in breach of the agreement for not less than 7 days; and
 - (ii) the proprietor—
 - (A) has made reasonable efforts to contact the resident without success; or
 - (B) has been advised by the resident that the room is abandoned.
- (3) If rent remains outstanding for at least 2 rental periods or 2 weeks (whichever is the lesser), the proprietor may give the resident a written notice informing the resident that if the amount owing is not paid within a specified period (which must be a period of at least 2 clear days) from the date the notice is given then—
 - (a) the rooming house agreement is terminated at the end of the specified period by force of the notice; and
 - (b) the resident must vacate the premises at the end of the specified period.
- (4) If a resident, or a person who has entered the rooming house at the resident's invitation, causes serious damage to the rooming house, creates a danger to a person or property in the rooming house, or seriously interrupts the privacy, peace, comfort or quiet enjoyment of another resident, the proprietor may give the resident a written notice informing the resident that—
 - (a) the rooming house agreement is terminated by force of the notice immediately or on a specified day; and
 - (b) the resident must vacate the premises immediately or on or before the specified day (as the case requires).
- (5) If a resident breaches a term of the rooming house agreement (otherwise than as referred to in a preceding subsection), the proprietor may give the resident a written notice informing the resident that—
 - (a) the rooming house agreement is terminated by force of the notice on a specified day (which must be at least 7 clear days after the day the notice is given); and
 - (b) the resident must vacate the premises on or before the specified day.
- (6) A proprietor may terminate a rooming house agreement providing for accommodation on a periodic basis on any ground prescribed by the regulations by giving the resident at least 60 days written notice of termination.
- (6a) Despite subsection (6), if a rooming house has, within the preceding 6 months, been the subject of an inspection by an authorised officer within the meaning of the *Housing Improvement Act 2016* in connection with the administration or enforcement of that Act, the proprietor may only terminate a rooming house agreement by notice under that subsection if the notice is given on 1 or more grounds prescribed by regulation for the purposes of this subsection and the Tribunal authorises the giving of the notice.
- (6b) Subsection (6a) does not apply if a notice to vacate applies in respect of the premises.
- (7) A resident under a rooming house agreement providing for accommodation on a periodic basis may terminate the agreement without specifying a ground for termination by giving the proprietor at least 1 days notice of termination.

- (8) A notice under this section must be in the form approved by the Commissioner.

105UA—Termination based on abuse of rooming house resident

- (1) The Tribunal may, on application by a resident, terminate a rooming house agreement from a date specified in the Tribunal's order if satisfied—
- (a) that an intervention order is in force against a person who resides in the same rooming house as the applicant (whether or not under the same rooming house agreement as the applicant) for the protection of—
 - (i) the applicant; or
 - (ii) a domestic associate of the applicant who normally or regularly resides in the rooming house; or
 - (b) that a person who resides in the same rooming house as the applicant (whether or not under the same rooming house agreement as the applicant) has committed domestic abuse against—
 - (i) the applicant; or
 - (ii) a domestic associate of the applicant who normally or regularly resides in the rooming house.
- (2) For the purposes of an application under this section, the applicant, the proprietor and any other resident under the rooming house agreement are parties to proceedings concerning the tenancy dispute.
- (3) If the Tribunal makes an order under subsection (1)—
- (a) the Tribunal may, subject to this section, also make an order requiring the proprietor to enter into a new rooming house agreement with the applicant or another resident under the terminated rooming house agreement (or both) for the remainder of the term of the agreement; and
 - (b) the new rooming house agreement must be on the same terms and conditions as the terminated rooming house agreement, subject to any changes determined by the Tribunal.
- (4) The Tribunal must not make an order under subsection (3) requiring the proprietor to enter into a new rooming house agreement with a resident under the terminated rooming house agreement who is—
- (a) the person referred to in subsection (1)(a) against whom an intervention order is in force; or
 - (b) the person referred to in subsection (1)(b) whom the Tribunal is satisfied has committed domestic abuse against an applicant or a domestic associate of the applicant who normally or regularly resides in the rooming house,
- if the proprietor indicates, as part of proceedings before the Tribunal, that the proprietor considers it would be unreasonable for such an order to be made.
- (5) The Tribunal must, before making an order under subsection (3) requiring a proprietor to enter into a new rooming house agreement, be satisfied that the resident or residents under the new rooming house agreement could reasonably be expected to comply with the obligations under the new agreement.

- (6) If a party to proceedings on an application under this section objects to an application for the making of an order under subsection (1) or (3), the Tribunal must not make the order unless satisfied that the hardship likely to be suffered by the applicant or a domestic associate of the applicant who normally or regularly resides in the rooming house would, if the order were not made, be greater than any hardship likely to be suffered by the objector as a consequence of the making of the order.
- (7) In considering an application under this section, the Tribunal must have regard to such of the following orders and proceedings (if any) as are relevant to the application:
 - (a) an order, injunction, undertaking, plan, recognisance or other form of obligation imposed or agreement made under the *Family Law Act 1975* of the Commonwealth;
 - (b) an order made under the *Children's Protection Act 1993* or the *Children and Young People (Safety) Act 2017*;
 - (c) an order made under the *Intervention Orders (Prevention of Abuse) Act 2009*;
 - (d) a pending application for an order referred to in paragraph (a), (b) or (c);
 - (e) any other relevant legal proceedings.
- (8) If a rooming house agreement is terminated under this section because of an intervention order in force against a resident under the agreement, or because a resident under the agreement has committed domestic abuse, the Tribunal may order the resident to make a payment of compensation to the proprietor for loss and inconvenience resulting, or likely to result, from the termination of the agreement or from an order under subsection (3).
- (9) If the Tribunal finds, in relation to a rooming house agreement that is terminated under this section, that 1 or more, but not all, of the residents under the agreement are responsible for damage to the rooming house or property provided by the proprietor, the Tribunal may determine that the responsible resident or residents are liable (to the exclusion of other residents under the agreement) for making any payment of compensation ordered under section 110(1)(c).
- (10) If 1 or more, but not all, of the residents under a rooming house agreement are liable under subsection (8) or (9) for making a payment of compensation, the following provisions apply:
 - (a) the Tribunal may give a direction under section 110(1)(i) that the bond (if any) be paid to the proprietor and any resident who is not liable for making the payment in such proportions as the Tribunal thinks fit;
 - (b) a direction under paragraph (a) may not operate to limit the amount of bond payable to a proprietor under section 110(1)(i).

105V—Abandoned room

- (1) The Tribunal may, on application by a proprietor, declare that a resident abandoned the resident's room on a day stated in the declaration.
- (2) The resident is taken to have abandoned the room on the day stated in a declaration under this section.

- (3) If a resident under a rooming house agreement for the provision of accommodation for a period of 6 months or more has abandoned the resident's room, the proprietor is entitled to compensation for any loss (including loss of rent) caused by the abandonment.
- (4) However, the proprietor must take reasonable steps to mitigate any loss and is not entitled to compensation for loss that could have been avoided by those steps.
- (5) The Tribunal may, on application by the proprietor, order the resident to pay to the proprietor compensation to which the proprietor is entitled under this section.

105W—Abandoned property

- (1) If property is left on the premises by a resident after the resident vacates the resident's room—
 - (a) the proprietor may, at any time after recovering possession of the room, remove from the premises and destroy or dispose of property consisting of perishable goods; and
 - (b) in the case of any other property (other than personal documents), the proprietor—
 - (i) must, as soon as practicable, make reasonable attempts to notify the resident that the property has been found on the premises; and
 - (ii) must take reasonable steps to keep the property safe for the prescribed period after possession of the room is recovered; and
 - (iii) may destroy or dispose of the property after taking steps to keep it safe for the period referred to in subparagraph (ii).
- (2) If personal documents are left on the premises by a resident after the resident vacates the resident's room, the proprietor—
 - (a) must, as soon as practicable, make reasonable attempts to notify the resident that the documents have been found on the premises; and
 - (b) must take reasonable steps to keep the documents safe for the prescribed period after possession of the room is recovered; and
 - (c) may destroy or dispose of the documents if they are not reclaimed by the resident within the period referred to in paragraph (b).
- (3) For the purposes of this section, a person who is entitled to possession of the property may reclaim it by paying to the proprietor the reasonable costs incurred by the proprietor as a result of the property being left on the premises.
- (4) A proprietor may not deal with property left on premises by a resident after termination of a rooming house agreement otherwise than in accordance with this section.
Maximum penalty: \$25 000.
- (5) Nothing in this section affects any obligation a proprietor may have in relation to property left on the premises under another Act or law.

Part 8—Dispute resolution

Division 1—Conciliation

Subdivision 1—Definitions for this Division

106—Definitions

In this Division—

conciliation of a dispute includes preliminary assistance in dispute resolution such as the giving of advice to ensure that—

- (a) the parties to the dispute are fully aware of their rights and obligations; and
- (b) there is full and open communication between the parties about the dispute;

conciliation conference means a conference called by the Commissioner under section 107(4).

Subdivision 2—Conciliation of dispute by Commissioner

107—Conciliation of dispute by Commissioner

- (1) If a party to a tenancy dispute applies to the Commissioner for conciliation of the dispute, the Commissioner may conciliate the dispute.
- (2) A fee prescribed by regulation is payable on an application under subsection (1).
- (3) The Registrar or a Deputy Registrar may refer an application made to the Tribunal to the Commissioner for conciliation.
- (4) The Commissioner may call a conference of the parties to the dispute for the purpose of attempting to resolve the dispute by agreement.
- (5) The Commissioner must notify the parties of the time and place fixed for the conference.
- (6) If conciliation of a dispute is terminated because it appears to the Commissioner that it is unlikely that an agreed settlement can be reached within a reasonable time or for any other reason, the Commissioner must refer the matter to the Registrar or a Deputy Registrar for the listing of the matter before the Tribunal.

Subdivision 4—Duties and procedure

108A—Functions of Commissioner in conciliation of dispute

The Commissioner has the following functions in the conciliation of a tenancy dispute under this Division:

- (a) to seek to identify the issues in dispute and to narrow the range of the dispute;
- (b) to encourage the settlement of the dispute by facilitating, and helping to conduct, negotiations between the parties to the dispute;
- (c) to promote the open exchange of information relevant to the dispute by the parties;

- (d) to provide to the parties information about the operation of this Act relevant to a settlement of the dispute;
- (e) to help in the settlement of the dispute in any other appropriate way.

