Housing Legislation Amendment Bill 2021

Explanatory Notes

Short title

The short title of the Bill is the Housing Legislation Amendment Bill 2021.

Policy objectives and the reasons for them

The *Queensland Housing Strategy 2017-2027* (the Housing Strategy) is a 10-year framework driving key reforms and targeted investment across the housing continuum. The Housing Strategy seeks to ensure Queenslanders have access to safe, secure, and affordable housing.

The Housing Strategy aims to ensure confidence in housing markets, ensure consumers are protected and the housing legislative framework is reformed and modernised. People living in and investing in the rental market will have better protections and certainty in their tenancy arrangements through legislative reforms. Consumers will be protected and empowered, and the retirement village industry will be supported to supply quality services with confidence.

The Housing Strategy Action Plan 2017-2020 committed to regulatory reforms to improve consumer protections for all Queenslanders in the homes in which they live and provide greater certainty for industry, including by reviewing the *Residential Tenancies and Rooming Accommodation Act 2008*. This is reaffirmed in the Queensland Housing and Homelessness Action Plan 2021-2025 with commitments to:

- deliver rental law reform, including minimum housing standards, that better protect renters and lessors and improves stability in Queensland's rental market
- finalise implementation of retirement village reforms to village financial statements and contract requirements and implement government's response to the independent panel's review of timeframes for payment of resident exit entitlements and buyback requirements.

The Housing Legislation Amendment Bill 2021 (the Bill) delivers key objectives of the Housing Strategy including:

- **Modernisation** - a commitment to reviewing and modernising rental laws to better protect tenants and lessors and improve housing stability in the rental market.
- **Connections** - ensuring that vulnerable community members are supported to sustain tenancies in appropriate and secure housing that facilitates social, economic, and cultural participation.
- **Confidence** - supporting a fair and responsive housing system through reforms to legislation and regulations that enhance the safety and dignity of all

Queenslanders and promote the provision of a range of housing options that meet the diverse needs of Queenslanders.

The Bill will amend the:

- *Residential Tenancies and Rooming Accommodation Act 2008*
- *Retirement Villages Act 1999*
- *Residential Tenancies and Rooming Accommodation Regulation 2009*
- *Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020*

Amendments to *Residential Tenancies and Rooming Accommodation Act 2008*

The objectives of the Bill in relation to residential tenancies and rooming accommodation are to:

1. Support tenants and residents to enforce their existing rights by removing the ability for lessors and providers to end tenancies without grounds.
2. Provide an expanded suite of additional approved reasons for lessors/providers and tenants/residents to end a tenancy.
3. Ensure all Queensland rental properties are safe, secure, and functional by prescribing minimum housing standards and introducing compliance mechanisms to strengthen the ability to enforce these standards.
4. Strengthen rental law protections for people experiencing domestic and family violence.
5. Support parties to residential leases reach agreement about renting with pets.

Rental sector background for policy reform

Queensland's rental market consists of private, government and community organisation-owned rental properties that are accessed by Queenslanders with diverse needs. Rental laws apply to all rental properties across a range of housing options. Over a third of the estimated 1.65 million households in Queensland rent.

The *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act) covers both private housing and social (public and community) housing arrangements in different types of housing:

- tenants in general tenancies (houses, flats, units, townhouses)
- tenants in moveable dwelling premises (caravans, caravan sites and rented manufactured homes), and
- residents in rooming accommodation (boarding houses, residential services, room-only agreements, and off-campus student accommodation).

Note: the amendments are intended to cover tenants under general tenancy agreements and moveable dwelling agreements and residents under rooming accommodation agreements, with variations to suit the accommodation type. For ease of reference, the terms 'tenant' and 'lessor' have been used.

Rental accommodation will continue to grow in importance as a sustainable housing solution for many Queenslanders, particularly as the population continues to grow and home ownership rates decline.

A stable home enables people to achieve positive life outcomes such as good health, quality education and secure employment. With more Queenslanders renting, and renting longer, it is important that our rental laws support individuals and families to access and sustain safe and secure rental accommodation.

Many Queenslanders also invest in rental properties to increase their wealth or secure their financial future. This investment is an important source of much needed housing supply and rental laws need to provide certainty to encourage and sustain this private investment in the rental market. The important role played by lessors who work hard to provide services for their tenants is also recognised as an important contribution to a stable and sustainable rental market.

Queensland needs laws that help people secure renting arrangements that meet and are responsive to their changing needs. These laws also need to support private investment in rental accommodation across diverse and fluctuating markets and emerging models of renting.

The environment for policy reform

The environment for rental law reform is complex. While there is community support for change to improve the rental experience in Queensland, diverse views are held about what needs to change and how. Some stakeholders are concerned about eroding lessors' rights and increasing their exposure to risk. Others are concerned that tenants need greater certainty about their tenancy arrangements and a stronger foundation to enforce their rights. The rental law reforms provided for in the Bill strike an appropriate balance between tenant and lessor interests and protections to improve certainty, transparency, and accountability for the decisions they make about their tenancy arrangements.

In 2020, the Queensland Government acted swiftly to implement, adjust, and extend temporary regulatory measures to support the residential rental sector manage COVID-19 impacts on residential leases. These measures tested key elements of reform options across several priority renting issues, including delivering protections for tenants experiencing domestic and family violence (DFV), prohibiting lessor-initiated no grounds terminations, and balancing parties' entry and privacy rights.

Consequently, these amendments have been adjusted to address concerns raised throughout the consultation process and drawing on learnings from implementing the COVID-19 response measures. The overall objective of rental law reform is to strike an appropriate balance between the interests of tenants and lessors with clearer protections, rights and responsibilities to support a well-functioning and efficient rental market.

Reasons for rental law reform – Consultation background

Common renting issues of interest to the Queensland community emerged from public consultations undertaken in 2018 and 2019 (refer to section *Consultation*) presenting a strong mandate for change to rental laws in Queensland. These issues included property condition, longer leases, preventing without grounds or retaliatory evictions, pets, minor modifications, and supporting vulnerable renters.

Consultation findings highlighted the need for an immediate response to support tenants to enforce their existing rights without fear of retaliation and ensure all rental accommodation meets minimum standards that reduce occupant health and safety risks.

Tenant reluctance to enforce their existing rights due to a fear of retaliatory action indicates current laws are not operating as intended. Priority RTRA Act amendments are required to replace notices to leave 'without grounds' with an expanded suite of additional approved reasons for lessors, including on expiry of a fixed term agreement, premises being sold and owner occupation. Tenants would be safeguarded against retaliatory action by retaining and enhancing the existing retaliatory action protection as well as a misuse of provisions offence if lessors issue a notice to leave for specified additional reasons in a false or misleading way. Approved reasons for tenants to end their tenancy arrangements will also ensure tenants can terminate their tenancy arrangements if their circumstances change. These amendments will improve transparency and accountability of lessor and tenant decision-making about their tenancy arrangements while strengthening tenants' existing rights and supporting them to enforce their rights whilst also recognising circumstances where a lessor has the lawful ability to issue such notices for just reasons.

Prescribing minimum housing standards by regulation will require all Queensland rental accommodation meet minimum safety, security and functionality standards and will improve the quality of housing stock in the rental market to a minimum standard over time. It may also reduce lessor and property manager liability for injury or illness incurred due to poor property condition and help maintain or improve investment value. Negotiating repair and maintenance requests between parties will be easier and property management will be simplified by clarifying existing obligations and providing objective benchmarks for compliance.

Changes to Queensland rental laws will better support people experiencing domestic and family violence (DFV) to access and maintain stable and safe housing in the rental market through improved protections and streamlined processes to manage tenancy arrangements and improve their safety. This will align DFV protections in Queensland with those in Victoria and Western Australia and contribute to the *Domestic and Family Violence Prevention Strategy 2016-2026* and to the *National Plan to Reduce Violence against Women and their Children 2010-2022*.

