

# Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Bill 2024

Amendments during consideration in detail to be moved by  
The Honourable the Minister for Housing, Local Government and Planning  
and Minister for Public Works

## 1 After clause 7

Page 14, after line 28—

*insert—*

### **7A Insertion of new s 57AA**

After section 57A—

*insert—*

#### **57AA Offer of residential tenancy—limitation on rent in advance**

- (1) This section applies if a residential tenancy for premises is advertised or otherwise offered by a lessor or lessor's agent.
- (2) A person must not solicit or otherwise invite an offer, or accept an offer, of an amount of rent in advance for the premises that is more than the amount required under section 87(1).

Maximum penalty—50 penalty units.

## 2 Clause 8 (Amendment of s 61 (Written agreements required))

Page 15, line 2, 'Section'—

*omit, insert—*

- (1) Section

## 3 Clause 8 (Amendment of s 61 (Written agreements required))

Page 15, after line 6—

*insert—*

(2) Section 61—

*insert—*

(2A) However, subsection (2)(c) does not apply if the lessor is an exempt lessor.

**4 Clause 10 (Insertion of new s 76AA)**

Page 15, line 11, ‘s 76AA’—

*omit, insert—*

**ss 76AA and 76AB**

**5 Clause 10 (Insertion of new s 76AA)**

Page 16, after line 9—

*insert—*

**76AB Offer of rooming  
accommodation—limitation on rent in  
advance**

(1) This section applies if rooming accommodation for rental premises is advertised or otherwise offered by a provider or provider’s agent.

(2) A person must not solicit or otherwise invite an offer, or accept an offer, of an amount of rent in advance for the rental premises that is more than the amount required under section 101(1).

Maximum penalty—50 penalty units.

**6 Clause 11 (Amendment of s 77 (Written agreement required))**

Page 16, after line 22—

*insert—*

(2A) However, subsection (2)(c) does not apply if the provider is an exempt provider.

**7 Clause 12 (Insertion of new s 82A)**

Page 16, line 27, ‘In this division, a lessor’—  
*omit, insert—*

A lessor

**8 Clause 13 (Amendment of s 87 (Rent in advance))**

Page 17, line 23 to page 18, line 4—  
*omit.*

**9 Clause 14 (Amendment of s 91 (Rent increases))**

Page 18, after line 14—  
*insert—*

(2A) Section 91—  
*insert—*

(3A) However, subsection (3)(c) does not apply if the lessor is an exempt lessor.

(2B) Section 91(4), after ‘day stated in the notice’—  
*insert—*

under subsection (3)(b)

**10 Clause 16 (Insertion of new ss 93A and 93B)**

Page 20, after line 32—  
*insert—*

(4) This section does not apply in relation to an exempt lessor or an agent of an exempt lessor.

**11 After clause 17**

Page 22, after line 1—

*insert—*

**17A Insertion of new s 97A**

Before section 98—

*insert—*

**97A Meaning of *exempt provider***

A provider of rooming accommodation is an ***exempt provider*** if—

- (a) the provider receives funding for the rooming accommodation under the *Housing Act 2003* if the amount of rent payable for the rooming accommodation is determined by household income; or

*Examples—*

- a community housing provider, a specialist homelessness service
- (b) the provider receives funding for the rooming accommodation that is the subject of a funding declaration under the *Community Services Act 2007* if the amount of rent payable for the rooming accommodation is determined by household income; or
- (c) the provider is the chief executive of the housing department, acting on behalf of the State; or
- (d) the provider is prescribed by regulation to be an exempt provider.

**12 Clause 18 (Amendment of s 101 (Rent in advance))**

Page 22, lines 2 to 11—

*omit.*

**13 After clause 18**

Page 22, after line 11—

*insert—*

**18A Amendment of s 105 (Rent increases)**

(1) Section 105(2)—

*insert—*

(c) the day the rent was last increased for the resident's room.

(2) Section 105, after subsection (2)—

*insert—*

(2AA) However, subsection (2)(c) does not apply if the provider is an exempt provider.

(3) Section 105(2A), after 'day stated in the notice'—

*insert—*

under subsection (2)(b)

**14 Clause 19 (Amendment of s 105B (Minimum period before rent can be increased))**

Page 23, lines 31 to 34—

*omit, insert—*

(4A) This section does not apply—

(a) to an exempt provider or an agent of an exempt provider; or

(b) to the extent the rent payable under a rooming accommodation agreement is increased under an order of the tribunal under section 105E.

