

Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022

Amendments during consideration in detail to be moved by
The Honourable the Deputy Premier, Minister for State Development,
Infrastructure, Local Government and Planning and Minister Assisting the
Premier on Olympic and Paralympic Games Infrastructure

1 Clause 2 (Commencement)

Page 10, line 7—

omit, insert—

- (1) This Act, other than parts 4A and 4B, commences on a day to be fixed by proclamation.
- (2) Parts 4A and 4B commence on 1 July 2023.

2 After clause 58

Page 161, after line 14—

insert—

| | |
|----------------|--|
| Part 4A | Amendment of Residential Tenancies and Rooming Accommodation Act 2008 |
|----------------|--|

58A Act amended

This part amends the *Residential Tenancies and Rooming Accommodation Act 2008*.

58B Amendment of s 91 (Rent increases)

- (1) Section 91(4)—

omit, insert—

- (4) The day stated in the notice must not be

earlier than the later of the following—

- (a) 2 months after the day the notice is given to the tenant;
 - (b) the end of the minimum period before the rent may be increased under section 93.
- (2) Section 91(6), after paragraph (a)—
insert—
- (aa) the increased rent is not payable before the end of the minimum period before the rent may be increased under section 93; and
- (3) Section 91(6)(aa) and (b)—
renumber as section 91(6)(b) and (c).

58C Amendment of s 93 (Minimum period before rent can be increased)

- (1) Section 93(1) to (5)—
omit, insert—
- (1) A lessor or lessor’s agent must not increase the rent payable by a tenant under a residential tenancy agreement less than 12 months after—
 - (a) the day of the last increase for the agreement; or
 - (b) if there has not been an increase for the agreement, the first day the tenant was required to pay rent under the agreement.

Maximum penalty—20 penalty units.

- (2) If at least 1 tenant’s right to occupy the same premises is continued across 2 or more residential tenancy agreements, subsection (1) applies as if the agreements were a single

residential tenancy agreement.

- (3) For subsection (1), it does not matter whether or not the lessor or agent who increases the rent is the same person as the lessor or agent who last increased the rent.
- (4) Nothing in this section prevents the lessor or agent from giving notice of an increase in rent within the 12 months mentioned in subsection (1) provided the increase does not take effect until the end of the 12 months.
- (2) Section 93(6)—
renumber as section 93(5).
- (3) Section 93—
insert—
- (6) In this section—
increase includes purportedly increase.

58D Amendment of s 105 (Rent increases)

- (1) Section 105(2)(b), ‘, not earlier than 4 weeks after the day the notice is given,’—
omit.
- (2) Section 105—
insert—
 - (2A) The day stated in the notice must not be earlier than the later of the following—
 - (a) 4 weeks after the day the notice is given to the resident;
 - (b) the end of the minimum period before the rent may be increased under section 105B.
- (3) Section 105(4), after paragraph (a)—
insert—

- (aa) the increased rent is not payable before the end of the minimum period before the rent may be increased under section 105B; and
- (4) Section 105(4)(aa) and (b)—
renumber as section 105(4)(b) and (c).

58E Insertion of new s 105B

After section 105A—

insert—

105B Minimum period before rent can be increased

- (1) A provider or provider's agent must not increase the rent payable by a resident under a rooming accommodation agreement less than 12 months after—
 - (a) the day of the last increase for the agreement; or
 - (b) if there has not been an increase for the agreement, the first day the resident was required to pay rent under the agreement.

Maximum penalty—20 penalty units.

- (2) If at least 1 resident's right to occupy the same room is continued across 2 or more rooming accommodation agreements, subsection (1) applies as if the agreements were a single rooming accommodation agreement.
- (3) For subsection (1), it does not matter whether or not the provider or agent who increases the rent is the same person as the provider or agent who last increased the rent.
- (4) Nothing in this section prevents a provider or agent from giving notice of an increase in

rent within the 12 months mentioned in subsection (1) provided the increase does not take effect until the end of the 12 months.

(5) In this section—

increase includes purportedly increase.

58F Amendment of s 154 (Increase in rental bond)

Section 154(a)—

insert—

Note—

See sections 91 and 105 for the requirements to be met before rent may be increased.