Rental laws are largely silent on the issue of renting with pets and parties can negotiate their own arrangements, with the caveat that tenants cannot be required to undertake professional pest control and carpet cleaning at the end of the tenancy agreement. Feedback received through consultation indicated that Queensland's rental laws could do more to support tenants and lessors reach agreement on renting with pets. This Bill will establish a framework to support lessors and tenants reach agreement about the keeping of pets in rental properties. The framework requires tenants to have the lessor's consent to keep a pet but limits lessor's discretion to refuse pet requests to prescribed reasonable grounds that cannot be overcome by reasonable conditions agreed with the tenant.

The legislative reforms contained in this Bill are designed to work as a package to improve protections for tenants while safeguarding lessor's interests and improving housing stability in the rental market. The reform package will enhance certainty by

better assigning and clarifying risks for all parties in the rental sector. This will maximise the positive social outcomes for tenants and the broader community without imposing unreasonable costs on lessors and property managers.

The amendments in this Bill prioritise actions to support tenants enforce their existing rights and access and sustain safe, secure, and functional rental accommodation that meets their needs. The amendments provide certainty to tenants and lessors about tenure and a framework to support the parties to communicate and negotiate about renting with pets. The amendments strike an appropriate balance between meeting changing tenant needs and expectations in the rental market and maintaining lessor control and decision making over their rental property with effective safeguards to protect their investments.

Amendments to the *Retirement Villages Act 1999*

The objectives of the Bill in relation to retirement villages are to:

1. provide certainty, security, and peace of mind to residents of freehold resident-operated retirement villages
2. implement the intent of recommendations made during an independent review of timeframes for payment of exit entitlements in Queensland retirement villages
3. create a framework to exempt freehold resident-operated retirement villages from the 18-month mandatory buyback requirements under the *Retirement Villages Act 1999* (RV Act).

Background and context for reform

The RV Act establishes the regulatory framework for the operation of retirement village schemes in Queensland and regulates the relationship between retirement village scheme operators (scheme operators) and residents.

Historically, residents did not receive the return of their capital investment in a retirement village until after they had moved out and their unit was sold. This could take several years in some circumstances and was a source of ongoing concern and uncertainty for residents, particularly where they needed access to their capital to fund their next place of accommodation, such as aged care.

In 2017, the RV Act was amended to require scheme operators to pay residents their exit entitlements for unsold units 18 months after the resident terminates their right to reside in the retirement village. A scheme operator can seek an extension of time from the Queensland Civil and Administrative Tribunal (QCAT) on the grounds of undue financial hardship, and QCAT may make such an order to extend time if this would not be unfair to the former resident.

In 2019, the RV Act was amended to ensure residents of freehold retirement villages were provided with the same protections and security of exit payment as other tenure types such as leasehold or licence tenure. This was necessary as freehold residents generally do not receive an exit entitlement but receive the sale price of their accommodation unit minus an exit fee payable to the scheme operator. These amendments established a framework to require a scheme operator to enter into a contract of sale to 'buyback' freehold accommodation units 18 months after the resident terminates their right to reside in the village, unless the scheme operator has a reasonable excuse or is granted an extension of time from QCAT.

The mandatory buyback laws apply to all freehold retirement villages, including retirement villages that are operated and controlled by the residents (resident-operated retirement villages) rather than an independent operator.

Residents of retirement villages likely to be resident-operated have expressed concern about their or their village's ability to fund mandatory buybacks required by the RV Act. Residents of these villages also expressed concern that applying to QCAT to seek an extension of time for buybacks due to financial hardship would be stressful and intimidating for the resident-operators of these retirement villages.

The RV Act requires that an independent review of the timeframes for paying exit entitlements commence within two years of the start of the provisions. Accordingly, an independent review panel with expertise in gerontology, law and finance (review panel) was appointed and provided with Terms of Reference to guide the review. The Terms of Reference included reviewing the timeframes for paying exit entitlements and for the mandatory buyback of freehold units. The review was completed in November 2020. The review panel's *Interim Report: Independent review of timeframes for exit entitlements in Queensland retirement villages* (Interim Report) was delivered on 16 September 2020.

The Interim Report identified that there are fundamental differences between the arrangements for resident-operated retirement villages and other retirement villages. The Interim Report recommended that resident-operated retirement villages be exempted from the mandatory buyback requirements because this '*financially burdens residents individually and collectively. The Panel believes the financial burden on individual residents is an unintended consequence of the amended legislation in section 63 of the Act.*'.

The Interim Report recommended that the exemption from buyback requirements should apply to retirement villages where all the following criteria are met:

- The scheme operator is not a company with substantial assets or revenue (to cover a mandatory purchase of a freehold unit).
- The scheme operator and related parties do not charge exit fees or deferred management fees.
- The unit owner is free to organise their own sale of the unit without any interference by the scheme operator and without any requirements for refurbishment, reinstatement and/or renovation.
- The resident or their estate is entitled to retain the full proceeds of the sale of the freehold unit.

The review panel submitted its *Independent review of timeframes for exit payments in Queensland Retirement Villages* (Final Report) on 26 November 2020. The Final Report provides findings and recommendations in relation to the Terms of Reference and incorporates the findings and recommendations of the Interim Report. The Final Report is being considered by the Government.

After receiving the Interim Report, the government made a commitment during the 2020 State election to act quickly to exempt resident-operated retirement villages from the mandatory buyback requirements.

Achievement of policy objectives

Amendments to *Residential Tenancies and Rooming Accommodation Act 2008* and *Residential Tenancies and Rooming Accommodation Regulation 2009*

To achieve its objectives, the Bill will amend the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act) and Residential Tenancies and Rooming Accommodation Regulation 2009 (RTRA Regulation) to support tenants and residents to find a safe and stable home in rental accommodation, while protecting the investments of the many lessors who contribute much needed supply to the housing market. The reform package will enhance certainty by better assigning and clarifying risks for all parties in the rental sector covered by general tenancy, moveable dwellings, or rooming accommodation agreements.

The Bill will achieve this by:

- improving transparency around managing tenancies and ending tenancies fairly by:
    - removing without grounds as an approved termination reason for lessors
    - introducing additional approved grounds for both lessors and tenants to end their tenancy arrangements that will provide more certainty, transparency, and accountability for both parties
- improving protections for vulnerable tenants and residents, including people experiencing domestic and family violence to provide more certainty for tenants and lessors to manage their tenancy arrangements
- establishing Minimum Housing Standards for rental accommodation to ensure risks to occupant health and safety are minimised; and strengthen existing obligations around repairs and maintenance under the RTRA Act to support enforcement of existing tenancy rights and minimum housing standards for rental accommodation
- supporting parties to reach agreement on renting with pets by requiring tenants to have lessor consent to keep a pet at the rental property and limiting lessor discretion to refuse these requests to prescribed reasonable grounds and allowing their approval to be subject to reasonable conditions agreed with the tenant.

How each of these policy obligations will be achieved is outlined in detail below.

1. Ending Tenancies Fairly

Lessors will be prevented from terminating a tenancy without grounds and required to rely on an expanded suite of specific stated grounds in the legislation to end the tenancy. This change will provide greater transparency and accountability about lessor-initiated tenancy terminations and support tenants to enforce their rights without fear of retaliatory action. Tenants will continue to be able to end a tenancy without grounds if the required notice period (two weeks) is observed.

The additional grounds to end a tenancy available to lessors will be:

- a fixed-term tenancy agreement is due to expire
- the property is to be vacated so that redevelopment (such as conversion from a house into flats) or demolition of the property can be undertaken
- the property is to be vacated to allow significant repair or renovation works to be undertaken
- the property is subject to a change of use (such as changing from long-term accommodation to short-stay accommodation or holiday lettings)
- the owner or their immediate family needs to move into the rental property
- the rental property has been sold and vacant possession is required
- the property is to be vacated so that the lessor can prepare the property for sale

In each case, the lessor will be required to give the tenant two months' notice. However, a fixed term tenancy could not end before the contracted end date unless the tenant agreed. The lessor must provide information to accompany the approved form where required, with a penalty provision attached to prevent misrepresentation or misuse.