108B—Procedure

- (1) A conciliation conference may, at the discretion of the Commissioner, be adjourned from time to time.
- (2) Unless the Commissioner decides otherwise, the conference will be held in private and the Commissioner may exclude from the conference any person apart from the parties and their representatives.
- (3) The Commissioner (if not legally qualified) may refer a question of law arising at the conference to a member of the Tribunal who is legally qualified for determination.
- (4) A party must, if required by the Commissioner, disclose to the other party details of the party's case and of the evidence available to the party in support of that case.
- (5) The Commissioner or a party may terminate a conciliation at any time.
- (6) A settlement to which a party or representative of a party agrees at a conciliation conference is binding on the party provided that it is not inconsistent with this Act.
- (7) The settlement must be put into writing and signed by or for the parties and a copy of the signed settlement must be provided to the Tribunal.
- (8) The Tribunal may make a determination or order to give effect to the settlement.
- (10) The Commissioner has the same protection and immunity as a member of the Tribunal under the *South Australian Civil and Administrative Tribunal Act 2013*.

108C—Restriction on evidence

Evidence of anything said or done in the course of conciliation of a tenancy dispute under this Division is inadmissible in proceedings before the Tribunal except by consent of all parties to the proceedings.

Division 2—Intervention**109—Power to intervene**

- (1) The Commissioner may intervene in proceedings before the Tribunal or a court concerning a tenancy dispute.
- (2) If the Commissioner intervenes in proceedings the Commissioner becomes a party to the proceedings and has all the rights (including rights of appeal) of a party to the proceedings.

Division 3—Powers of the Tribunal**110—Powers of Tribunal**

- (1) The Tribunal may, on application by a party to a tenancy dispute—
 - (a) restrain an action in breach of this Act, a residential tenancy agreement, a rooming house agreement, or an agreement collateral to a residential tenancy agreement or a rooming house agreement; or

- (b) require a person to comply with an obligation under this Act, a residential tenancy agreement, a rooming house agreement or an agreement collateral to a residential tenancy agreement or a rooming house agreement; or
 - (c) order a person to make a payment (which may include compensation) under this Act, a residential tenancy agreement, a rooming house agreement or a collateral agreement or for breach of this Act, a residential tenancy agreement, a rooming house agreement, or a collateral agreement; or
 - (d) relieve a party to a residential tenancy agreement, a rooming house agreement or a collateral agreement from the obligation to comply with a provision of the agreement; or
 - (e) terminate a residential tenancy or rooming house agreement or declare that a residential tenancy or rooming house agreement has, or has not, been validly terminated; or
 - (f) reinstate rights under a residential tenancy agreement or rooming house agreement that have been forfeited or have otherwise terminated; or
 - (g) require payment of rent into the Fund until conditions stipulated by the Tribunal have been complied with; or
 - (h) require that rent paid into the Fund be paid out and applied as directed by the Tribunal; or
 - (i) require that a bond (including a bond under Part 7) paid into the Fund be paid out and applied as directed by the Tribunal; or
 - (j) require a tenant or a rooming house resident to give up the possession of premises to the landlord or rooming house proprietor; or
 - (k) make orders to give effect to rights and liabilities arising from the assignment of a residential tenancy agreement; or
 - (l) exercise any other power conferred on the Tribunal under this Act; or
 - (m) do anything else necessary or desirable to resolve a tenancy dispute.
- (2) The Tribunal does not have jurisdiction to award compensation for damages arising from personal injury.

111—Conditional and alternative orders

- (1) The Tribunal may make orders on conditions the Tribunal considers appropriate.
- (2) The Tribunal may make orders in the alternative so that a particular order takes effect, or does not take effect, according to whether stipulated conditions are complied with.

112—Restraining orders

- (1) If the Tribunal is satisfied, on application by a landlord, that there is a risk that the tenant or a person permitted on the premises by the tenant may cause serious damage to property or personal injury, the Tribunal may make an order (a **restraining order**) restraining the tenant and other persons on the premises from engaging in conduct of a kind described in the order.

- (1a) If the Tribunal is satisfied, on application by a tenant, that there is a risk that a co-tenant or a person permitted on the premises by a co-tenant may—
- (a) cause serious damage to property; or
 - (b) cause personal injury; or
 - (c) if the co-tenant is a domestic associate or former domestic associate of the tenant—commit an act of domestic abuse,
- the Tribunal may make a restraining order restraining the co-tenant and other persons on the premises from engaging in conduct of a kind described in the order.
- (1b) In considering an application under subsection (1a), the Tribunal must have regard to such of the following orders and proceedings (if any) as are relevant to the application:
- (a) an order, injunction, undertaking, plan, recognisance or other form of obligation imposed or agreement made under the *Family Law Act 1975* of the Commonwealth;
 - (b) an order made under the *Children's Protection Act 1993* or the *Children and Young People (Safety) Act 2017*;
 - (c) an order made under the *Intervention Orders (Prevention of Abuse) Act 2009*;
 - (d) a pending application for an order referred to in paragraph (a), (b) or (c);
 - (e) any other relevant legal proceedings.
- (2) An application for a restraining order may be made without notice to the persons against whom the order is sought but, if the order is made without giving them a reasonable opportunity to respond to the allegations against them, the Tribunal must allow them a reasonable opportunity to satisfy it that the order should not continue in operation.
- (3) A person must not contravene a restraining order.
- Maximum penalty: Imprisonment for 1 year.

Division 4—Representation

113—Representation

- (1) A party to a tenancy dispute may only be represented in proceedings before the Tribunal (including a conference or mediation under sections 50 and 51 respectively of the *South Australian Civil and Administrative Tribunal Act 2013*), or at a conciliation conference under this Act, as allowed by this section.
- (2) A party to a tenancy dispute may be represented by a lawyer if—
 - (a) all parties to the proceedings agree to the representation and the Tribunal is satisfied that it will not unfairly disadvantage a party who does not have a professional representative; or
 - (b) the Tribunal is satisfied that the party is unable to present the party's case properly without assistance; or
 - (c) another party to the dispute is a lawyer, or is represented by a professional representative; or

- (d) the Commissioner has intervened in, or is a party to, the proceedings.
- (3) A party to a tenancy dispute may be represented by a person who is not a lawyer if—
 - (a) the party is a body corporate and the representative is an officer or employee of the body corporate; or
 - (b) the party is a landlord or rooming house proprietor and the representative is an agent, or an officer or employee of an agent, appointed by the landlord or rooming house proprietor to manage the premises on the party's behalf; or
 - (c) all parties to the proceedings agree to the representation and the Tribunal is satisfied that it will not unfairly disadvantage an unrepresented party; or
 - (d) the Tribunal is satisfied that the party is unable to present the party's case properly without assistance.
- (4) In this section—

professional representative means—

 - (a) a lawyer, a law clerk, or a person who holds or has held legal qualifications under the law of the State or another place; or
 - (b) a land agent, or an officer or employee of a land agent.

114—Remuneration of representative

A person must not ask for or receive a fee for representing a party to a tenancy dispute in proceedings before the Tribunal (including a conference or mediation under sections 50 and 51 respectively of the *South Australian Civil and Administrative Tribunal Act 2013*), or at a conciliation conference under this Act, unless—

- (a) the representative is a lawyer or a law clerk employed by a lawyer; or
- (b) the representative is an officer or employee of a body corporate who represented the body corporate in the proceedings; or
- (c) the representative is an agent, or an officer or employee of an agent, who represented a landlord in the proceedings whose premises the agent had been appointed to manage on behalf of the landlord.

Maximum penalty: \$50 000.

Division 5—Other matters

114A—Internal review in relation to certain orders

- (1) Despite section 70 of the *South Australian Civil and Administrative Tribunal Act 2013*, leave must not be granted under section 70(1a) of that Act in relation to an application for review of a relevant decision, except if exceptional circumstances apply.
- (2) In this section—

relevant decision means an order of the Tribunal under this Act that a person make a payment (which may include compensation) to another person.

Part 9—Miscellaneous

115—Contract to avoid Act

- (1) An agreement or arrangement that is inconsistent with this Act or purports to exclude, modify or restrict the operation of this Act, is (unless the inconsistency, exclusion, modification or restriction is expressly permitted under this Act) to that extent void.
- (2) A purported waiver of a right under this Act is void.
- (3) A person who enters into an agreement or arrangement to defeat, evade or prevent the operation of this Act (directly or indirectly) is guilty of an offence.

Maximum penalty: \$50 000.

117—Notice by landlord not waived by acceptance of rent

A demand for, any proceeding for the recovery of, or acceptance of, rent by a landlord after the landlord has notice of a breach of the agreement by the tenant or has given the tenant notice of termination under this Act does not operate as a waiver of that breach or that notice.

117A—Liability to prosecution not to derogate from civil liability

The liability to be prosecuted for an offence is in addition to any civil liability for breach of a residential tenancy agreement or rooming house agreement or any other civil liability the person may incur.

118—Exemptions

The Minister may, by order published in the Gazette—

- (a) exempt agreements, or premises, of a specified class from the provisions, or specified provisions, of this Act; or
- (b) modify specified provisions of this Act in their application to a specified class of agreements or a specified class of premises; or
- (c) vary or revoke an order previously made by the Minister under this section.

119—Tribunal may exempt agreement or premises from provision of Act

- (1) The Tribunal may, on application by an interested person, if the Tribunal considers it necessary or desirable in the circumstances, order that a provision of this Act will not apply in relation to an agreement or prospective agreement or to particular premises, or will apply in a modified manner (and the order will have effect accordingly).
- (2) An order may be made on conditions that the Tribunal considers appropriate.
- (3) A person must not contravene a condition to an order.

Maximum penalty: \$25 000.

Expiation fee: \$1 500.

120—Service

- (1) A notice or document required or authorised to be given to a person under this Act may be—
 - (a) given to the person, or an agent of the person, personally; or
 - (b) sent by post addressed to the person, or an agent of the person, at the last known place of residence, employment or business of the person or agent; or
 - (c) left in a letterbox or other place where it is likely to come to the attention of the person, or an agent of the person, at the last known place of residence, employment or business; or
 - (d) transmitted by email to an email address provided by the person for the purposes of service under this Act (in which case the notice or document will be taken to have been given or served at the time of transmission); or
 - (e) given in some other manner permitted by the Tribunal.
- (3) If two or more persons are the landlords or tenants under a residential tenancy agreement, a notice or other document is duly given if given to any one of them.

121—Regulations and fee notices

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may—
 - (a) be of general or limited application; and
 - (ab) may make different provision according to the matters or circumstances to which they are expressed to apply; and
 - (b) provide that a matter or thing is to be determined, dispensed with or regulated by the Minister.
- (3) A regulation may impose a penalty not exceeding \$5 000 for breach of the regulation.
- (4) The regulations may fix expiation fees, not exceeding \$315, for alleged offences against the regulations.
- (5) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.
- (6) A fee notice may provide for the waiver, reduction or remission of fees.

Schedule 1—Transitional provisions—*Residential Tenancies (Miscellaneous) Amendment Act 2013*

1—Interpretation

In this Schedule—

amending Act means the *Residential Tenancies (Miscellaneous) Amendment Act 2013*.