58G Amendment of s 277 (Ending of residential tenancy agreements)

Section 277(b) and (c), ‘before’—

omit, insert—

after

58H Insertion of new ch 14, pt 7

Chapter 14—

insert—

Part 7

Transitional provisions for Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Act 2023

575 Limit on frequency of rental increases applies to all agreements from 1 July 2023

- (1) Sections 91 and 93 as amended by the 2023 amendment Act apply to all residential tenancy agreements in effect after 30 June 2023 regardless of when the agreements started.

Note—

If a term of a residential tenancy agreement is inconsistent with section 91 or 93, as amended, the section prevails and the term is void to the extent of the inconsistency. See section 54.

- (2) Section 105 as amended by the 2023 amendment Act, and section 105B inserted by the 2023 amendment Act, apply to all rooming accommodation agreements in effect after 30 June 2023 regardless of when the agreement started.

Note—

If a term of a rooming accommodation agreement is inconsistent with section 105 or 105B, as amended, the section prevails and the term is void to the extent of the inconsistency. See section 76.

- (3) In this section—

2023 amendment Act means the *Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Act 2023*.

576 Amendment of section 277

- (1) The replacement of section 277 by the 2021 amendment Act, and the amendment of section 277 by the 2023 amendment Act, are taken to have not affected the ending of a residential tenancy agreement on a day before 1 July 2023 if—
 - (a) the lessor or lessor’s agent gave the tenant a notice to leave under section

326 and the tenant handed over vacant possession of the premises; or

(b) the tenant gave the lessor or lessor's agent a notice of intention to leave under section 327 and the tenant handed over vacant possession of the premises.

(2) In this section—

2021 amendment Act means the *Housing Legislation Amendment Act 2021*.

2023 amendment Act means the *Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Act 2023*.

Part 4B Amendment of Residential Tenancies and Rooming Accommodation Regulation 2009

58I Regulation amended

This part amends the *Residential Tenancies and Rooming Accommodation Regulation 2009*.

58J Amendment of sch 1, pt 2, cl 10 (Rent increases—ss 91 and 93)

(1) Schedule 1, part 2, clause 10(3)(b), '6 months'—
omit, insert—

12 months

(2) Schedule 1, part 2, clause 10(5), after paragraph (a)—

insert—

- (aa) the increased rent is not payable before the end of the minimum period before the rent may be increased under section 93; and
- (3) Schedule 1, part 2, clause 10(5)(aa) and (b)—
renumber as schedule 1, part 2, clause 10(5)(b) and (c).

58K Amendment of sch 1, pt 2, cl 36 (Ending of agreement—s 277)

Schedule 1, part 2, clause 36(1)(b) and (c),
'before'—
omit, insert—
after

58L Amendment of sch 2, pt 2, cl 10 (Rent increases—ss 91 and 93)

- (1) Schedule 2, part 2, clause 10(3)(b), '6 months'—
omit, insert—
12 months
- (2) Schedule 2, part 2, clause 10(5), after paragraph (a)—
insert—
 - (aa) the increased rent is not payable before the end of the minimum period before the rent may be increased under section 93; and
- (3) Schedule 2, part 2, clause 10(5)(aa) and (b)—
renumber as schedule 2, part 2, clause 10(5)(b) and (c).

58M Amendment of sch 2, pt 2, cl 42 (Ending of agreement—s 277)

Schedule 2, part 2, clause 42(1)(b) and (c),
'before'—

omit, insert—

after

58N Amendment of sch 3, pt 2, cl 34 (Ending of agreement—s 277)

Schedule 3, part 2, clause 34(1)(b) and (c),
'before'—

omit, insert—

after

58O Amendment of sch 3A, pt 2, cl 33 (Ending of agreement—s 277)

Schedule 3A, part 2, clause 33(1)(b) and (c),
'before'—

omit, insert—

after

58P Amendment of sch 4, pt 2, cl 8 (Rent increases—s 105)

(1) Schedule 4, part 2, clause 8, heading, 's 105'—

omit, insert—

ss 105 and 105B

(2) Schedule 4, part 2, clause 8(5), after paragraph
(a)—

insert—

(aa) the increased rent is not payable before
the end of the minimum period before

the rent may be increased under section
105B; and

- (3) Schedule 4, part 2, clause 8(5)(aa) and (b)—
renumber as schedule 4, part 2, clause 8(5)(b) and
(c).

3 Long title

Long title, ‘and the *Local Government Electoral Act 2011*’—
omit, insert—

**, the *Local Government Electoral Act 2011*, the
*Residential Tenancies and Rooming
Accommodation Act 2008* and the *Residential
Tenancies and Rooming Accommodation
Regulation 2009***

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