The lessor will be able to apply to QCAT to end a tenancy on the following grounds in case of a tenant breach:

- there has been a significant breach, such as use of the premises for an illegal activity, intentional or reckless destruction or damage of the premises, endangerment of another person in the premises or a premises nearby, or significant interference with the reasonable peace, comfort or privacy of another tenant by a tenant, occupant or guest; or
- there have been repeated breaches of by-laws or park rules by the tenant.

A lessor will be able to apply to QCAT for a warrant of possession where a person is occupying the rental property without consent.

Tenants will also have access to a wider range of specific grounds to end the tenancy, varied notice period requirements targeted to the new grounds of:

- the rental property is not in good repair, or does not comply with Minimum Housing Standards
- the lessor has not complied with a repair order of QCAT within the specified time (fourteen -day notice period)

- a co-tenant dies (providing for the tenant to vacate two weeks after the remaining co-tenants give written notice of the end of the tenancy agreement due to the tenant's death).

Tenants and lessors will both be able to terminate a lease for purpose-built student accommodation if the tenant is no longer entitled to reside in that accommodation with one months' notice.

An additional ground will also be provided to end a tenancy specific to Queensland Government-owned rental accommodation, namely, the rental accommodation is required for a public or statutory purpose, such as undertaking infrastructure projects where the Department of Transport and Main Roads has previously acquired the property for the project and has been renting the property to tenants in the interim. This termination would previously have been made as a without grounds termination and this additional ground is required to maintain the ability for the Queensland Government as a lessor to manage property to support public purposes and to improve transparency and accountability about government decision making in relation to its tenancy arrangements in these properties.

Similar grounds to end a tenancy will apply to moveable dwelling agreements, and rooming accommodation agreements, and adjusted as appropriate. For example, notice periods to end rooming accommodation agreements will be shorter than general tenancies to reflect the different tenure type.

Tenants will have greater protections by establishing that a lessor cannot take retaliatory action against a tenant by, among other things, issuing a *Notice to Leave* or a *Notice to Remedy Breach* that could be considered retaliatory where a tenant has taken steps to enforce their rights.

2. Domestic and Family Violence Protections

People experiencing DFV are often at their most vulnerable when they attempt to leave. Existing tenancy protections do not support people experiencing DFV to leave quickly and safely as they rely on applications to QCAT or intervention by third parties such as property managers and lessors. Existing processes may also signal to the perpetrator, particularly where they are a co-tenant, that the person experiencing DFV intends to leave. This may place the person experiencing DFV at a higher risk of further violence, discourage them from leaving, or lead them to abandon the tenancy.

A streamlined process will be introduced for tenants experiencing DFV to end the tenancy quickly. This will support a tenant experiencing DFV to stay safely or leave quickly with liability for end of tenancy costs capped to seven days' notice. Other amendments will:

- allow those ending tenancies to access their share of rental bonds while reducing the need for contact with the perpetrator (if a co-contributor)
- allow lessors to require a top up of the rental bond if co-tenants remain in the property and part of the rental bond has been refunded
- allow tenants to change the locks to the rental property without requiring lessors' consent.

To protect lessors from inappropriate use of this provision, tenants experiencing DFV will be required to provide supporting evidence to the lessor or manager at the time of ending the agreement that they are experiencing DFV. Notice must be provided using an Approved Form with the requisite evidence supporting the notice. This may include a protection order, a police protection notice, a Court injunction, or an evidence document signed by an authorised professional such as a DFV support worker, social worker, or doctor. Penalties will apply to deter lessors or managers from disclosing this information inappropriately.

3. Minimum Housing Standards

Minimum housing standards, covering safety and security standards and reasonable functionality standards, will be prescribed under section 17A of the RTRA Act by amending the Residential Tenancies and Rooming Accommodation Regulation 2009. These standards will be supported by several amendments to the RTRA Act to encourage compliance, clarify repair and maintenance obligations and support enforcement, including:

- the time for the tenant to return an entry condition report will be extended from three days to seven days
- the cost of emergency repairs that can be authorised by the tenant will be increased from the equivalent of two weeks' rent to the equivalent of four weeks' rent, and property managers can arrange repairs to an amount agreed in writing with the owners
- tenants will be able to apply to QCAT for an enforceable repair order
- tenants will have additional grounds to end a tenancy agreement within the first seven days of a tenancy, if the property does not comply with minimum housing standards
- tenants will also be able to end a tenancy if the lessor has not complied with a repair order of QCAT.

In addition, QCAT can review a rent increase and make an order such as to reduce the rent increase imposed on a tenant by a lessor for the purpose of recovering the cost of complying with minimum housing standards.

4. Supporting parties to reach agreement on renting with pets

The amendments will require that a lessor can only refuse a pet request from a tenant on prescribed reasonable grounds that cannot be rectified by reasonable conditions. The lessor must respond to a request to keep a pet within 14 days and if they do not respond within the specified time, the request will be deemed to be approved.

The prescribed reasonable grounds for refusing a request for approval to keep pets are that:

- keeping the pet would exceed a reasonable number of pets being kept at the premises
- the property is unsuitable to keep the requested pet because of a lack of appropriate fencing, open space or another thing necessary to humanely accommodate the pet
- keeping the pet on the property would pose an unacceptable risk to health and safety

- keeping the pet is likely to result in damage that could not practically be repaired for a cost less than the rental bond for the premises
- keeping the pet on the property would be contrary to other legislation, regulations, or rules, including local government ordnances, caravan park rules or strata title by-laws, or
- the tenant does not agree to reasonable conditions
- the animal is not a pet as defined under the Act
- if the premises is a moveable dwelling premises – keeping the pet at the premises would contravene a condition of a licence applying to the premises
- other grounds prescribed by regulation.

The lessor's approval can be given subject to reasonable conditions, including that:

- the pet must stay outside or be restricted to a particular part of the property
- the tenant must arrange for the premises to be professionally fumigated at the end of the tenancy if the pet is capable of carrying parasites that could infest the premises
- the tenant have the carpets professionally cleaned at the end of the tenancy for relevant pets allowed inside the premises
- however, a rent or rental bond increase is not a reasonable condition.

The amendments also clarify that:

- a lessor cannot increase rent to allow a pet, or charge an additional pet bond
- fair wear and tear does not include pet damage
- the tenant is responsible for any nuisance, including noise, or damage caused by the pet
- any breach of the conditions of approval for a pet breaches the tenancy agreement
- approval of the pet is subject to by-laws or park rules in managed communities.

Additional amendments

The amendments also provide for a regulation to outline required information that must be disclosed to prospective tenants and residents at the time of advertising or offering the rental accommodation.

Amendments to the *Retirement Villages Act 1999*

To achieve its objectives, the Bill will amend the RV Act to create a power for a regulation to name specific resident-operated retirement villages as exempt from the mandatory buyback requirements in the RV Act.

The amendments allow the responsible Minister to recommend to the Governor in Council that a regulation providing an exemption be granted where the Minister is satisfied doing so is appropriate, considering the extent to which:

- the residents are in a position to control or influence the affairs of the scheme operator in relation to the operation of the scheme; and
- the scheme operator's assets, and the ability to generate income, are likely to be insufficient to purchase a freehold interest in a former resident's accommodation unit.

In making this decision, the Minister may have regard to any relevant matter, including:

- whether the retirement village land is included in a community titles scheme and how common property is held;
- the extent to which the scheme operator is involved in the sale of a former resident's accommodation unit other than as required by the Act;
- the extent to which the former resident is required to refurbish, reinstate, or renovate the former resident's accommodation before it may be sold, other than as required by the Act;
- the extent to which the scheme operator makes a profit from fees or charges payable by residents;
- whether any amounts are payable to the scheme operator on the sale of a unit.

At the date an exemption is granted to a village, any buyback contracts that have not been completed are ended, and if the scheme operator has paid an amount towards the purchase of the former resident's property, the scheme operator may give the seller a notice requiring repayment. Where completion of the buyback contract was required to occur before the exemption was granted, the exemption does not prevent a former resident from seeking compensation from the scheme operator for the non-completion of the contract.