2—Operation of amendments

- (1) Subject to the regulations, an amendment made by the amending Act applies to a residential tenancy agreement or rooming house agreement whether the agreement was entered into before or after the commencement of the amendment.
- (2) However—
 - (a) subsection (3a) of section 69 as inserted by the amending Act does not apply in relation to a residential tenancy agreement entered into before the commencement of that subsection; and
 - (b) subsections (2) and (3) of section 73 as inserted by the amending Act do not apply in relation to a residential tenancy agreement entered into before the commencement of those subsections (and section 73(2) and (3) as in force immediately before the commencement of section 47 of the amending Act will continue to apply to residential tenancy agreements entered into before that commencement); and
 - (c) section 85A as inserted by the amending Act does not apply in relation to a residential tenancy agreement entered into before the commencement of that section; and
 - (d) section 105Q as inserted by the amending Act does not apply in relation to a rooming house agreement entered into before the commencement of that section.

3—Registrar and deputy registrars

Section 15(2) as inserted by the amending Act does not apply in relation to a person appointed to be the registrar or a deputy registrar before the commencement of that section.

4—Jurisdiction of Tribunal

The amendments made to section 24(2) and (5) by the amending Act—

- (a) do not apply in respect of proceedings commenced before the commencement of the amendments (and those proceedings may continue as if the amendments had not been made); and
- (b) apply in respect of proceedings commenced on or after the commencement of the amendments (including proceedings in respect of a claim arising before the commencement of the amendments).

5—Interest payable on repayment of bond

Section 63(11) and (12) as in force immediately before the commencement of this clause apply in relation to a bond paid to the Commissioner before that commencement as if the amendments made to that section by the amending Act had not been made.

6—Abandoned property

- (1) The revised abandoned property provisions apply in respect of property left on premises whether the property was left on the premises before or after the commencement of those provisions.

- (2) In this clause—

revised abandoned property provisions means Part 5 Division 7 and section 105W as inserted by the amending Act.

7—Application to existing house rules

Part 7 Division 3 as inserted by section 72 of the amending Act applies to house rules made by a rooming house proprietor and in operation immediately before the commencement of this clause.

8—Other provisions

- (1) The Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of the amending Act.
- (2) A provision of a regulation made under subclause (1) may, if the regulation so provides, take effect from the commencement of the amending Act or from a later day.
- (3) To the extent to which a provision takes effect under subclause (2) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.

Schedule 2—Transitional provisions—*Residential Tenancies (Miscellaneous) Amendment Act 2016*

1—Interpretation

In this Schedule—

amending Act means the *Residential Tenancies (Miscellaneous) Amendment Act 2016*.

2—Operation of amendments

- (1) Section 72 as amended by section 4 of the amending Act applies to a residential tenancy agreement whether the agreement was entered into before or after the commencement of that section of the amending Act.
- (2) Subsection (2) of section 85A as inserted by section 5 of the amending Act does not apply to a residential tenancy agreement entered into before the commencement of that subsection.
- (3) Subsection (2a) of section 97B as inserted by section 6 of the amending Act applies in respect of abandoned property left on residential premises whether the property was left on the premises before or after the commencement of that subsection.

Schedule 3—Transitional provisions—*Residential Tenancies (Miscellaneous) Amendment Act 2023*

1—Interpretation

In this Schedule—

amending Act means the *Residential Tenancies (Miscellaneous) Amendment Act 2023*.

2—Operation of amendments

- (1) Subject to the regulations, an amendment made by the amending Act applies to a residential tenancy agreement or rooming house agreement whether the agreement was entered into before or after the commencement of the amendment.
- (2) However—
 - (a) paragraph (b) of section 49(1) as amended by the amending Act does not apply in relation to a residential tenancy agreement entered into before the commencement of the amendments to that paragraph; and
 - (b) subsection (1a) of section 56 and paragraph (fc) of section 56(2) as inserted by section 16 of the amending Act do not apply to an application made under section 56(1) before the commencement of section 16; and
 - (c) section 67A as inserted by the amending Act does not apply in relation to a residential tenancy agreement entered into before the commencement of that section; and
 - (d) the amendments to section 73 by the amending Act do not apply in relation to a residential tenancy agreement entered into before the commencement of those amendments; and
 - (e) Part 5 Division 1A as inserted by the amending Act does not apply in relation to a residential tenancy agreement entered into before the commencement of that section.

3—Abandoned property

- (1) The revised abandoned property provisions apply in respect of property (including documents) left on premises whether the property was left on the premises before or after the commencement of those provisions.
- (2) In this clause—

revised abandoned property provisions means sections 97B, 97C and 105W as amended by the amending Act.

4—Internal review

Section 114A as inserted by the amending Act does not apply to an application for the grant of leave under section 70(1a) of the *South Australian Civil and Administrative Tribunal Act 2013* made before the commencement of section 114A.

5—Other provisions

- (1) The Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of the amending Act.
- (2) A provision of a regulation made under subclause (1) may, if the regulation so provides, take effect from the commencement of the amending Act or from a later day.
- (3) To the extent to which a provision takes effect under subclause (2) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The *Residential Tenancies Act 1995* repealed the following:

Residential Tenancies Act 1978

Residential Tenancies (Housing Trust) Amendment Act 1993

Legislation amended by principal Act

The *Residential Tenancies Act 1995* amended the following:

Retirement Villages Act 1987

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1995	63	<i>Residential Tenancies Act 1995</i>	10.8.1995	24.8.1995 (<i>Gazette</i> 24.8.1995 p499) except ss 4, 5(1) & (2)(c), 6—23, 24(1)(a) & (c) & (2)—(5), 25—62, 63(1)—(6), 64—72, 74—100, 101(a), (b), (d)—(f), 102, 106—120 and Sch (cl 1(1), 3(a), 4 & 6)—30.11.1995 (<i>Gazette</i> 23.11.1995 p1412) and except s 63(7)—(10)—5.2.1996 (<i>Gazette</i> 25.1.1996 p808) and except ss 5(2)(a), (b), (d)—(h) and 24(1)(b)—1.7.1996 (<i>Gazette</i> 27.6.1996 p3107) and except ss 63(11) & (12), 101(c), 103—105 and Sch (cl 5)—10.8.1997 (s 7(5) <i>Acts Interpretation Act 1915</i>)
1996	34	<i>Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996</i>	2.5.1996	Sch (cl 29)—3.2.1997 (<i>Gazette</i> 19.12.1996 p1923)
1998	21	<i>Statutes Amendment (Consumer Affairs) Act 1998</i> as amended by 22/1998	2.4.1998	Pt 9 (ss 24—26)—28.5.1998 (<i>Gazette</i> 28.5.1998 p2292)

Residential Tenancies Act 1995—1.7.2024

Legislative history

1998	22	<i>Statutes Amendment (Consumer Affairs) Amendment Act 1998</i>	2.4.1998	2.4.1998
1999	33	<i>Financial Sector Reform (South Australia) Act 1999</i>	17.6.1999	Sch (item 45)—1.7.1999 being the date specified under s 3(16) of the <i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i> of the Commonwealth as the transfer date for the purposes of that Act: s 2(2)
1999	55	<i>Residential Tenancies (Miscellaneous) Amendment Act 1999</i>	12.8.1999	3.10.1999 (<i>Gazette</i> 30.9.1999 p1341)
2001	59	<i>Retirement Villages (Miscellaneous) Amendment Act 2001</i>	22.11.2001	s 19—1.7.2002 (<i>Gazette</i> 15.1.2002 p186)
2003	44	<i>Statute Law Revision Act 2003</i>	23.10.2003	Sch 1—24.11.2003 (<i>Gazette</i> 13.11.2003 p4048)
2006	44	<i>Statutes Amendment (Justice Portfolio) Act 2006</i>	14.12.2006	Pt 25 (s 49)—18.1.2007 (<i>Gazette</i> 18.1.2007 p234)
2007	19	<i>Residential Parks Act 2007</i>	14.6.2007	Sch 2 (cl 1)—5.11.2007 (<i>Gazette</i> 25.10.2007 p4044)
2007	20	<i>Statutes Amendment (Affordable Housing) Act 2007</i>	14.6.2007	Pt 5 (ss 92 & 93)—11.2.2008 (<i>Gazette</i> 17.1.2008 p264)
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 131 (s 299)—1.2.2010 (<i>Gazette</i> 28.1.2010 p320)
2012	54	<i>Statutes Amendment and Repeal (Budget 2012) Act 2012</i>	6.12.2012	Pt 11 (s 34)—28.2.2013 (<i>Gazette</i> 28.2.2013 p581)

2013	13	<i>Residential Tenancies (Miscellaneous) Amendment Act 2013</i>	9.5.2013	Pt 2 (s 47(4))—8.6.2013 (<i>Gazette 6.6.2013 p2497</i>); s 71—7.2.2014; <i>bond</i> (as inserted by s 4(1)), <i>domestic facility requiring instructions</i> (as inserted by s 4(2)), deletion of <i>mediation</i> by s 4(3), <i>personal documents</i> (as inserted by s 4(3)), ss 4(4), (5), (7)—(9), 5(1)—(3), new s 5(1b) (as inserted by s 5(4)), ss 6—30, new s 56(2)(fb) (as inserted by s 31(1)), ss 31(2), 32—35, 36(1)—(10), 37, 38(1), (2), substitution of s 63(5) by s 38(3), ss 38(4)—(9), (12), 39—46, 47(1)—(3), 48—69, 70(1), (2), new Pt 7 (except ss 105L(2) & 105M) (as substituted by s 72), 73—82, new Sch 1 (except cl 5) (as substituted by s 83)—1.3.2014 (<i>Gazette 6.2.2014 p549</i>); <i>collateral agreement</i> (as inserted by s 4(1)), <i>domestic services agreement</i> (as inserted by s 4(2)), <i>no premium retirement village</i> (as inserted by s 4(3)), s 4(6), new s 5(1c) (as inserted by s 5(4)), new s 56(2)(fa) (as inserted by s 31(1)), s 36(11), new s 63(5a) (as inserted by s 38(3)), ss 38(10), (11), 70(3), new Pt 7 ss 105L(2) & 105M (as inserted by s 72), new Sch 1 cl 5 (as substituted by s 83)—9.5.2015 (<i>Gazette 16.4.2015 p1534</i>)
2013	65	<i>Community Housing Providers (National Law) (South Australia) Act 2013</i>	21.11.2013	Sch 3 (cll 6—12)—1.4.2014 (<i>Gazette 6.2.2014 p547</i>)
2014	26	<i>Statutes Amendment (SACAT) Act 2014</i>	11.12.2014	Pt 14 (ss 158—186)—29.3.2015 (<i>Gazette 5.3.2015 p883</i>)
2015	43	<i>Residential Tenancies (Domestic Violence Protections) Amendment Act 2015</i>	3.12.2015	10.12.2015 (<i>Gazette 10.12.2015 p5202</i>)
2016	36	<i>Housing Improvement Act 2016</i>	4.8.2016	Sch 1 (cll 10—21)—3.4.2017 (<i>Gazette 7.3.2017 p830</i>)
2016	45	<i>Residential Tenancies (Miscellaneous) Amendment Act 2016</i>	29.9.2016	3.7.2017 (<i>Gazette 22.6.2017 p2223</i>)
2016	50	<i>Retirement Villages Act 2016</i>	10.11.2016	Sch 2 (cll 2 & 3)—1.1.2018 (<i>Gazette 8.8.2017 p3141</i>)
2017	51	<i>Statutes Amendment (SACAT No 2) Act 2017</i>	28.11.2017	Pt 41 (s 214)—14.12.2017 (<i>Gazette 12.12.2017 p4960</i>)
2017	64	<i>Children's Protection Law Reform (Transitional Arrangements and Related Amendments) Act 2017</i>	12.12.2017	Pt 17 (ss 123 to 125)—22.10.2018 (<i>Gazette 19.12.2017 p5119</i>)
2019	33	<i>Landscape South Australia Act 2019</i>	21.11.2019	Sch 5 (cl 79)—1.7.2020 (<i>Gazette 25.6.2020 p3502</i>)
2023	22	<i>Residential Tenancies (Protection of Prospective Tenants) Amendment Act 2023</i>	6.7.2023	1.9.2023 (<i>Gazette 3.8.2023 p2457</i>)