**15 Clause 20 (Insertion of new ss 105C–105E)**

Page 24, after line 24—

*insert—*

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- (4) This section does not apply in relation to an exempt provider or an agent of an exempt provider.

**16 Clause 47 (Insertion of new ch 14, pt 8)**

Page 38, after line 21—

*insert—*

**579A Requirement for lessor to give evidence of rent increase if premises purchased within 12 months of commencement**

- (1) This section applies if—
- (a) premises the subject of a residential tenancy agreement are purchased by the lessor within 12 months after the commencement; and
  - (b) the lessor does not hold information about the day of the last rent increase for the premises.
- (2) New section 93A(2) does not apply to the lessor or lessor’s agent in relation to the premises.
- (3) For subsection (1)(b), the lessor holds information if the lessor, or an agent of the lessor, is in possession or control of the information.

**579B Requirement for provider to give evidence of rent increase if rental premises purchased within 12 months of commencement**

- (1) This section applies if—
- (a) rental premises the subject of a rooming accommodation agreement are purchased by the provider within 12 months after the commencement; and
  - (b) the provider does not hold information about the day of the last rent increase for the resident’s room.

(2) New section 105C(2) does not apply to the provider or provider's agent in relation to the resident's room.

(3) For subsection (1)(b), the provider holds information if the provider, or an agent of the provider, is in possession or control of the information.

**17 Clause 49 (Amendment of sch 2 (Dictionary))**

Page 40, line 13, ', for chapter 2, part 2, division 1,'—  
*omit.*

**18 Clause 49 (Amendment of sch 2 (Dictionary))**

Page 40, after line 14—  
*insert—*

*exempt provider* see section 97A.

**19 Clause 50 (Insertion of new ss 57B–57D)**

Page 41, lines 6 and 7, 'an exempt'—  
*omit, insert—*

a relevant

**20 Clause 50 (Insertion of new ss 57B–57D)**

Page 42, line 4—  
*omit, insert—*

*relevant lessor* means—

**21 Clause 50 (Insertion of new ss 57B–57D)**

Page 42, lines 21 and 22, 'an exempt lessor'—  
*omit, insert—*

a relevant lessor

**22 Clause 57 (Amendment of s 166 (Water service charges for premises other than moveable dwelling premises))**

Page 54, after line 29—

*insert—*

(1A) Section 166—

*insert—*

(8A) This section applies subject to section 166A.

**23 Clause 57 (Amendment of s 166 (Water service charges for premises other than moveable dwelling premises))**

Page 54, line 31, '(12)'—

*omit, insert—*

(13)

**~~24 After clause 57~~**

~~Page 54, after line 31—~~

~~*insert—*~~

~~**166A Water service charges for premises other than moveable dwelling premises—charge for partial billing period**~~

~~(1) This section applies if—~~

- ~~(a) under section 166, a tenant would otherwise be required to pay an amount for water consumption charges for the premises for a period; and~~
- ~~(b) the premises are individually metered for the supply of water; and~~
- ~~(c) the premises are water efficient for the purposes of section 166 during the period; and~~



- ~~(d) the period includes part, but not all, of a period (the *partial billing period*) specified, or to be specified, in a water consumption charges document.~~

~~Examples—~~

- ~~• The agreement takes effect on 1 February, part way through the period of 1 January to 31 March specified in a water consumption charges document. The partial billing period is 1 February to 31 March.~~
- ~~• The agreement terminates on 1 November, part way through the period of 1 October to 31 December specified in a water consumption charges document. The partial billing period is 1 October to 1 November.~~

- ~~(2) The tenant may not be required to pay an amount for water consumption charges for the premises for the partial billing period unless—~~

- ~~(a) a meter reading for the premises is taken at the following time and recorded in a condition report under section 65 or 66—~~

~~(i) if the partial billing period starts when the agreement takes effect—when the agreement takes effect;~~

~~(ii) if the partial billing period ends when the agreement is terminated—when the tenant hands over vacant possession of the premises; and~~

- ~~(b) the amount is calculated based on—~~

~~(i) a reasonable estimate of the volume of water supplied to the premises during the partial billing period having regard to the meter reading mentioned in paragraph (a); and~~