The scheme operator of an exempt resident-operated retirement village will have a duty to notify the chief executive of the department administering the RV Act, of any changes to the village which impact on the considerations for granting an exemption. The amendments also grant the chief executive the power to request particular information from the scheme operator of an exempt retirement village. These provisions will work in conjunction with existing requirements under Part 2 Division 5 of the RV Act which require a scheme operator to notify the chief executive when it proposes to transfer control of a retirement village scheme's operation to another person. These provisions ensure the chief executive is sufficiently empowered to monitor the circumstances of exempt retirement villages and provide advice to the Minister about whether an exemption from the mandatory buyback requirements remains appropriate.
Where a retirement village is assessed as no longer being an appropriate holder of an exemption, the Minister must recommend to the Governor in Council that the exemption be removed by regulation. Where this occurs, the requirement for the scheme operator to buyback former residents' accommodation units recommences. Where a former resident has terminated their right to reside in the village while the village is exempt, but the unit has not been resold before the exemption ends, the 18-month period for the buyback starts from the date the retirement village is no longer exempt.

Alternative ways of achieving policy objectives

Amendments to *Residential Tenancies and Rooming Accommodation Act 2008*

A range of policy options were considered to achieve the policy objectives in regulatory impact analysis undertaken of the reforms in accordance with the Queensland Government *Guide to Better Regulation*. The analysis of these options is outlined in

the Stage 1 Rental Law Reform Decision Regulatory Impact Statement. Consideration was given to enhanced self-regulatory measures or increased education where possible. However, these measures without legislative amendment were assessed as unlikely to achieve the government's objectives. The legislative reforms will be supported by a communication and education campaign.

Amendments to *Retirement Villages Act 1999*

Exemption of resident-operated retirement villages from the mandatory buyback requirements cannot be achieved through a directive, guidelines or subordinate legislation and amendments to the RV Act are required to introduce the regulation-making power to exempt these villages.

During development of the Bill, consideration was given to the creation of a legal definition of resident-operated retirement village and a framework for automatically exempting these villages as a means of minimising administrative burden for both scheme operators and government. However, this was determined to be likely to create unintended consequences or loopholes in the legislative framework and a more flexible consideration-driven assessment was determined to be the best method of achieving the objectives of the Bill.

Estimated cost for government implementation

Amendments to *Residential Tenancies and Rooming Accommodation Act 2008*
Financial implications of these renting reforms have been modelled and estimated for affected Queensland Government agencies, including the Residential Tenancies Authority (RTA), QCAT, Queensland Magistrates Courts systems, and the Office of the Commissioner for Body Corporate and Community Management (BCCM).

Calculating the full cost of the impact of the reforms is based on estimates in the absence of accurate data. It is not possible to definitively quantify reform impacts on business and operations at this stage as reliable data is not available to predict likely changes in party's behaviour, including their uptake of new renting rights and demand for information, advisory, investigation, dispute resolution, and decision making services.

The RTA is the Queensland Government statutory authority that administers the RTRA Act. The RTA will implement changes required to support the reforms, alter information technology systems, manage the anticipated increase in demand to the RTA contact centre, dispute resolution and investigation services, and update all RTA publications and communication and education collateral. The RTA estimates an initial increase in demand of approximately 20-30% across all existing RTA services, including calls to the contact centre, requests for dispute resolution and complaints and investigations, before being absorbed into ongoing operations.

Disputes that cannot be resolved by the RTA's dispute resolution service, or meet the criteria for 'urgent' matters, can be heard by QCAT. QCAT provides adjudication that is fair, just, accessible, quick, and inexpensive for QCAT users across Queensland. QCAT anticipates the rental reforms will increase the number of non-urgent residential tenancy matters lodged with QCAT each year by 53 per cent, which is 2,559 additional applications. QCAT estimates there may be an associated 8.1 per cent increase in matters that proceed to the QCAT Appeals Tribunal. The increase in lodgements and appeals will increase telephone and registry enquiries and workloads and will be managed through additional funding allocated.

BCCM provides statutory information and dispute resolution services to Queensland's community titles sector. Changes to legislation that impact occupier (i.e. tenant) rights and responsibilities increase demand for BCCM's services. BCCM estimates the renting with pets reforms impacting the more than 170,000 tenants in community titles schemes will increase demand for BCCM's dispute resolution and information services. The changes will be supported by additional funding and the development and coordination of information, education products and services in the six months prior to commencement of the legislation and to manage stakeholder relationships, operational reporting, and advice to the Commissioner.

Whilst the reforms will be supported by education and information campaigns for the sector prior to commencement, the Queensland Government is considering additional funding requirements for the RTA and affected functions in the Justice and Attorney-General portfolio to successfully implement the reforms. The implementation of the reforms will be closely monitored, and robust data will be collected about reform impacts.

Amendments to *Retirement Villages Act 1999*

The exemption of resident-operated retirement villages from mandatory buyback requirements has minimal financial implications for government and will be implemented within existing departmental resources.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential inconsistencies with fundamental legislative principles are addressed below.

Amendments to *Residential Tenancies and Rooming Accommodation Act 2008*

Tenancy law reforms have potential to infringe several Fundamental Legislative Principles relating to the rights and liberties of individuals, including that legislation should not abrogate statutory or common law rights without sufficient justification and proportion and relevance. Some departures from fundamental legislative principles have occurred to balance the competing interests of individuals or to match individual's rights and obligations with community expectations.

Freedom of individuals to contract

The Bill includes specific obligations of parties to a tenancy or rooming accommodation agreement, with the obligations fixed by legislation regardless of the terms of the agreement. Fixing the terms of a tenancy or rooming accommodation agreement by legislation may be a departure from the principle that individuals should have freedom to contract and agree between themselves as to the terms of those contracts. The Bill seeks to reflect community expectations in achieving a fair balance between the rights of the parties.

The RTRA Act is fundamentally consumer protection legislation and recognises that there is often unequal bargaining power between tenants and lessors, with tenants generally having less power than lessors particularly in competitive markets. The provisions of the Bill seek to strike the right balance between the competing rights of tenants and lessors in the tenancy relationship and ensure that tenants are supported to enforce their rights without fear of retaliatory action.

Privacy

A tenant experiencing domestic and family violence would be required to disclose potentially sensitive information to an agent or lessor for the ability to end, alter or leave a tenancy agreement under new sections 308I and 381I. Requiring the use or disclosure of sensitive information may impact on an individual's right to privacy.

This is considered a reasonable and necessary requirement to safeguard rental lessors from abuse or misuse of these protections. Tenants will be provided a range of options to fulfil the evidence requirements, including to provide the evidence to the managing party for inspection only but not to retain or store. A new offence provision s308I is also proposed to minimise any misuse of the sensitive information.

Proportion and relevance

Consequences imposed by legislation should be proportionate and relevant to the actions to which they are applied, provide differing penalties reflecting the seriousness of the offences, and be consistent with other penalties within the legislation. The Bill introduces new penalties, including penalties for failure to include prescribed information in advertisements, failure to comply with QCAT repair orders and for false or misleading statements,

The new penalty provisions are considered proportionate and appropriate responses to encourage parties to comply with the RTRA Act or avoid misusing protections and safeguards. The new penalty provisions are consistent with existing offences of similar severity provided for under the Act.

Clause 51 provides for a continuing offence where a person does not comply with a repair order unless the person has a reasonable excuse. Section 221C creates a continuing offence and may be charged in one or more complaints for periods the offence continues. The maximum penalty for each week the offence continues is 5 penalty units.

Continuous penalties may infringe fundamental legislative principles in terms of proportionality where the offence continues even though the offender has not been found guilty by a court. However, the proposed continuing offence under new section 221C only applies where QCAT has decided to impose the order that must be complied with. The level of offending in terms of seriousness depends on how long the person continues to fail to comply with the order, and the person has the defence of a reasonable excuse.