2023	41	<i>Residential Tenancies (Miscellaneous) Amendment Act 2023</i>	7.12.2023	Pt 2 (ss 5, 6, 9(1), (2), (4) to (12), 10 to 12, 13(1), 14, 15, 16(3), 17(3) & (4), 18, 19, 20(1), 21(1), (2), (4) & (5), 23, 24(2) & (3), 29, 31, 35, 40, 45(3) & (4), 56, 57, 60 to 66, 67(1) & (2), 68, 69, 71 to 76, 77(1), 78(1), (2), (4) & (5), 80, 81, 84 to 86, 88(2), 89, 91 to 94)—1.3.2024 (<i>Gazette 1.2.2024 p109</i>); ss 3, 4, 7, 8, 9(3) & (13), 13(2), 16(1) & (2), 17(1), (2) & (5), 20(2), 21(3) & (6), 22, 24(1), 25 to 28, 30, 32 to 34, 36 to 39, 41 to 44, 45(1) & (2), 46 to 55, 58, 59, 67(3), 70, 77(2), 78(3) & (6), 79, 82, 83, 87, 88(1), 90 & 95—1.7.2024 (<i>Gazette 13.6.2024 p1430</i>)
2025	15	<i>South Australian Civil and Administrative Tribunal (Miscellaneous) Amendment Act 2025</i>	27.3.2025	Sch 1 (cl 3)—uncommenced

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 44/2003 s 3(1) (Sch 1)	24.11.2003
Pt 1		
s 2	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
s 3		
s 3(1)		
abuse and act of abuse	inserted by 43/2015 s 4(1)	10.12.2015
bailiff	inserted by 26/2014 s 158(1)	29.3.2015
bond	inserted by 13/2013 s 4(1)	1.3.2014
collateral agreement	inserted by 13/2013 s 4(1)	9.5.2015
	amended by 50/2016 Sch 2 cl 2(1)	1.1.2018
controlled drug	inserted by 41/2023 s 3(1)	1.7.2024
co-tenant	inserted by 43/2015 s 4(2)	10.12.2015
decision	inserted by 26/2014 s 158(2)	29.3.2015
Deputy President	inserted by 26/2014 s 158(2)	29.3.2015
Deputy Registrar	inserted by 26/2014 s 158(2)	29.3.2015
domestic abuse	inserted by 43/2015 s 4(3)	10.12.2015
domestic associate	inserted by 43/2015 s 4(3)	10.12.2015
domestic facility requiring instructions	inserted by 13/2013 s 4(2)	1.3.2014
domestic partner	inserted by 43/2015 s 4(4)	10.12.2015

domestic services agreement	inserted by 13/2013 s 4(2)	9.5.2015
	amended by 50/2016 Sch 2 cl 2(2)	1.1.2018
drug related conduct	inserted by 41/2023 s 3(2)	1.7.2024
exempt animal	inserted by 41/2023 s 3(2)	1.7.2024
<i>financial institution</i>	<i>deleted by 33/1999 Sch (item 45(a))</i>	<i>1.7.1999</i>
housing assessment order	inserted by 36/2016 Sch 1 cl 10(1)	3.4.2017
housing demolition order	inserted by 36/2016 Sch 1 cl 10(1)	3.4.2017
<i>housing improvement notice</i>	<i>deleted by 36/2016 Sch 1 cl 10(1)</i>	<i>3.4.2017</i>
housing improvement order	inserted by 36/2016 Sch 1 cl 10(1)	3.4.2017
intervention order	inserted by 43/2015 s 4(5)	10.12.2015
<i>mediation</i>	<i>deleted by 13/2013 s 4(3)</i>	<i>1.3.2014</i>
<i>no premium retirement village</i>	<i>inserted by 13/2013 s 4(3)</i>	<i>9.5.2015</i>
	<i>deleted by 50/2016 Sch 2 cl 2(3)</i>	<i>1.1.2018</i>
notice to vacate	inserted by 36/2016 Sch 1 cl 10(2)	3.4.2017
personal documents	inserted by 13/2013 s 4(3)	1.3.2014
preliminary rent control notice	inserted by 36/2016 Sch 1 cl 10(3)	3.4.2017
prescribed retirement village	inserted by 50/2016 Sch 2 cl 2(4)	1.1.2018
President	inserted by 26/2014 s 158(3)	29.3.2015
<i>registered agent</i>	<i>deleted by 13/2013 s 4(4)</i>	<i>1.3.2014</i>
<i>registered community housing organisation</i>	<i>inserted by 13/2013 s 4(4)</i>	<i>1.3.2014</i>
	<i>deleted by 65/2013 Sch 3 cl 6</i>	<i>1.4.2014</i>
registered community housing provider	inserted by 65/2013 Sch 1 cl 6	1.4.2014
<i>registered housing association</i>	<i>inserted by 13/2013 s 4(4)</i>	<i>1.3.2014</i>
	<i>deleted by 65/2013 Sch 3 cl 6</i>	<i>1.4.2014</i>
<i>registered housing co-operative</i>	<i>amended by 13/2013 s 4(5)</i>	<i>1.3.2014</i>
	<i>deleted by 65/2013 Sch 3 cl 6</i>	<i>1.4.2014</i>
Registrar	inserted by 26/2014 s 158(4)	29.3.2015
rent	substituted by 13/2013 s 4(6)	9.5.2015

Residential Tenancies Act 1995—1.7.2024

Legislative history

	amended by 50/2016 Sch 2 cl 2(5)	1.1.2018
rent control notice	inserted by 36/2016 Sch 1 cl 10(4)	3.4.2017
residential tenancy agreement	note inserted by 41/2023 s 3(3)	1.7.2024
rooming house	substituted by 41/2023 s 3(4)	1.7.2024
<i>Rules</i>	<i>deleted by 26/2014 s 158(5)</i>	29.3.2015
<i>security</i>	<i>deleted by 13/2013 s 4(7)</i>	1.3.2014
<i>security bond</i>	<i>deleted by 13/2013 s 4(7)</i>	1.3.2014
statutory charges	inserted by 13/2013 s 4(8)	1.3.2014
	amended by 33/2019 Sch 5 cl 79	1.7.2020
<i>statutory rates, taxes and charges</i>	<i>deleted by 13/2013 s 4(8)</i>	1.3.2014
tenancy dispute	amended by 13/2013 s 4(9)	1.3.2014
Tribunal	substituted by 26/2014 s 158(6)	29.3.2015
s 3(4)	inserted by 55/1999 s 3	3.10.1999
s 3(5)	inserted by 41/2023 s 3(5)	1.7.2024
s 5		
s 5(1)	amended by 19/2007 Sch 2 cl 1	5.11.2007
	amended by 13/2013 s 5(1)—(3)	1.3.2014
	amended by 50/2016 Sch 2 cl 3(1)	1.1.2018
s 5(1a)	inserted by 20/2007 s 92(1)	11.2.2008
s 5(1b)	inserted by 13/2013 s 5(4)	1.3.2014
s 5(1c)	inserted by 13/2013 s 5(4)	9.5.2015
	amended by 50/2016 Sch 2 cl 3(2)	1.1.2018
s 5(2)	amended by 55/1999 s 4	3.10.1999
	amended by 20/2007 s 92(2)—(5)	11.2.2008
	amended by 26/2014 s 159	29.3.2015
	amended by 43/2015 s 5	10.12.2015
	amended by 41/2023 s 4(1), (2)	1.7.2024
Pt 2		
s 9	<i>deleted by 84/2009 s 299</i>	1.2.2010
Pt 3		
heading	substituted by 26/2014 s 160	29.3.2015
<i>Pt 3 Div 1 before deletion by 26/2014</i>		
s 13		
s 13(1a)	<i>inserted by 13/2013 s 6</i>	1.3.2014
s 15	<i>substituted by 13/2013 s 7</i>	1.3.2014
s 16		
s 16(1)	<i>s 16 redesignated as s 16(1) by 13/2013 s 8</i>	1.3.2014
s 16(2)	<i>inserted by 13/2013 s 8</i>	1.3.2014
<i>Pt 3 Div 1</i>	<i>deleted by 26/2014 s 161</i>	29.3.2015

*Pt 3 Div 2 before
deletion by 26/2014*

<i>s 21</i>	<i>amended by 13/2013 s 9</i>	<i>1.3.2014</i>
-------------	-------------------------------	-----------------

<i>Pt 3 Div 2</i>	<i>deleted by 26/2014 s 161</i>	<i>29.3.2015</i>
-------------------	---------------------------------	------------------

Pt 3 Div 3

<i>s 24</i>		
-------------	--	--

<i>s 24(1)</i>	<i>amended by 20/2007 s 93</i>	<i>11.2.2008</i>
----------------	--------------------------------	------------------

	<i>amended by 13/2013 s 10(1)</i>	<i>1.3.2014</i>
--	-----------------------------------	-----------------

	<i>(c) deleted by 26/2014 s 162(1)</i>	<i>29.3.2015</i>
--	--	------------------

<i>s 24(2)</i>	<i>amended by 13/2013 s 10(2)</i>	<i>1.3.2014</i>
----------------	-----------------------------------	-----------------