~~(ii) the rate used to calculate the water consumption charge stated in the most recent water consumption charges document.~~

~~(3) Section 166(6) to (9) does not apply in relation to the water consumption charges document that includes the partial billing period.~~

~~(4) In this section—~~

~~*water consumption charge* see section 166(13).~~

~~*water consumption charges document* means a document, issued to the lessor by the relevant water supplier, stating the amount of water consumption charges for the premises that are payable to the supplier.~~

## 25 **Clause 64 (Replacement of ss 207–209)**

Page 58, lines 9 to 11—

*omit, insert—*

given by the lessor or body corporate.

*Note—*

For the lessor's approval and conditions, see also section 209.

## 26 **Clause 67 (Replacement of ss 254–256)**

Page 63, lines 27 to 29—

*omit, insert—*

given by the provider or body corporate.

*Note—*

For the provider's approval and conditions, see also section 255A.

## 27 **Clause 72 (Amendment of s 357A (Reletting costs))**

Page 69, line 29 to page 70, line 2—

*omit.*

- 28 Clause 73 (Amendment of s 396A (Reletting costs))**  
Page 72, lines 1 to 4—  
*omit.*
- 29 Clause 80 (Insertion of new ch 9, pt 2 and ch 9, pt 3, hdg)**  
Page 76, line 30, ‘premises’—  
*omit, insert—*  
agreement
- 30 Clause 80 (Insertion of new ch 9, pt 2 and ch 9, pt 3, hdg)**  
Page 77, line 4, ‘premises’—  
*omit, insert—*  
agreement
- 31 Clause 80 (Insertion of new ch 9, pt 2 and ch 9, pt 3, hdg)**  
Page 77, lines 15 to 20—  
*omit, insert—*  
resident—destroyed in a secure way  
within—  
(i) 3 months after a residential tenancy  
agreement or a rooming  
accommodation agreement for the  
tenancy or accommodation for which  
the applicant applied commences; or  
(ii) a longer period agreed to by the  
applicant.
- 32 Clause 80 (Insertion of new ch 9, pt 2 and ch 9, pt 3, hdg)**  
Page 77, line 27, ‘3 years’—  
*omit, insert—*

7 years

**33 Clause 85 (Insertion of new ch 14, pt 8, div 3)**

Page 81, after line 27—

*insert—*

**585A Maximum amount of rental bond—provision for existing rental bonds**

- (1) This section applies if—
  - (a) before the commencement, a rental bond was paid for a residential tenancy agreement or rooming accommodation agreement; and
  - (b) under section 122 of the Act, the rental bond is taken to be a rental bond for a renewal agreement; and
  - (c) after the commencement, the amount of the rental bond is more than the amount that may be required or accepted under new section 146 for the renewal agreement.
- (2) The tenant or resident may make an application to the authority for payment of the part of the rental bond that is equivalent to the difference between the amount held by the authority and the amount that may be required or accepted under new section 146 (the *excess amount*).
- (3) The application—
  - (a) must be made in the approved form; and
  - (b) may only direct a payment of the excess amount to be made to the contributor for the bond.
- (4) Despite section 124, the authority may pay the excess amount—
  - (a) if there is only 1 contributor—to the contributor; or

- (b) if there is more than 1 contributor and all contributors have made the application—to each contributor in the way directed in the application.
- (5) The authority must give the lessor, provider or agent notice of the amount of the rental bond held by the authority for the renewal agreement after the excess amount has been refunded to the tenant or resident.
- (6) Chapter 2, part 3, division 3 does not apply to an application made under this section.
- (7) For this section, section 150(4) is taken to include a reference to amounts payable under this section.
- (8) To remove any doubt, it is declared that a person does not commit an offence under new section 146(1) in relation to a rental bond to which this section applies.
- (9) In this section—  
*renewal agreement* see section 122.

**34 After clause 95**

Page 90, after line 2—

*insert—*

**Division 1A      Amendment of Building  
Industry Fairness (Security  
of Payment) Act 2017**

**95A Act amended**

This division amends the *Building Industry Fairness (Security of Payment) Act 2017*.