Natural Justice

Legislation should be consistent with the principles of natural justice, by having fair procedures, including by providing adequate notice and the opportunity to be heard. The Bill introduces a new procedure for a victim of domestic and family violence who applies to the Authority for payment of the rental bond after giving a notice ending their tenancy interest. The Authority must not give written notice of that application to a co-tenant under new section 135A. This restriction on providing notice to the co-tenant is sufficiently justified, proportionate and relevant to achieve the policy intent of enabling victims of domestic and family violence to leave a tenancy quickly and not have the bond refund process used by someone as a means of intimidation, harassment or control. This is balanced against the obligations still imposed on the vacating tenant that they remain liable for any damage caused to the property not related to incidents of domestic and family violence and the lessor or provider can make a dispute resolution request to the Authority in these circumstances.

Amendments to *Retirement Villages Act 1999*

The RV Act amendments have a potential to infringe Fundamental Legislative Principles relating to having sufficient regard to the institution of Parliament and to the rights and liberties of individuals. Some departures from the Fundamental Legislative Principles have occurred in order to address the unintended consequences of mandatory unit buyback in resident-operated retirement villages.

Sufficient regard to the institution of Parliament

Whether a Bill has sufficient regard to the institution of Parliament includes a consideration of whether, the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons, and sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly. Clause 103 of the Bill will create a power in the RV Act allowing the Minister to recommend to the Governor in Council the making of a regulation which declares that an exemption from the mandatory buyback requirements applies to a stated retirement village scheme. The making of a regulation under this power must be publicly notified and will be subject to potential disallowance by the Legislative Assembly under section 50 of the *Statutory Instruments Act 1992*. This regulation-making power is justified because the differences in how the villages operate makes it impractical to implement an inflexible legislative definition for resident-operated retirement villages. The delegation of such a power provides the necessary flexibility to consider the diverse financial, legal, and operational circumstances of each resident-operated village within the constraints established by the exemption criteria established in the Bill.

Sufficient regard to the rights and liberties of individuals

Rights and liberties, of individuals should be dependent on administrative power only if the power is sufficiently defined and subject to appropriate review. The consequences imposed by legislation should be proportionate and relevant to the actions to which they are applied, provide differing penalties reflecting the seriousness of the offences and be consistent with other penalties within the legislation. Clause 103 of the Bill creates a new penalty related to requirements for exempt retirement villages to notify the chief executive of the department administering the RV Act of any changes the scheme operator knows or ought reasonably to have known was relevant to the exemption from mandatory buyback requirements granted by regulation. It also creates a penalty for a failure to provide stated information upon request of the chief executive within a stated timeframe that is not less than 28 days. The chief executive is not required to have reasonable suspicion to request information about matters or circumstances that may be relevant to the exemption. This is justified to ensure the chief executive can appropriately advise the responsible Minister about whether an exemption remains appropriate for a particular village. The ability to request and obtain information will enable proper consideration of matters relevant to deciding whether removal of an exemption from a retirement village is necessary. Removal of an exemption may be required where, for example, control of a scheme operator company passes from the residents to another operator, but the scheme operator entity itself remains the same. Penalty provisions are necessary to ensure compliance with these requirements and the levels of the proposed new penalties are consistent with comparable, existing offences in the RV Act.

Whether legislation has sufficient regard to the rights and liberties of individuals also depends on whether the legislation does not adversely affect rights and liberties or impose obligations retrospectively. Clause 103 of the Bill provides that the 18-month buyback requirements under the RV Act do not apply to the operator of an exempt retirement village, including where a former resident's right to reside in an accommodation unit was terminated before the day on which an exemption commences. This will retrospectively alter the right of former residents who would otherwise have their accommodation unit purchased by the scheme operator 18 months after they terminated their right to reside (subject to any extension being granted by QCAT), where that retirement village is granted an exemption. Retrospective application of these provisions is justified to address the significant stress, uncertainty and anxiety felt by residents of resident-operated retirement villages arising from the prospect of having to potentially raise significant amounts of money to fund the scheme operator to buyback unsold units in the retirement village, or risk their retirement village becoming insolvent. This retrospectivity does not apply to any outstanding breach of a villages' buyback obligations prior to the granting of an exemption.

Consultation

Amendments to *Residential Tenancies and Rooming Accommodation Act 2008*

During 2018, the Queensland Government reached out to the community through the *Open Doors to Renting Reform* consultation program (Open Doors consultation) to hear about their rental experiences and ideas to improve renting in Queensland. More

than 135,000 responses were received during the Open Doors consultation and these were analysed to identify priority issues for reform.

In November 2019, the Queensland Government released *A Better Renting Future Reform Roadmap*, outlining its response to the outcomes of the Open Doors consultation and set out a two-stage reform pathway to improve renting in Queensland:

- Stage 1, progress immediate actions to support tenants and residents to enforce their existing rights and ensure all Queensland rental accommodation is safe, secure, and functional
- Stage 2 consult stakeholders to design workable solutions to issues where views are diverse.

In addition, the Queensland Government published a Consultation Regulatory Impact Statement (C-RIS) on the Stage 1 reforms entitled *A Better Renting Future — Safety, Security and Certainty*. The C-RIS set out detailed reform proposals to address the community views expressed in the Open Doors consultation about ending tenancies fairly, rental housing quality and minimum housing standards, domestic and family violence protections, minor modifications, and renting with pets. Community feedback was sought between 16 November and 28 December 2019. An extension was provided for a range of stakeholders to provide feedback until 8 January 2020.

More than 15,200 survey responses and 600 written submissions were received from tenants, lessors and property managers providing their feedback on reform options outlined in the C-RIS. This feedback demonstrated that many stakeholders hold strong views about renting issues and continue to support tenancy law reform in Queensland that strikes the right balance between tenant and lessor rights and responsibilities.

Most tenants, lessors and property managers want greater transparency around ending a tenancy and support changes that assist people experiencing DFV. Tenants and lessors want a better relationship and a more positive perception of themselves as a group. All parties generally agreed that they would first attempt to resolve issues between themselves before using Residential Tenancies Authority (RTA) dispute resolution services or apply to QCAT for a decision.

Tenants and tenant advocates strongly supported the proposed stage 1 reforms that gave them greater rights and improved their health and safety. Tenants supported the proposed safeguards for lessors but expressed concerns that lessors may pass on increased costs and risks to them through higher rents.

Lessors, managers, and industry organisations expressed concerns that stage 1 reforms would erode lessors' rights and control over their rental property and increase their risk exposure. Feedback also suggested that the proposed policy positions would create unintended consequences, such as increased rents and a reduction in rental properties. Lessors' greatest concern was the risk of their properties being damaged due to pet reforms and the inability to issue a notice to leave 'without grounds' or when the term of a fixed term agreement expires.

To explore concerns about the economic impact of reforms raised during consultation on the C-RIS, the Department of Communities, Housing and Digital Economy engaged

an external economic specialist organisation to undertake a comprehensive economic analysis of reform impact. The Queensland Government also carefully considered stakeholder feedback and adjusted the recommended reform options to respond to concerns raised by stakeholders.

This analysis and adjustment to policy positions is outlined in the Decision Regulatory Impact Statement (D-RIS), which also includes a cost-benefit analysis of the recommended final proposals. The Queensland Productivity Commission reviewed the C-RIS and D-RIS documentation for the reforms.

Amendments to *Retirement Villages Act 1999*

Consultation on Interim Report

In preparing the Interim Report, the review panel sought to consult with seven villages that were potentially resident-operated (and the village residents and residents' families). Two of these retirement villages and their residents did not participate in the consultations for the review.

The review panel also consulted the Queensland Resident-Operated Retirement Village Support Service, the Queensland Retirement Village and Park Advice Service, as well as industry and consumer peak groups.

The review panel received written submissions from 34 residents in potentially resident-operated retirement villages, interviewed 22 residents face-to-face and by phone (some residents were also in management positions in their retirement village), received 30 surveys from residents, and consulted with 60 residents at a forum in one village. In addition, the review panel met with industry and consumer peak groups, and advisors who assist the Queensland retirement village industry.

The residents of resident-operated retirement villages and advisors who assist the Queensland retirement village industry expressed concerns about potential financial hardship, emotional impacts, and other unintended impacts including that prospective residents may no longer want to buy into the village due to the potential liabilities involved. They expressed concern that residents may need to collectively fund the mandatory purchase of unsold units from their own financial resources or risk the village becoming insolvent.