<i>s 24(4)</i>	<i>amended by 26/2014 s 162(2)</i>	<i>29.3.2015</i>
----------------	------------------------------------	------------------

<i>s 24(5)</i>	<i>amended by 13/2013 s 10(2)</i>	<i>1.3.2014</i>
----------------	-----------------------------------	-----------------

*s 25 before
substitution by
26/2014*

<i>s 25(3)</i>	<i>inserted by 13/2013 s 11</i>	<i>1.3.2014</i>
----------------	---------------------------------	-----------------

<i>s 25</i>	<i>substituted by 26/2014 s 163</i>	<i>29.3.2015</i>
-------------	-------------------------------------	------------------

<i>s 25A</i>	<i>inserted by 26/2014 s 163</i>	<i>29.3.2015</i>
--------------	----------------------------------	------------------

<i>Pt 3 Div 4</i>	<i>deleted by 13/2013 s 12</i>	<i>1.3.2014</i>
-------------------	--------------------------------	-----------------

Pt 3 Div 5

<i>heading</i>	<i>substituted by 26/2014 s 164</i>	<i>29.3.2015</i>
----------------	-------------------------------------	------------------

*s 31 before deletion
by 26/2014*

<i>s 31(2)</i>	<i>amended by 13/2013 s 13(1), (2)</i>	<i>1.3.2014</i>
----------------	--	-----------------

<i>s 31(3)</i>	<i>inserted by 13/2013 s 13(3)</i>	<i>1.3.2014</i>
----------------	------------------------------------	-----------------

<i>s 31</i>	<i>deleted by 26/2014 s 165</i>	<i>29.3.2015</i>
-------------	---------------------------------	------------------

s 32

<i>s 32(1)</i>	<i>amended by 13/2013 s 14(1), (2)</i>	<i>1.3.2014</i>
----------------	--	-----------------

	<i>deleted by 26/2014 s 166</i>	<i>29.3.2015</i>
--	---------------------------------	------------------

<i>s 32(1a)</i>	<i>inserted by 13/2013 s 14(3)</i>	<i>1.3.2014</i>
-----------------	------------------------------------	-----------------

	<i>deleted by 26/2014 s 166</i>	<i>29.3.2015</i>
--	---------------------------------	------------------

<i>s 32(2)</i>	<i>substituted by 13/2013 s 14(4)</i>	<i>1.3.2014</i>
----------------	---------------------------------------	-----------------

	<i>deleted by 26/2014 s 166</i>	<i>29.3.2015</i>
--	---------------------------------	------------------

<i>s 32(3)—(5)</i>	<i>substituted by 65/2013 Sch 3 cl 7</i>	<i>1.4.2014</i>
--------------------	--	-----------------

<i>s 33</i>	<i>substituted by 26/2014 s 167</i>	<i>29.3.2015</i>
-------------	-------------------------------------	------------------

<i>Pt 3 Div 6</i>	<i>deleted by 13/2013 s 15</i>	<i>1.3.2014</i>
-------------------	--------------------------------	-----------------

Pt 3 Div 7

<i>heading</i>	<i>substituted by 26/2014 s 168</i>	<i>29.3.2015</i>
----------------	-------------------------------------	------------------

s 35

<i>s 35(2)</i>	<i>amended by 26/2014 s 169(1)</i>	<i>29.3.2015</i>
----------------	------------------------------------	------------------

	<i>amended by 41/2023 s 5</i>	<i>1.3.2024</i>
--	-------------------------------	-----------------

<i>s 35(3)—(5)</i>	<i>deleted by 26/2014 s 169(2)</i>	<i>29.3.2015</i>
--------------------	------------------------------------	------------------

*s 36 before deletion
by 26/2014*

Residential Tenancies Act 1995—1.7.2024

Legislative history

<i>s 36(1)</i>	<i>amended by 21/1998 s 24(a)</i>	28.5.1998
<i>s 36(2)</i>	<i>amended by 59/2001 s 19</i>	1.7.2002
<i>s 36(3)</i>	<i>inserted by 21/1998 s 24(b)</i>	28.5.1998
<i>s 36</i>	<i>deleted by 26/2014 s 170</i>	29.3.2015
<i>s 37 before deletion by 51/2017</i>		
<i>s 37(2)</i>	<i>amended by 13/2013 s 16(1)</i>	1.3.2014
<i>s 37(3)</i>	<i>inserted by 13/2013 s 16(2)</i>	1.3.2014
<i>s 37(4) and (5)</i>	<i>inserted by 26/2014 s 171</i>	29.3.2015
<i>s 37</i>	<i>deleted by 51/2017 s 214</i>	14.12.2017
<i>s 38</i>	<i>deleted by 26/2014 s 172</i>	29.3.2015
Pt 3 Div 8		
<i>s 39</i>	<i>substituted by 26/2014 s 173</i>	29.3.2015
<i>s 39A</i>	<i>inserted by 26/2014 s 173</i>	29.3.2015
<i>Pt 3 Div 9 before deletion by 26/2014</i>		
<i>s 41</i>		
<i>s 41(1)</i>	<i>amended by 13/2013 s 17(1)</i>	1.3.2014
<i>s 41(2)</i>	<i>deleted by 13/2013 s 17(2)</i>	1.3.2014
<i>s 42</i>	<i>deleted by 13/2013 s 18</i>	1.3.2014
<i>Pt 3 Div 9</i>	<i>deleted by 26/2014 s 174</i>	29.3.2015
<i>Pt 3 Div 10 before deletion by 26/2014</i>		
<i>s 45</i>		
<i>s 45(1)</i>	<i>amended by 13/2013 s 19(1)—(3)</i>	1.3.2014
<i>s 45(3)</i>	<i>inserted by 13/2013 s 19(4)</i>	1.3.2014
<i>s 46</i>		
<i>s 46(3)</i>	<i>inserted by 13/2013 s 20</i>	1.3.2014
<i>s 47</i>		
<i>s 47(4)</i>	<i>inserted by 13/2013 s 21</i>	1.3.2014
<i>Pt 3 Div 10</i>	<i>deleted by 26/2014 s 174</i>	29.3.2015
Pt 4		
Pt 4 Div A1	<i>inserted by 13/2013 s 22</i>	1.3.2014
<i>s 47A</i>	<i>amended by 41/2023 s 6</i>	1.3.2024
<i>s 47B</i>	<i>inserted by 22/2023 s 3</i>	1.9.2023
s 47B(1)	amended by 41/2023 s 7(1), (2)	1.7.2024
s 47B(2a)	inserted by 41/2023 s 7(3)	1.7.2024
s 47C	inserted by 41/2023 s 8	1.7.2024
Pt 4 Div 1		
<i>s 48 before substitution by 13/2013</i>		
<i>s 48(1), (2) and (4)</i>	<i>amended by 34/1996 s 4 (Sch cl 29)</i>	3.2.1997

s 48	substituted by 13/2013 s 23	1.3.2014
s 48(1)	amended by 41/2023 s 9(1), (2), (4), (5)	1.3.2024
	amended by 41/2023 s 9(3)	1.7.2024
s 48(3)	amended by 41/2023 s 9(6)—(9)	1.3.2024
s 48(4)	amended by 41/2023 s 9(10)—(12)	1.3.2024
s 48(5)	inserted by 41/2023 s 9(13)	1.7.2024
s 49	amended by 34/1996 s 4 (Sch cl 29)	3.2.1997
	substituted by 13/2013 s 24	1.3.2014
s 49(1)	amended by 41/2023 s 10(1), (2)	1.3.2024
s 49(3)	amended by 41/2023 s 10(3), (4)	1.3.2024
s 49(5)	amended by 41/2023 s 10(5), (6)	1.3.2024
s 49(6)	amended by 41/2023 s 10(7), (8)	1.3.2024
s 50	amended by 13/2013 s 25	1.3.2014
s 51	amended by 13/2013 s 26	1.3.2014
	amended by 41/2023 s 11	1.3.2024
Pt 4 Div 2		
s 52		
s 52(1)	amended by 13/2013 s 27(1)	1.3.2014
	amended by 41/2023 s 12(1)	1.3.2024
s 52(2)	amended by 13/2013 s 27(2)	1.3.2014
	amended by 41/2023 s 12(2)	1.3.2024
s 52(3)	amended by 13/2013 s 27(3)	1.3.2014
Pt 4 Div 3		
ss 52A and 52B	inserted by 22/2023 s 4	1.9.2023
s 53		
s 53(1)	amended by 13/2013 s 28(1), (2)	1.3.2014
	amended by 41/2023 s 13(1)	1.3.2024
s 53(2)	amended by 41/2023 s 13(2)	1.7.2024
s 54		
s 54(1)	amended by 13/2013 s 29(1)	1.3.2014
	amended by 41/2023 s 14(1), (2)	1.3.2024
s 54(2)	amended by 13/2013 s 29(2)	1.3.2014
	amended by 41/2023 s 14(3), (4)	1.3.2024
s 54(3)	amended by 13/2013 s 29(3)	1.3.2014
	amended by 41/2023 s 14(5), (6)	1.3.2024
s 55		
s 55(1)	amended by 13/2013 s 30(1)	1.3.2014
s 55(2)	amended by 13/2013 s 30(2), (3)	1.3.2014
	amended by 65/2013 Sch 3 cl 8(1), (2)	1.4.2014
	amended by 36/2016 Sch 1 cl 11(1), (2)	3.4.2017
s 55(2a)	inserted by 13/2013 s 30(4)	1.3.2014
s 55(2b)	inserted by 41/2023 s 15(1)	1.3.2024
s 55(7)	inserted by 13/2013 s 30(5)	1.3.2014