### **95B Amendment of s 79 (Application for adjudication)**

- (1) Section 79(2)(e)—  
*omit.*
- (2) Section 79(3)—  
*omit, insert—*
- (3) The adjudication application may be accompanied by submissions relevant to the application.
- (3A) The claimant must give the following documents to the respondent within 4 business days after making the adjudication application—
  - (a) a copy of the adjudication application;
  - (b) a copy of the submissions, if any, accompanying the application under subsection (3).
- (3) Section 79—  
*insert—*
- (5) In this section—  
*copy*, of an adjudication application, includes a document containing details of the application given to the claimant by the registrar for the purpose of the claimant complying with the claimant’s obligation under subsection (4)(a).
- (4) Section 79(3A) to (5)—  
*renumber* as section 79(4) to (6).

### **95C Amendment of s 83 (Time for making adjudication response)**

Section 83(1)(a), (2)(a) and (4)(b)(i), ‘a copy of the adjudication application’—

*omit, insert—*

the documents mentioned in section 79(4)

## **95D Insertion of new ch 8D**

Before chapter 9—

*insert—*

# **Chapter 8D Validation provisions for Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024**

## **215C Definitions for chapter**

In this chapter—

*former*, for a provision of this Act, means the provision as in force from time to time before the commencement.

*registry summary*, of an adjudication application, means a document given to the claimant by the registrar that includes at least the following details of the application—

- (a) the name of the claimant;
- (b) the name of the respondent;
- (c) the date the application was made.

### **215D Validation of non-compliance with former section 79(3)**

- (1) This section applies if, before the commencement—
  - (a) a claimant made an adjudication application; and
  - (b) the claimant did not give a copy of the adjudication application to the respondent as required under former section 79(3); and
  - (c) the claimant gave the respondent a registry summary of the adjudication application.
- (2) The claimant is taken to have complied with former section 79(3).

### **215E Validation of adjudication decision made before commencement—registry summary given to respondent**

- (1) This section applies if, before the commencement—
  - (a) an adjudicator purportedly made a decision under section 88 (the *relevant decision*) on an adjudication application; and
  - (b) the adjudicator did not have jurisdiction to make the relevant decision only because the claimant did not give a copy of the adjudication application to the respondent as required under former section 79(3); and
  - (c) the claimant gave a registry summary of the adjudication application to the respondent.
- (2) Despite the absence of jurisdiction



mentioned in subsection (1)(b)—

- (a) the relevant decision is as valid as it would have been if the claimant had complied with former section 79(3) and the adjudicator had jurisdiction to make the decision; and
  - (b) anything done or purportedly done as a result of, or in reliance on, the relevant decision is taken to be, and always to have been, as valid and lawful as it would have been if, at the time the thing was done, the adjudicator had jurisdiction to make the relevant decision as mentioned in paragraph (a).
- (3) This section applies even if a proceeding relating to the adjudication application has been commenced in a court.

**215F Declaration of court made before commencement that adjudication void is of no effect**

- (1) This section applies if, before the commencement, a court in a proceeding—
  - (a) declared that a decision made under section 88 on an adjudication application was void only because the adjudicator did not have jurisdiction to make the decision because the claimant did not give a copy of the adjudication application to the respondent as required under former section 79(3); and
  - (b) found that the claimant gave a registry summary of the adjudication application to the respondent.
- (2) The declaration of the court is of no effect.

- (3) Despite the declaration of the court—
  - (a) the decision made under section 88 is as valid as it would have been if the claimant had complied with former section 79(3) and the adjudicator had jurisdiction to make the decision; and
  - (b) anything done or purportedly done as a result of, or in reliance on, the decision made under section 88 is taken to be, and always to have been, as valid and lawful as it would have been if, at the time the thing was done, the adjudicator had jurisdiction to make the decision as mentioned in paragraph (a).
- (4) If the adjudicator decided in the adjudication that the respondent was required to pay an adjudicated amount, for the purposes of section 90, the respondent is taken to have received a copy of the adjudicator’s decision on the day that is 30 business days after the commencement.
- (5) If the court made any other order in the proceeding, including, for example, an order as to costs, a party to the proceeding may apply to the court to vary the order.
- (6) The court may hear and decide an application under subsection (5) and make the orders it considers appropriate having regard to the operation of this chapter.