A version of the Interim Report, redacted to protect privacy, was circulated to the resident-operated retirement villages, as well as legal, consumer and industry peak groups for comment. All stakeholders who provided feedback on the Interim Report supported the review panel's recommendation to exempt resident-operated retirement villages from the 18-month mandatory buyback requirements.

Consultation on legislative proposal

Targeted consultation occurred with the same group of stakeholders on a legislative proposal to exempt resident-operated retirement villages from the 18-month buyback provisions in the RV Act, including:

- seven retirement villages identified as potentially resident-operated
- Association of Residents of Queensland Retirement Villages

- Caxton Legal Centre (operating the Queensland Retirement Villages and Parks Advice Service)
- Council on the Ageing (COTA)
- Leading Age Services Australia
- National Seniors
- Property Council of Australia
- Queensland Law Society
- Urban Development Institute of Australia.

All stakeholders who provided feedback supported the proposal to exempt resident-operated retirement villages in principle. Some stakeholders questioned whether the exemption should be limited to freehold retirement villages. One submission noted that operators of leasehold and licence tenure retirement villages may also involve elements of resident control and experience financial hardship due to their obligation to pay exit entitlements 18 months after the resident terminates their right to reside.

The treatment of leasehold and licence tenure retirement villages was not considered in the independent review panel's Interim Report, which recommended that resident-operated retirement villages be exempted from mandatory buyback requirements. The government is considering the review panel's Final Report and the government will respond to the Final Report in due course.

Feedback indicated that it would be helpful if the amendments were clear about which exemption criteria were most important. This feedback was accepted and the Bill emphasises the importance of the residents' control of the scheme operator, and whether the assets and income of the scheme operator are likely to be insufficient to purchase a former resident's accommodation unit, as key factors in determining the appropriateness of an exemption.

Feedback further suggested additional considerations that may be relevant to whether a retirement village is resident-operated. To ensure that these considerations may be taken into account, the Bill allows the Minister to have regard to any relevant matters when making a recommendation as part of a holistic analysis of whether a particular retirement village is resident-operated. To provide guidance on the kind of matters that may be considered, the Bill provides a non-exhaustive list of potentially relevant matters that may be taken into account.

Some stakeholders indicated that there would need to be clarity about the process for a retirement village to seek an exemption. This feedback will help refine the processes and materials which will be developed to implement the amendments. Following passage of the Bill, and prior to preparing an amendment Regulation, retirement villages identified as being potentially resident-operated will be contacted, and information sought from them, to ascertain whether it is appropriate for any particular village to be granted an exemption.

Consistency with legislation of other jurisdictions

Amendments to *Residential Tenancies and Rooming Accommodation Act 2008*

While the RTRA Act is specific to the State of Queensland and is not uniform with or complementary to legislation of the Commonwealth or another state, several Australian states and territories have recently reviewed their rental laws, including Victoria, New South Wales and the Australian Capital Territory. Queensland is part of this wider national trend towards more contemporary legislation that improves protections for tenants while safeguarding lessor's interests.

New South Wales changes came into effect on 23 March 2020 and aim to reduce disputes over repairs and maintenance, increase protection and certainty for tenants, clarify the rights and obligations for tenants and lessors, and improve transparency between the two parties. They include:

- minimum housing standards to clarify 'fit for habitation'
- changes of a minor nature, damage and removing modifications

Australian Capital Territory introduced rental reforms in 2020 and as of 25 August 2020 the following measures are in effect:

- Tenants cannot be required to pay more than two weeks' rent in advance
- Minimum standards for rental properties can be set by the government
- Rights of landlords to access the property for inspections are subject to stricter limits.
- Tenants can terminate their leases at short notice and without paying compensation if they have accepted a place in social housing or aged care.
- Tenants must be given at least 8 weeks/ notice before they can be required to move out because the landlord (or someone close to them) wants to move in.
- Landlords have a more streamlined process to terminate a lease where a rental property has been used illegally. Protections for tenants will ensure they are not unreasonably evicted on this ground.

Victorian changes fully commenced on 29 March 2021 and focused on expanding the rights and responsibilities of renters and rental providers (landlords) to make renting in Victoria fairer and safer. The changes span the lifecycle of a rental agreement and cover the time before signing a rental agreement until after the agreement ends. Some of the changes included:

- Requiring advertising of rental properties for a fixed price and restricting use of personal information disclosed in a rental application.
- Renters can keep pets at a rental property with the written consent of the rental provider. The rental provider can apply to the Victorian Civil and Administrative Tribunal for an order that it is reasonable to refuse permission.
- Rental providers must give a valid reason to end a rental agreement and cannot issue a 'no specified reason' notice to vacate.

Abolishing notice to leave without grounds has been contentious in other Australian jurisdictions. Victoria abolished without grounds notices to leave in 2018 with a transitional period until 2020. A tenancy agreement can end on expiry of the first fixed term on the giving of an end of fixed term notice to vacate in Victoria. New South

Wales did not remove without grounds notices to leave in amendments to tenancy law in 2018.

All jurisdictions have strengthened repair and maintenance obligations, as well as tenants being able to authorise emergency repairs if they cannot get in contact with the lessor or property manager.

Amendments to *Retirement Villages Act 1999*

The RV Act is specific to the State of Queensland and is not uniform with or complementary to legislation of the Commonwealth or another state. While all jurisdictions have laws regulating retirement villages, approaches differ from jurisdiction to jurisdiction, including with respect to any requirements on operators to refund or repay former residents their exit payments.

Notes on provisions

Chapter 1 Preliminary

Clause 1 states that the Act may be cited as the *Housing Legislation Amendment Act 2021*.

Clause 2 outlines the dates for commencement of particular provisions. Chapter 2, Part 3 and sections 98 and 100; and Schedule 1, Part 2 are to commence on a day to be fixed by proclamation.

Chapter 2, Part 2 and Schedule 1 commence on assent. This will allow continuity of protection for tenants and residents experiencing domestic violence by making temporary amendments enduring when those provisions in the Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020 outlined in Chapter 3 are repealed.

Chapter 5 amending the *Retirement Village Act 1999* commences on assent.

Chapter 2 Amendment of *Residential Tenancies and Rooming Accommodation Act 2008*

Part 1 Preliminary

Clause 3 provides that this chapter amends the *Residential Tenancies and Rooming Accommodation Act 2008.*

Part 2 Amendments commencing on assent

Clause 4 replaces section 110 *Application of part 3* with a new section 110(1) which provides that Part 3 applies to rental bonds paid for residential tenancy agreements or rooming accommodation agreements or paid by boarders and lodgers. Section 433 sets out the matters to which the tribunal must have regard in deciding whether a

person is a boarder or a lodger. New subsection 110(2) states that, for the purpose of applying Part 3 to rental bonds paid by boarders and lodgers, a reference to a resident is taken to be a reference to the boarder or lodger, a reference to a provider is taken to be a reference to the person providing the accommodation to the boarder or lodger, and a reference to a rooming accommodation agreement is taken to be a reference to the arrangement under which the accommodation is provided to the boarder or lodger.

Clause 5 amends section 111 *Meaning of rental bond* by omitting and replacing subsection 111(1). New subsection 111(3)(d) replaces 'agreement or arrangement' with 'residential tenancy agreement or rooming accommodation agreement'.

Clause 6 amends section 113 *Contributor for a rental bond* by omitting and replacing section 113. The amendments provide for specific references to tenants in residential tenancy agreements and residents in rooming accommodation for consistency and clarity. New title of section 113 is *Who is a contributor for a rental bond.*

New subsection 113(1) provides that a person is a ***contributor*** for a rental bond for a residential tenancy agreement if, for an agreement with one tenant, the person is the tenant; or, for an agreement with more than one tenant, the person is one of the tenants and the authority is satisfied the person is responsible for payment of all or part of the bond.

New subsection 113(2) provides that a person is a contributor for a rental bond for a rooming accommodation agreement if, for an agreement with one resident, the person is the resident; or, for an agreement with more than one resident, the person is one of the residents and the authority is satisfied the person is responsible for payment of all or part of the bond.