	amended by 41/2023 s 15(2)	1.3.2024
s 56		
s 56(1a)	inserted by 41/2023 s 16(1)	1.7.2024
s 56(2)	(fb) inserted by 13/2013 s 31(1)	1.3.2014
	(fa) inserted by 13/2013 s 31(1)	9.5.2015
	amended by 41/2023 s 16(2)	1.7.2024
s 56(5)	amended by 13/2013 s 31(2)	1.3.2014
	amended by 41/2023 s 16(3)	1.3.2024
s 56A	inserted by 13/2013 s 32	1.3.2014
	amended by 41/2023 s 17(3), (4)	1.3.2024
	amended by 41/2023 s 17(2)	1.7.2024
heading	amended by 41/2023 s 17(1)	1.7.2024
s 56A(1)	s 56A redesignated as s 56A(1) by 41/2023 s 17(5)	1.7.2024
s 56A(2)	inserted by 41/2023 s 17(5)	1.7.2024
s 57		
s 57(1)	amended by 13/2013 s 33(1), (2)	1.3.2014
	amended by 41/2023 s 18(1), (2)	1.3.2024
s 57(2)	amended by 13/2013 s 33(3), (4)	1.3.2014
	amended by 41/2023 s 18(3)	1.3.2024
<i>s 58 before substitution by 13/2013</i>		
<i>s 58(1)</i>	<i>amended by 34/1996 s 4 (Sch cl 29)</i>	<i>3.2.1997</i>
<i>s 58(2)</i>	<i>amended by 33/1999 Sch (item 45(b))</i>	<i>1.7.1999</i>
s 58	substituted by 13/2013 s 34	1.3.2014
s 58(1)	amended by 41/2023 s 19(1), (2)	1.3.2024
s 58(2)	amended by 41/2023 s 19(3), (4)	1.3.2024
s 58A	inserted by 13/2013 s 34	1.3.2014
Pt 4 Div 4		
heading	amended by 13/2013 s 35	1.3.2014
s 61		
s 61(1)	amended by 13/2013 s 36(1)—(3)	1.3.2014
	amended by 41/2023 s 20(1)	1.3.2024
s 61(1a) and (1b)	inserted by 41/2023 s 20(2)	1.7.2024
s 61(2)	amended by 13/2013 s 36(4)—(7)	1.3.2014
s 61(2a)	inserted by 13/2013 s 36(8)	1.3.2014
s 61(3)	amended by 13/2013 s 36(9)	1.3.2014
s 61(4)	amended by 13/2013 s 36(10)	1.3.2014
s 61(5)	inserted by 13/2013 s 36(11)	9.5.2015
s 62		
s 62(1)	amended by 34/1996 s 4 (Sch cl 29)	3.2.1997
	amended by 13/2013 s 37(1), (2)	1.3.2014
	amended by 41/2023 s 21(1), (2)	1.3.2024

s 62(2)	amended by 34/1996 s 4 (Sch cl 29)	3.2.1997
	amended by 13/2013 s 37(3)—(5)	1.3.2014
	amended by 41/2023 s 21(4), (5)	1.3.2024
	amended by 41/2023 s 21(3)	1.7.2024
s 62(3) and (4)	inserted by 41/2023 s 21(6)	1.7.2024
s 63		
s 63(1)	amended by 13/2013 s 38(1)	1.3.2014
s 63(2)	amended by 41/2023 s 22(1)	1.7.2024
s 63(3)	amended by 13/2013 s 38(2)	1.3.2014
s 63(4)	amended by 41/2023 s 22(2)	1.7.2024
s 63(5)	substituted by 13/2013 s 38(3)	1.3.2014
	amended by 41/2023 s 22(3)	1.7.2024
s 63(5a)	inserted by 13/2013 s 38(3)	9.5.2015
s 63(6)	amended by 13/2013 s 38(4)	1.3.2014
s 63(7)	amended by 44/2003 s 3(1) (Sch 1)	24.11.2003
	amended by 13/2013 s 38(5), (6)	1.3.2014
	amended by 41/2023 s 22(4)	1.7.2024
s 63(8)	amended by 13/2013 s 38(7)	1.3.2014
s 63(9)	amended by 13/2013 s 38(8), (9)	1.3.2014
	amended by 41/2023 s 22(5)	1.7.2024
s 63(11)	amended by 13/2013 s 38(10)	9.5.2015
s 63(12)	deleted by 13/2013 s 38(11)	9.5.2015
	inserted by 41/2023 s 22(6)	1.7.2024
s 63(13)	s 63 footnotes 1 and 2 redesignated as s 63(13) by 44/2003 s 3(1) (Sch 1)	24.11.2003
	amended by 13/2013 s 38(12)	1.3.2014
	amended by 41/2023 s 22(7), (8)	1.7.2024
s 63(14)—(17)	inserted by 41/2023 s 22(9)	1.7.2024
Pt 4 Div 5		
s 65		
s 65(2)	amended by 13/2013 s 39(1), (2)	1.3.2014
	amended by 41/2023 s 23	1.3.2024
Pt 4 Div 6		
s 66		
s 66(1)	amended by 13/2013 s 40(1)	1.3.2014
	amended by 41/2023 s 24(1)	1.7.2024
s 66(2)	amended by 13/2013 s 40(2), (3)	1.3.2014
	amended by 41/2023 s 24(2)	1.3.2024
s 66(3)	amended by 13/2013 s 40(4), (5)	1.3.2014
	amended by 41/2023 s 24(3)	1.3.2024
ss 66A and 66B	inserted by 41/2023 s 25	1.7.2024
Pt 4 Div 6A	inserted by 41/2023 s 26	1.7.2024
Pt 4 Div 7		

ss 67A and 67B	inserted by 41/2023 s 27	1.7.2024
s 68		
s 68(1)	amended by 13/2013 s 41(1)	1.3.2014
s 68(1a)	inserted by 13/2013 s 41(2)	1.3.2014
s 68(2)	amended by 13/2013 s 41(3)	1.3.2014
	amended by 65/2013 Sch 3 cl 9	1.4.2014
	(c) deleted by 36/2016 Sch 1 cl 12(1)	3.4.2017
s 68(3)	substituted by 13/2013 s 41(4)	1.3.2014
s 68(4)	<i>amended by 13/2013 s 41(5)</i>	<i>1.3.2014</i>
	<i>deleted by 36/2016 Sch 1 cl 12(2)</i>	<i>3.4.2017</i>
s 68(5)	inserted by 13/2013 s 41(6)	1.3.2014
s 68A	inserted by 41/2023 s 28	1.7.2024
Pt 4 Div 8		
s 69		
s 69(1)	amended by 13/2013 s 42(1)	1.3.2014
s 69(2)	amended by 13/2013 s 42(2), (3)	1.3.2014
	amended by 41/2023 s 29	1.3.2024
s 69(3a)	inserted by 13/2013 s 42(4)	1.3.2014
s 70		
s 70(1a)	inserted by 13/2013 s 43(1)	1.3.2014
	amended by 41/2023 s 30(1)	1.7.2024
s 70(1ab)	inserted by 41/2023 s 30(2)	1.7.2024
s 70(1b)	inserted by 36/2016 Sch 1 cl 13	3.4.2017
s 70(2a) and (2b)	inserted by 41/2023 s 30(3)	1.7.2024
s 70(3)	amended by 13/2013 s 43(2)	1.3.2014
Pt 4 Div 9A	inserted by 13/2013 s 44	1.3.2014
s 71A		
s 71A(3)	inserted by 41/2023 s 31	1.3.2024
Pt 4 Div 10		
s 72	substituted by 13/2013 s 45	1.3.2014
s 72(1)	amended by 43/2015 s 6	10.12.2015
	amended by 45/2016 s 4(1)—(3)	3.7.2017
	amended by 36/2016 Sch 1 cl 14	3.4.2017
	amended by 41/2023 s 32(1)—(3)	1.7.2024
s 72(5a)—(5c)	inserted by 41/2023 s 32(4)	1.7.2024
Pt 4 Div 11		
heading	substituted by 13/2013 s 46	1.3.2014
s 73		
s 73(1)	amended by 13/2013 s 47(1)	1.3.2014
	amended by 41/2023 s 33(1)	1.7.2024
s 73(2)	amended by 54/2012 s 34(1)	28.2.2013
	substituted by 13/2013 s 47(2)	1.3.2014
	substituted by 41/2023 s 33(2)	1.7.2024

s 73(3)	amended by 54/2012 s 34(2)	28.2.2013
	substituted by 13/2013 s 47(2)	1.3.2014
	substituted by 41/2023 s 33(2)	1.7.2024
s 73(4)	inserted by 54/2012 s 34(3)	28.2.2013
	amended by 13/2013 s 47(3)	1.3.2014
	amended by 41/2023 s 33(3)	1.7.2024
s 73(5)	inserted by 54/2012 s 34(3)	28.2.2013
	amended by 41/2023 s 33(4), (5)	1.7.2024
s 73(6)	inserted by 54/2012 s 34(3)	28.2.2013
prescribed service	inserted by 41/2023 s 33(6)	1.7.2024
water security rebate amount	amended by 13/2013 s 47(4)	8.6.2013
	amended by 41/2023 s 33(7)	1.7.2024
ss 73A and 73B	inserted by 41/2023 s 34	1.7.2024
<i>Pt 4 Div 12 before substitution by 41/2023</i>		
<i>s 74</i>		
s 74(2)	<i>amended by 13/2013 s 48(1)</i>	<i>1.3.2014</i>
	<i>amended by 65/2013 Sch 3 cl 10(1)</i>	<i>1.4.2014</i>
s 74(2a)	<i>s 74(2) dot point redesignated as s 74(2a) by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
	<i>substituted by 13/2013 s 48(2)</i>	<i>1.3.2014</i>
	<i>amended by 65/2013 Sch 3 cl 10(2)</i>	<i>1.4.2014</i>
s 74(2ab)	<i>inserted by 13/2013 s 48(2)</i>	<i>1.3.2014</i>
s 74(2b) and (2c)	<i>s 74(2) dot points redesignated as s 74(2b) and (2c) by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
s 74(5)	<i>amended by 13/2013 s 48(3)</i>	<i>1.3.2014</i>
Pt 4 Div 12	substituted by 41/2023 s 35	1.3.2024
Pt 4 Div 13A	inserted by 41/2023 s 36	1.7.2024
Pt 4 Div 14A	inserted by 22/2023 s 5	1.9.2023
<i>s 76A</i>		
s 76A(1)		
prospective tenant information	inserted by 41/2023 s 37(1)	1.7.2024
successful tenant	deleted by 41/2023 s 37(2)	1.7.2024
tenant information	amended by 41/2023 s 37(3)	1.7.2024
<i>s 76B</i>		
heading	amended by 41/2023 s 38(1)	1.7.2024
s 76B(1)	amended by 41/2023 s 38(2), (3)	1.7.2024
s 76B(2)	amended by 41/2023 s 38(4)—(6)	1.7.2024
s 76B(2a) and (2b)	inserted by 41/2023 s 38(7)	1.7.2024