**215G Adjudication application must be re-decided if adjudicator decided before commencement that adjudicator did not have jurisdiction**

- (1) This section applies if, before the commencement—

- (a) a claimant made an adjudication application; and
  - (b) the claimant did not give a copy of the adjudication application to the respondent as required under former section 79(3); and
  - (c) the claimant gave the respondent a registry summary of the adjudication application; and
  - (d) an adjudicator (the *original adjudicator*) was appointed under section 81; and
  - (e) the original adjudicator decided under section 84(2)(a)(i) that the original adjudicator did not have jurisdiction to adjudicate the application only because the claimant did not give a copy of the adjudication application to the respondent as required under former section 79(3).
- (2) The decision of the original adjudicator is void and of no effect.
  - (3) On the commencement, the registrar is taken to refer the adjudication application to the original adjudicator for a decision.
  - (4) The original adjudicator must accept or reject the referral, unless the original adjudicator has a reasonable excuse, within 14 business days after the commencement by notifying the registrar of the acceptance or rejection.
  - (5) If the original adjudicator rejects the referral or does not accept it within the period required under subsection (4)—
    - (a) the registrar must refer the adjudication application to another adjudicator (the *new adjudicator*) within 4 business

- days after becoming aware of the rejection or failure; and
- (b) no fee is payable for referring the adjudication application to the new adjudicator.
- (6) The new adjudicator must accept or reject the referral, unless the new adjudicator has a reasonable excuse, within 4 business days after the referral under subsection (5)(a).
- (7) If the original adjudicator or the new adjudicator accepts the referral—
- (a) the adjudicator is taken to be appointed to decide the adjudication application; and
  - (b) the failure of the claimant to comply with former section 79(3) is taken not to deprive the adjudicator of jurisdiction to decide the adjudication application; and
  - (c) within 4 business days after the appointment, the adjudicator must give the claimant and the respondent a notice stating that—
    - (i) the decision of the original adjudicator mentioned in subsection (1)(e) is void under subsection (2); and
    - (ii) the respondent may give the adjudicator a response to the adjudication application within 15 business days after receiving the notice; and
    - (iii) the adjudicator will decide the adjudication application within 15 business days after the end of the period within which the

respondent may give a response under subparagraph (ii); and

- (d) the adjudicator must decide the adjudication application under section 88 within 15 business days after the end of the period within which the respondent may give a response under subparagraph (ii).
- (8) For the making of a decision on the adjudication application by the original adjudicator or the new adjudicator under this section—
- (a) the adjudicator may ask for further written submissions from either party and must give the other party an opportunity to comment on the submissions; and
  - (b) the time for deciding the adjudication application may be extended under section 86; and
  - (c) sections 89 to 97 apply in relation to the adjudication.
- (9) For subsection (8)(b), section 86 applies as if a reference to section 85(1) were a reference to subsection (7)(d).
- (10) To remove any doubt, it is declared that subsection (8) does not limit the application of this Act to the decision on the adjudication application by the original adjudicator or the new adjudicator under this section.

### **215H Continuation of adjudication if adjudication not completed before commencement**

- (1) This section applies if, before the commencement—

- (a) a claimant made an adjudication application; and
  - (b) the claimant did not give a copy of the adjudication application to the respondent as required under former section 79(3); and
  - (c) the claimant gave the respondent a registry summary of the adjudication application; and
  - (d) an adjudicator was appointed under section 81; and
  - (e) the adjudicator has not decided the adjudication application under section 88.
- (2) The failure of the claimant to comply with former section 79(3) is taken not to deprive the adjudicator of jurisdiction to decide the adjudication application.

*Note—*

See also section 215D in relation to the failure to comply with former section 79(3).

- (3) The adjudication application must be decided under part 4.

### **215I No compensation payable by State**

- (1) This section applies if, before the commencement—
- (a) the registrar gave a registry summary of an adjudication application to the claimant in the application; and
  - (b) the claimant gave the registry summary to the respondent in the application.
- (2) No liability attaches to the commission, the registrar, a public service employee, or the State, and no compensation is payable by the

commission, the registrar, a public service employee, or the State, in relation to—

- (a) the giving of the registry summary by the registrar to the claimant; or
- (b) anything done or purportedly done as a result of, or in reliance on, the registry summary being given by the registrar to the claimant.

### 35 Long title

Long title, after ‘the *Body Corporate and Community Management Act 1997*,’—

*insert—*

**the *Building Industry Fairness (Security of Payment) Act 2017*,**

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