New subsection 113(3) replicates previous subsection 113(2) by removing references to 'co-tenant' and provides that the authority may be satisfied a person is responsible for payment of all or part of a rental bond because:

- the rental bond notice for the agreement indicates the person paid the bond or contributed to payment of the bond; or
- a tenant or resident is shown on the rental bond notice for the agreement to have paid the bond and has given the authority a written notice naming the person as a contributor for the bond; or
- a former tenant or resident is shown on the rental bond notice for the agreement to have contributed to payment of the bond and has given the authority a written notice naming the person as a contributor for the bond in place of the former tenant or resident.

Clause 7 inserts section 127 *Joint application by lessor and contributor* to ensure the section clearly relates to tenants, residents, lessors, and providers. The heading is changed to become 'Joint application by contributor and lessor or provider'. New subsection 127(1) states that this section applies if the application for a rental bond refund for either a residential tenancy agreement or a rooming accommodation agreement is made jointly by the contributor and lessor or the contributor and provider. New subsection 127(2) provides that the authority must make each payment directed by the application.

Clause 8 inserts Chapter 2, Part 3, Division 3, Subdivision 3A *Payment of bond if applicant affected by domestic violence.* It outlines the required processes where a person experiencing domestic violence is ending their agreement in accordance with the Act, how the authority must make payments for rental bond refunds, and who is considered an interested party for a claim against the rental bond. The vacating tenant or resident who is affected by domestic violence can apply for a refund of their contribution to the rental bond held for the agreement when they vacate the premises. Other sections limit what claims can be made against the bond where a tenant or resident is ending their agreement due to domestic violence. For example, 136D *Tribunal order about payment of rental bond* states that the tenant or resident must not be penalised for any damage caused by an act of domestic violence against them or be charged reletting costs. The vacating tenant or resident may still be held liable for costs associated with breaching terms of the agreement which aren't related to the domestic violence.

New section 135A *Application of subdivision* to define when the required processes apply to an application to the authority for a payment of a rental bond in defined circumstances. These are when a tenant or resident has ended a residential tenancy agreement or rooming accommodation agreement in accordance with the Act after experiencing domestic violence. Subsection (2) clarifies that subdivisions 2 and 3 do not apply to the rental bond process in these circumstances. To remove any doubt, it declares that the subdivision applies to the application for refund of rental bond regardless of the number of contributors for the rental bond.

New section 135B *Joint application by contributor and lessor or provider* covers when an application is made jointly by the tenant and lessor for a rental bond under a residential tenancy agreement, or by the resident and provider for a rental bond under a rooming accommodation agreement. Subsection (2) states that the authority must make each payment as directed by the application.

New section 135C *Application only by lessor or provider* applies if the application is made only by the lessor or provider. The authority must make the payment if the application directs that a payment be made to the contributor (tenant or resident). If the application directs the payment be made to the lessor or provider, the authority must make the payment as required under subdivision 4 and the contributor (tenant or resident) is the interested person for the payment.

New section 135D *Application only by contributor* applies if the application for bond payment is made by the contributor (tenant or resident) only. The authority must make the payment if the application directs that a payment be made to the lessor or provider. If the application directs that a payment be made to the contributor (tenant or resident), the authority must make the payment as required under subdivision 4 and the lessor or provider is the interested person for the payment.

Clause 9 replaces section 136 *Payment for which notice must be given* for ease of making drafting changes. The section applies if the authority receives an application for payment of a rental bond under section 125 and there are one or more interested persons under subdivision 2, 3 or 3A for the payment directed to be made under the application. In such a case the authority must give written notice of the application for rental bond to each of the interested persons.

Clause 9 also inserts new section 136A *Response by interested person to application for payment of rental bond*. New section 136A applies if the authority gives an interested person written notice of an application for payment of a rental bond. Under new subsection 136A(2) the interested person may, within 14 days after receiving the written notice, make a dispute resolution request to the authority about the payment. Section 402 sets out the process for making a dispute resolution request.

Clause 9 also inserts new section 136B *Application to tribunal if conciliation process ends without conciliated resolution.* Section 136B applies if the interested person makes a dispute resolution request about payment of a rental bond and the conciliation process ends without resolution being reached and the authority gives the interested person written notice about the ending of the conciliation process (Notice of unresolved dispute). In such a case, the interested person may apply to the tribunal for an order about the payment of the rental bond within 7 days after receiving notice about the ending of the conciliation process. If the interested person applies to the tribunal for an order about the payment of the rental bond, the person must give the authority written notice of the application.

Clause 9 also inserts new section 136C *Extension of time to apply to tribunal.* Section 136C states that if an application may be made to the authority for an order about the payment of a rental bond under section 136B, the interested person may, within the claim period, make a written request to the authority for an extension of the claim period of up to 3 days. Under new subsection 136C(3) the authority may grant the request for an extension only if the authority considers there is a sufficient reason to extend the claim period. Examples of a sufficient reason include that the interested person did not receive the written notice as required under subsection 136B(1)(c) because the mail was affected by a natural disaster, or the interested person was hospitalised during the claim period. New subsection 136C(4) clarifies that the term ***claim period*** means the period within which the application must be made under section 136B.

Clause 9 also inserts new section 136D *Tribunal order about payment of rental bond*. New section 136D applies if an interested person applies to the tribunal for an order about the payment of a rental bond. The tribunal may make any order about payment of the rental bond it considers appropriate having regard to the efforts made by the tenant or resident to comply with the tenant's and resident's obligations, the parties' compliance with the Act for the agreement, and the evidence supporting any claim on all or part of their share of the rental bond. The tribunal's order must not have the effect of penalising the tenant or resident for any damage caused by an act of domestic violence committed against the tenant or resident to the premises or inclusions, or the resident's room or inclusions.

Clause 9 also inserts new section 136E *Payment of rental bond after dispute resolution process.* New section 136E applies if the authority receives an application for payment of a rental bond under section 125 and, under subdivision 2, 3 or 3A, there are one or more interested persons for the payment directed to be made under the application. It notes that under section 136, the authority must give each interested person written notice of the application.

New subsection 136E(2), provides where the authority must make the payment as directed by the application, including if dispute resolution requests are made about the payment. Under subsection 136E(2), the authority must make the payment as directed in the application if no dispute resolution requests are made, if one or more requests are made but all the requests are withdrawn, or the conciliation process for each request ends without a conciliated resolution, none of the interested persons give the authority notice of an application to the tribunal for an order about the payment, or if one or more applications are made to the tribunal and all the applications are withdrawn.

Clause 10 amends the heading of section 139 to become *Limitation affecting early payment.* A note is inserted in subsection 139(3) to clarify that this section applies to a payment required to be made under the identified sections.

New subsections 139(4) and (5) apply when an application for payment of the rental bond is made by a tenant or resident who, after experiencing domestic violence, ended their residential tenancy agreement or rooming accommodation agreement or their interest in those agreements in accordance with the RTRA Act. The authority must not pay a rental bond if it knows the tenant or resident seeking the payment has not vacated the premises.

Clause 11 amends section 144 *Sdivs 3 and 4 apply subject to this subdivision.* The heading and subsections are amended to indicate the subdivisions 3, 3A and 4 apply subject to the subdivision which covers contributors to bond loans administered by the housing department. Subsections 144(2)(b) and (c) are omitted and replaced with (b) to clarify that subdivision 4 applies with any modifications necessary because the chief executive is taken to be an interested person.

Clause 12 omits subsections 173(2) and (3) and inserts a new subsection 173(2) to provide that subsection 173(1) does not apply to a term of a residential tenancy agreement requiring the tenant to pay the reasonable costs incurred by the lessor in reletting the premises if the term complies with new section 357A *Reletting costs*. Subsections 357A(1) and (2) include, among other requirements, restrictions about charging tenants reletting costs, including where the tenant has vacated the premises after giving the lessor a ***notice ending tenancy interest*** due to domestic and family violence.