Residential Tenancies Act 1995—1.7.2024

Legislative history

s 76B(3)	amended by 41/2023 s 38(8)—(11)	1.7.2024
s 76C		
s 76C(1)	amended by 41/2023 s 39(1)	1.7.2024
s 76C(2)	amended by 41/2023 s 39(2)	1.7.2024
Pt 4 Div 15		
s 77		
s 77(3)	amended by 13/2013 s 49	1.3.2014
	amended by 41/2023 s 40(1), (2)	1.3.2024
s 78A	inserted by 13/2013 s 50	1.3.2014
Pt 5		
Pt 5 Div 1		
s 79	(a) deleted by 13/2013 s 51	1.3.2014
	amended by 36/2016 Sch 1 cl 15	3.4.2017
	amended by 41/2023 s 41(1), (2)	1.7.2024
s 79A	inserted by 13/2013 s 52	1.3.2014
Pt 5 Div 1A	inserted by 41/2023 s 42	1.7.2024
Pt 5 Div 2		
s 80		
s 80(2)	amended by 13/2013 s 53	1.3.2014
s 80(2a)	inserted by 41/2023 s 43	1.7.2024
s 80(6) and (7)	s 80(5) dot points redesignated as s 80(6) and (7) by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 80A	inserted by 41/2023 s 44	1.7.2024
s 81		
s 81(2)	amended by 41/2023 s 45(1)	1.7.2024
s 81(2a)	inserted by 41/2023 s 45(2)	1.7.2024
s 81(3)	amended by 13/2013 s 54(1)	1.3.2014
	amended by 41/2023 s 45(3)	1.3.2024
s 81(4)	amended by 13/2013 s 54(2)	1.3.2014
	amended by 41/2023 s 45(4)	1.3.2024
s 82		
s 82(1)	substituted by 65/2013 Sch 3 cl 11	1.4.2014
s 83		
heading	amended by 41/2023 s 46(1)	1.7.2024
s 83(1)	amended by 41/2023 s 46(2), (3)	1.7.2024
s 83(2)	substituted by 13/2013 s 55	1.3.2014
	amended by 65/2013 Sch 3 cl 12	1.4.2014
	amended by 36/2016 Sch 1 cl 16	3.4.2017
s 83A	inserted by 13/2013 s 56	1.3.2014
s 83A(1)	amended by 41/2023 s 47(1)	1.7.2024
s 83A(2)	amended by 41/2023 s 47(2)	1.7.2024
s 83A(3) and (4)	inserted by 41/2023 s 47(3)	1.7.2024
s 83B	inserted by 13/2013 s 56	1.3.2014

s 84		
heading	amended by 41/2023 s 48(1)	1.7.2024
s 84(1)	substituted by 13/2013 s 57(1)	1.3.2014
	substituted by 36/2016 Sch 1 cl 17(1)	3.4.2017
	amended by 41/2023 s 48(2)	1.7.2024
s 84(3)	inserted by 13/2013 s 57(2)	1.3.2014
	amended by 36/2016 Sch 1 cl 17(2)	3.4.2017
s 84(4)	inserted by 36/2016 Sch 1 cl 17(3)	3.4.2017
s 84A	inserted by 41/2023 s 49	1.7.2024
Pt 5 Div 3		
s 85		
s 85(3a)	s 85(3) dot point redesignated as s 85(3a) by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 85AA	inserted by 41/2023 s 50	1.7.2024
s 85A	inserted by 13/2013 s 58	1.3.2014
s 85A(1)	s 85A redesignated as s 85A(1) by 45/2016 s 5	3.7.2017
s 85A(2)	inserted by 45/2016 s 5	3.7.2017
ss 85B—85D	inserted by 41/2023 s 51	1.7.2024
ss 86A and 86B	inserted by 13/2013 s 59	1.3.2014
Pt 5 Div 4		
s 87		
s 87(1a) and (1b)	inserted by 13/2013 s 60	1.3.2014
s 89A	inserted by 43/2015 s 7	10.12.2015
s 89A(2)	amended by 41/2023 s 52(1)	1.7.2024
s 89A(3)	substituted by 41/2023 s 52(2)	1.7.2024
s 89A(4)	amended by 41/2023 s 52(3)	1.7.2024
s 89A(5)	amended by 41/2023 s 52(4)—(6)	1.7.2024
s 89A(9)	amended by 64/2017 s 123	22.10.2018
s 89A(12)	substituted by 41/2023 s 52(7)	1.7.2024
s 90		
s 90(2)	substituted by 55/1999 s 5	3.10.1999
	amended by 44/2006 s 49	18.1.2007
s 90(2a)	inserted by 55/1999 s 5	3.10.1999
s 90(3)		
interested person	amended by 13/2013 s 61(1)	1.3.2014
s 90(4) and (5)	inserted by 13/2013 s 61(2)	1.3.2014
Pt 5 Div 4A	inserted by 41/2023 s 53	1.7.2024
Pt 5 Div 5		
s 91		
s 91(1)	amended by 41/2023 s 54(1), (2)	1.7.2024
s 91A	inserted by 41/2023 s 55	1.7.2024
s 92A	inserted by 13/2013 s 62	1.3.2014
Pt 5 Div 6		

Residential Tenancies Act 1995—1.7.2024

Legislative history

s 93		
s 93(1)	substituted by 13/2013 s 63(1)	1.3.2014
s 93(2)	amended by 13/2013 s 63(2)	1.3.2014
s 93(4a)	s 93(4) dot point redesignated as s 93(4a) by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 94		
s 94(1a)	inserted by 13/2013 s 64	1.3.2014
s 95	amended by 13/2013 s 65	1.3.2014
	amended by 36/2016 Sch 1 cl 18	3.4.2017
	amended by 41/2023 s 56	1.3.2024
s 96		
s 96(1a)—(1c)	inserted by 13/2013 s 66	1.3.2014
<i>Pt 5 Div 7 before substitution by 13/2013</i>		
s 97		
s 97(4)	<i>substituted by 55/1999 s 6(a)</i>	<i>3.10.1999</i>
s 97(6)	<i>amended by 55/1999 s 6(b)</i>	<i>3.10.1999</i>
Pt 5 Div 7	substituted by 13/2013 s 67	1.3.2014
s 97A	amended by 41/2023 s 57	1.3.2024
s 97B		
s 97B(2a)	inserted by 45/2016 s 6(1)	3.7.2017
s 97B(4)	amended by 41/2023 s 58(1)	1.7.2024
s 97B(6)	amended by 41/2023 s 58(2)	1.7.2024
s 97B(7)	amended by 45/2016 s 6(2)	3.7.2017
s 97C		
s 97C(2)	amended by 41/2023 s 59(1)	1.7.2024
s 97C(3)	amended by 41/2023 s 59(2)	1.7.2024
Pt 5 Div 8		
heading	substituted by 26/2014 s 175	29.3.2015
s 98	<i>deleted by 26/2014 s 176</i>	<i>29.3.2015</i>
s 99		
s 99(1)	substituted by 13/2013 s 68(1)	1.3.2014
	amended by 26/2014 s 177(1)	29.3.2015
s 99(3)	amended by 13/2013 s 68(2)	1.3.2014
s 99(5)	amended by 13/2013 s 68(3)	1.3.2014
	amended by 41/2023 s 60(1)	1.3.2024
s 99(6)	amended by 13/2013 s 68(4)	1.3.2014
	amended by 41/2023 s 60(2)	1.3.2024
s 99(8)	<i>amended by 13/2013 s 68(2)</i>	<i>1.3.2014</i>
	<i>deleted by 26/2014 s 177(2)</i>	<i>29.3.2015</i>
Pt 5A	inserted by 13/2013 s 69	1.3.2014
s 99D		
s 99D(2)	amended by 41/2023 s 61(1), (2)	1.3.2024

s 99E		
s 99E(2)	amended by 41/2023 s 62(1), (2)	1.3.2024
s 99F		
s 99F(1)	amended by 43/2015 s 8(1), (2)	10.12.2015
	amended by 41/2023 s 63	1.3.2024
s 99G		
s 99G(1)	amended by 41/2023 s 64	1.3.2024
s 99H		
s 99H(2)	amended by 41/2023 s 65(1)	1.3.2024
s 99H(3)	amended by 41/2023 s 65(2)	1.3.2024
s 99I		
s 99I(2)	amended by 41/2023 s 66	1.3.2024
s 99J		
s 99J(1)	amended by 41/2023 s 67(1)	1.3.2024
s 99J(2)	amended by 41/2023 s 67(2)	1.3.2024
s 99J		
s 99J(3)	substituted by 41/2023 s 67(3)	1.7.2024
s 99J(4)	<i>deleted by 41/2023 s 67(3)</i>	1.7.2024
s 99K		
s 99K(1)	amended by 41/2023 s 68(1), (2)	1.3.2024
Pt 6		
s 100		
s 100(3)	amended by 13/2013 s 70(1)	1.3.2014
s 100(5)	amended by 13/2013 s 70(2)	1.3.2014
s 100(6)	inserted by 13/2013 s 70(3)	9.5.2015
s 101		
s 101(1)	s 101 amended and redesignated as s 101(1) by 13/2013 s 71(1)—(3)	7.2.2014
	amended by 26/2014 s 178	29.3.2015
	amended by 22/2023 s 6	1.9.2023
	amended by 41/2023 s 69	1.3.2024
s 101(2)	inserted by 13/2013 s 71(3)	7.2.2014
<i>Pt 7 before substitution by 13/2013</i>		
<i>s 105A</i>	<i>inserted by 21/1998 s 25</i>	28.5.1998
Pt 7	substituted by 13/2013 s 72	1.3.2014 except ss 105L(2) and 105M—9.5.2015
Pt 7 Div 1A	inserted by 41/2023 s 70	1.7.2024
Pt 7 Div 2		
s 105		
s 105(1)	amended by 41/2023 s 71(1), (2)	1.3.2024
Pt 7 Div 3		
s 105C		
s 105C(4)	amended by 41/2023 s 72	1.3.2024

Residential Tenancies Act 1995—1.7.2024

Legislative history

s 105D		
s 105D(1)	amended by 41/2023 s 73(1), (2)	1.3.2024
Pt 7 Div 4		
s 105E		
s 105E(1)	amended by 41/2023 s 74(1)	1.3.2024
s 105E(4)	amended by 41/2023 s 74(2)	1.3.2024
s 105F		
s 105F(1)	amended by 41/2023 s 75(1), (2)	1.3.2024
s 105F(2)	amended by 41/2023 s 75(3), (4)	1.3.2024
s 105F(3)	amended by 41/2023 s 75(5), (6)	1.3.2024
s 105G		
s 105G(1)	amended by 41/2023 s 76(1), (2)	1.3.2024
s 105G(2)	amended by 41/2023 s 76(3), (4)	1.3.2024
s 105I		
s 105I(3)	substituted by 36/2016 Sch 1 cl 19	3.4.2017
s 105K	amended by 41/2023 s 77(1)	1.3.2024
s 105K(1)	s 105K redesignated as s 105K(1) by 41/2023 s 77(2)	1.7.2024
s 105K(2) and (3)	inserted by 41/2023 s 77(2)	1.7.2024
s 105L		
s 105L(1)	amended by 41/2023 s 78(1), (2)	1.3.2024
s 105L		
s 105L(2)	amended by 41/2023 s 78(4), (5)	1.3.2024
	amended by 41/2023 s 78(3)	1.7.2024
s 105L(3) and (4)	inserted by 41/2023 s 78(6)	1.7.2024
s 105M		
s 105M(2)	amended by 41/2023 s 79(1)	1.7.2024
s 105M(4)	amended by 41/2023 s 79(2)	1.7.2024
s 105M(5)	amended by 41/2023 s 79(3)	1.7.2024
s 105M(8)	amended by 41/2023 s 79(4)	1.7.2024
s 105M(10)	amended by 41/2023 s 79(5)	1.7.2024
s 105M(12a)	inserted by 41/2023 s 79(6)	1.7.2024
s 105M(13)	amended by 41/2023 s 79(7), (8)	1.7.2024
s 105M(14)—(16)	inserted by 41/2023 s 79(9)	1.7.2024
s 105N		
s 105N(2)	amended by 41/2023 s 80	1.3.2024
s 105O		
s 105O(2)	amended by 41/2023 s 81	1.3.2024
s 105P		
s 105P(3)	substituted by 36/2016 Sch 1 cl 20	3.4.2017
s 105PA	inserted by 41/2023 s 82	1.7.2024
s 105Q		
s 105Q(3)	inserted by 41/2023 s 83	1.7.2024

s 105R		
s 105R(2)	amended by 41/2023 s 84	1.3.2024
s 105S		
s 105S(3)	amended by 41/2023 s 85(1), (2)	1.3.2024
s 105T	amended by 41/2023 s 86	1.3.2024
Pt 7 Div 5		
s 105U		
s 105U(6)	amended by 41/2023 s 87(1), (2)	1.7.2024
s 105U(6a) and (6b)	inserted by 36/2016 Sch 1 cl 21	3.4.2017
s 105UA	inserted by 43/2015 s 9	10.12.2015
s 105UA(7)	amended by 64/2017 s 124	22.10.2018
s 105W		
s 105W(1)	amended by 41/2023 s 88(1)	1.7.2024
s 105W(2)	amended by 41/2023 s 88(1)	1.7.2024
s 105W(4)	amended by 41/2023 s 88(2)	1.3.2024
Pt 8		
Pt 8 Div 1	substituted by 13/2013 s 73	1.3.2014
Pt 8 Div 1 Subdiv 1		
s 106		
conciliation conference	substituted by 26/2014 s 179	29.3.2015
Pt 8 Div 1 Subdiv 2		
s 107		
s 107(3)	amended by 26/2014 s 180(1)	29.3.2015
s 107(6)	amended by 26/2014 s 180(2)	29.3.2015
<i>Pt 8 Div 1 Subdiv 3</i>	<i>deleted by 26/2014 s 181</i>	<i>29.3.2015</i>
Pt 8 Div 1 Subdiv 4		
s 108A	amended by 26/2014 s 182	29.3.2015
s 108B		
s 108B(1)	amended by 26/2014 s 183(1)	29.3.2015
s 108B(2)	amended by 26/2014 s 183(1)	29.3.2015
s 108B(3)	amended by 26/2014 s 183(1)	29.3.2015
s 108B(4)	amended by 26/2014 s 183(1)	29.3.2015
s 108B(5)	amended by 26/2014 s 183(1)	29.3.2015
s 108B(7)	substituted by 26/2014 s 183(2)	29.3.2015
<i>s 108B(9)</i>	<i>deleted by 26/2014 s 183(3)</i>	<i>29.3.2015</i>
s 108B(10)	substituted by 26/2014 s 183(4)	29.3.2015
Pt 8 Div 3		
s 110		
s 110(1)	s 110 amended and redesignated as s 110(1) by 55/1999 s 7(a)—(c)	3.10.1999
	amended by 13/2013 s 74(1)—(3)	1.3.2014
s 110(2)	inserted by 55/1999 s 7(c)	3.10.1999

Residential Tenancies Act 1995—1.7.2024

Legislative history

s 112		
s 112 (1a)	inserted by 43/2015 s 10	10.12.2015
s 112 (1b)	inserted by 43/2015 s 10	10.12.2015
	amended by 64/2017 s 125	22.10.2018
Pt 8 Div 4		
s 113		
s 113(1)	amended by 13/2013 s 75(1)	1.3.2014
	amended by 26/2014 s 184	29.3.2015
s 113(3)	amended by 13/2013 s 75(2), (3)	1.3.2014
s 114	amended by 13/2013 s 76	1.3.2014
	amended by 26/2014 s 185	29.3.2015
	amended by 41/2023 s 89	1.3.2024
Pt 8 Div 5	inserted by 41/2023 s 90	1.7.2024
Pt 9		
s 115		
s 115(3)	amended by 13/2013 s 77	1.3.2014
	amended by 41/2023 s 91	1.3.2024
s 116	<i>deleted by 13/2013 s 78</i>	<i>1.3.2014</i>
s 117A	inserted by 13/2013 s 79	1.3.2014
s 119		
s 119(1)	amended by 21/1998 s 26	28.5.1998
s 119(3)	amended by 13/2013 s 80	1.3.2014
	amended by 41/2023 s 92	1.3.2024
s 120		
s 120(1)	amended by 13/2013 s 81(1)	1.3.2014
	amended by 41/2023 s 93	1.3.2024
s 120(2)	<i>deleted by 13/2013 s 81(2)</i>	<i>1.3.2014</i>
s 121		
heading	amended by 41/2023 s 94(1)	1.3.2024
s 121(2)	amended by 41/2023 s 94(2)	1.3.2024
s 121(3)	amended by 13/2013 s 82(1)	1.3.2014
s 121(4)	inserted by 34/1996 s 4 (Sch cl 29)	3.2.1997
	amended by 13/2013 s 82(2)	1.3.2014
s 121(5) and (6)	inserted by 41/2023 s 94(3)	1.3.2024
<i>Sch before deletion by 13/2013</i>	<i>heading substituted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
<i>Div 1</i>	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
<i>Div 2 heading</i>	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
<i>Div 3</i>	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
<i>Sch</i>	<i>deleted by 13/2013 s 83</i>	<i>1.3.2014</i>
Sch 1	inserted by 13/2013 s 83	1.3.2014 except cl 5—9.5.2015
Sch 2	inserted by 45/2016 s 7	3.7.2017
Sch 3	inserted by 41/2023 s 95	1.7.2024

Transitional etc provisions associated with Act or amendments

Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996

5—Transitional provision

An Act repealed or amended by this Act will continue to apply (as in force immediately prior to the repeal or amendment coming into operation) to an expiation notice issued under the repealed or amended Act.

Statutes Amendment (SACAT) Act 2014

186—Transitional provisions

- (1) In this section—

principal Act means the *Residential Tenancies Act 1995*;

relevant day means the day on which this Part comes into operation;

Residential Tenancies Tribunal means the Tribunal established under the *Residential Tenancies Act 1995*;

Tribunal means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

- (2) A decision (including a decision in the nature of a declaration), direction or order of the Residential Tenancies Tribunal under the principal Act in force immediately before the relevant day will, on and from the relevant day, be taken to be a decision, direction or order of the Tribunal.
- (3) A right to make any application or to seek a review under the principal Act with respect to any matter in existence before the relevant day, with the effect that the relevant proceedings would have been commenced before the Residential Tenancies Tribunal, will be exercised as if this Part had been in operation before the right arose, so that the relevant proceedings may be commenced instead before the Tribunal.
- (4) Any proceedings before the Residential Tenancies Tribunal under the principal Act immediately before the relevant day will, subject to such directions as the President of the Tribunal thinks fit, be transferred to the Tribunal where they may proceed as if they had been commenced before the Tribunal.
- (5) The Tribunal may—
- (a) receive in evidence any transcript of evidence in proceedings before the Residential Tenancies Tribunal, and draw any conclusions of fact from that evidence that appear proper; and
 - (b) adopt any findings or determinations of the Residential Tenancies Tribunal that may be relevant to proceedings before the Tribunal; and
 - (c) adopt or make any decision (including a decision in the nature of a declaration), direction or order in relation to proceedings before the Residential Tenancies Tribunal before the relevant day (including so as to make a decision or declaration, or a direction or order, in relation to proceedings fully heard before the relevant day); and
 - (d) take other steps to promote or ensure the smoothest possible transition from 1 jurisdiction to another in connection with the operation of this section.

-
- (6) The Tribunal may, on application under section 37 of the principal Act made after the relevant date, vary or set aside an order of the Residential Tenancies Tribunal made before the relevant date.
 - (7) The Residential Tenancies Tribunal is dissolved by force of this subsection.
 - (8) A member of the Residential Tenancies Tribunal holding office when subsection (7) comes into operation will cease to hold office at that time and any contract of employment, agreement or arrangement relating to the office held by that member is terminated by force of this subsection at the same time (but any such termination will not affect any right of action that a person may have against a Minister or the State on account of that termination).
 - (9) Nothing in this section—
 - (a) affects the ability to register an order of the Residential Tenancies Tribunal made before the relevant day in an appropriate court, as provided for by section 36 of the principal Act before its repeal by this Act; or
 - (b) affects a right to appeal to the Administrative and Disciplinary Division of the District Court against a decision, direction or order of the Residential Tenancies Tribunal made or given before the relevant day.

Residential Tenancies (Protection of Prospective Tenants) Amendment Act 2023, Sch 1

1—Transitional provisions

- (1) Subject to this clause, Part 4 Division 14A applies to a person who holds tenant information on or after the commencement of this subclause, whether the tenant information was provided before or after that commencement.
- (2) However—
 - (a) section 76B(2)(a) of Part 4 Division 14A does not apply to a person who holds tenant information provided by a successful tenant in respect of a residential tenancy agreement where the tenancy ended more than 2 years before the commencement of this subclause if the person takes such steps as are reasonable in the circumstances to destroy the tenant information within 12 months of that commencement; and
 - (b) paragraph (b) of section 76B(2) of Part 4 Division 14A does not apply to a person who holds tenant information to which that paragraph would otherwise apply if the person takes such steps as are reasonable in the circumstances to destroy the tenant information within 12 months of the commencement of this subclause.
- (3) In this clause—

Part 4 Division 14A means Part 4 Division 14A of the *Residential Tenancies Act 1995* (as inserted by section 5 of this Act).
- (4) Terms used in this clause and in Part 4 Division 14A have the same meaning in this clause as they do in Part 4 Division 14A.

Historical versions

Reprint No 1—3.2.1997

Reprint No 2—28.5.1998
Reprint No 3—1.7.1999
Reprint No 4—3.10.1999
Reprint No 5—1.7.2002
Reprint No 6—24.11.2003
18.1.2007
5.11.2007
11.2.2008
1.2.2010
28.2.2013
8.6.2013
7.2.2014
1.3.2014
1.4.2014
29.3.2015
9.5.2015
10.12.2015
3.4.2017
3.7.2017
14.12.2017
1.1.2018
22.10.2018
1.7.2020
1.9.2023
1.3.2024