*S*ubsection 173(4) is renumbered to become subsection 173(3) and the penalty referred to in existing subsection 173(4) is replaced with a reference to the maximum penalty for subsection (3).

Clause 13 amends section 178 *Certain terms about penalties and other payments void.* Existing subsections 178(2) and (3) are removed and replaced with new subsection 178(2) which provides that subsection 178(1) does not apply to a term of a rooming accommodation agreement requiring the resident to pay the reasonable costs incurred by the provider in reletting the resident's room if the term complies with section 396A (Reletting costs). It also renumbers existing subsection 178(4) to become subsection 178(3) and amends the reference to subsection (4) in existing 178(4) to refer to subsection 178(3).

Clause 14 amends current section 188 *Tenant's obligations generally,* by inserting new subsection 188(5) which applies to a tenant under a residential tenancy agreement who has experienced domestic violence. New subsection 188(5) provides that the obligations of the tenant under section 188 do not apply to the extent the obligations would require the tenant to repair, or compensate the lessor for, any damage to the premises or inclusions attributable to an act of domestic violence experienced by the tenant. This would apply when a tenant is ending their residential tenancy agreement, or interest in a residential tenancy agreement, due to domestic violence when making claims against the tenant's share of the rental bond.

Clause 15 amends section 205 *Tenant's name and other details. S*ubsection 205(3) is omitted and replaced with subsection 205(3)(a) and (b) to provide that subsection 205(2) only applies if the lessor or agent asks the tenant in writing to state the new address but that subsection 205(2) does not apply to a tenant who, after experiencing domestic violence, ended the residential tenancy agreement or the tenant's interest in a residential tenancy agreement under Chapter 5, Part 1, Division 3, Subdivision 2A (relating to domestic violence).

Clause 16 replaces section 211 *Changing locks*. Subsection 211(1) provides that the lessor or tenant may change the locks only if the other party to the residential tenancy agreement agrees to the change, or the lessor or tenant has a reasonable excuse for making the change, or the lessor or tenant believes the change is necessary for an emergency, or the lock is changed to comply with an order of the tribunal.

New subsection 211(2) provides that the tenant can change a lock if the tenant believes it is necessary to protect them or an occupant from domestic violence and a locksmith or other qualified tradesperson is engaged to change the lock. Subsection 211(3) states that where a lock is changed by a tenant or lessor under subsections 211(1) or (2), that party must give the other party to the residential tenancy agreement a key for the changed lock unless the other party agrees to not being given a key or a tribunal orders that the key not be given to the other party.

New subsection 211(4) provides that if the tenant changes the lock to protect them or another occupant from domestic violence and gives the lessor a key for the changed lock, the lessor must not give a key for the new lock to any person other than the tenant who changed the lock without the tenant's agreement or a reasonable excuse. A maximum penalty of 50 penalty units applies.

New subsection 211(5) provides that the right of the lessor or tenant to change a lock at the premises is subject to body corporate laws or by-laws that apply to the premises. Under section 211, ***body corporate law*** means the *Body Corporate and Community Management Act 1997* or the *Building Units and Group Titles Act 1980*.

Clause 17 omits subsection 212(2) of the RTRA Act relating to agreements about changing locks as it is redundant.

Clause 18 amends section 217 *Notice of damage* to include new subsection 217(5) which states that section 217 does not apply to the tenant under a residential tenancy agreement for damage caused by an act of domestic violence experienced by the tenant.

Clause 19 amends section 251 *Changing locks* to correct an incorrect reference in subsection 251(1)(b) from 'tenant' to 'resident', and inserts new subsection 251(3) requiring the provider to change or repair the lock if the request states that it is made for the purpose of protecting the resident under a rooming accommodation agreement from domestic violence.

New subsection 251(4) states that if the provider changes a lock as required under subsection 251(3), they must not give a key for the changed lock to any person other than the resident without the resident's agreement or a reasonable excuse. A maximum penalty of 50 penalty units is applied.

Clause 20 amends section 253 *Resident's obligations generally* to correct a drafting error by changing the reference from 'tenancy' to 'rooming accommodation agreement' in subsection 253(g).

New subsection 253(2) provides that the obligations of the resident under subsection 253(1) do not apply to the extent of requiring the resident to repair, or compensate the provider for, damage to the resident's room or inclusions caused by an act of domestic violence experienced by the resident.

Clause 21 replaces existing section 277 with new section 277 *Ending of residential tenancy agreements.* The amendments are intended to provide clarity through drafting changes. Section 277 provides that a residential tenancy agreement ends only in one of the following ways:

- the lessor and tenant agree, in a separate written document, to the ending of the tenancy,
- the lessor gives the tenant a notice to leave under section 326 and the tenant hands over vacant possession of the premises on or before handover day for the notice,
- the tenant gives the lessor a notice of intention to leave under section 327 and the tenant hands over vacant possession of the premises on or before the handover day for the notice,
- if a sole tenant gives the lessor a notice ending tenancy interest due to domestic violence and hands over vacant possession of the premises in accordance with the notice ending tenancy interest due to domestic violence requirements,
- if a sole tenant dies (section 324A outlines requirements relating to death of a sole tenant),
- the tenant vacates, or is removed from, the premises after receiving a notice from a mortgagee or appointed person in accordance with section 317,
- the tenant abandons the premises and the period for which the tenant has paid rent has ended (Division 8 outlines alternative procedures the lessor must follow in relation to abandonment of premises), or
- the tribunal makes an order terminating the agreement (Division 6 outlines making of termination orders by the tribunal).

The relevant sections of the RTRA Act are referenced to provide further detail about the requirements.

Clause 22 inserts a new Chapter 5, Part 1, Division 3, Subdivision 2A relating to domestic violence in residential tenancy agreements.

New section 308A *Victim's right to leave* which applies if a tenant believes they can no longer safely continue to occupy the premises because of domestic violence experienced by the tenant. The tenant may end their interest in the residential tenancy agreement by giving the lessor a notice ending tenancy interest in accordance with new section 308B.

New section 308B *Notice ending tenancy interest* is inserted. Subsection 308B(1) provides that the notice given by a tenant exercising their right to end an interest in the residential tenancy agreement under section 308A must be in the approved form and be supported by the evidence prescribed by regulation. Under subsection 308B(2) the notice is considered to be supported by the required evidence if a copy of the evidence accompanies the notice when it is given to the lessor, or the tenant allows the lessor or lessor's agent to inspect the evidence. A notice that complies with section 308B is a ***notice ending tenancy interest***.

New section 308C *Lessor's response to notice ending tenancy interest* is inserted and applies if the tenant (the ***vacating tenant***) gives the lessor a notice ending tenancy interest as per section 308B (Notice ending tenancy interest).

Subsection 308C(2) requires the lessor within 7 days after receiving the notice, to inform the vacating tenant whether the lessor proposes to apply to the tribunal to have the notice set aside because the lessor believes it does not comply with the requirements of section 308B. New section 308H deals with applications to the tribunal on those grounds.

If there are other tenants for the residential tenancy agreement, the lessor must inform the vacating tenant of the matters outlined in 308C(3)(a) to (c). These are that the other tenants will be informed that the tenant is vacating the premises; and when the other tenants will be informed that the tenant is vacating the premises, and that the residential tenancy agreement will continue for the other tenants. Requirements about how the lessor is to inform the remaining tenants are outlined in new section 308E (Effect of notice ending tenancy interest if more than one tenant).

New section 308D *Effect of notice ending tenancy interest if sole tenant* applies if a tenant gives the lessor a notice ending tenancy interest, and the tenant is the sole tenant for the residential tenancy agreement. Subsection 308D(2) establishes that the residential tenancy agreement ends on the later of either the day that is 7 days after the notice ending tenancy interest is given to the lessor or the day the tenant hands over vacant possession of the premises. A note refers to section 125 and Chapter 2, Part 3, Division 3, Subdivision 3A in relation to the tenant applying for payment of their share of the rental bond for the residential tenancy agreement after vacating the premises.

New section 308E *Effect of notice ending tenancy interest if more than 1 tenant* applies if a ***vacating tenant*** gives the lessor a notice ending tenancy interest and the vacating tenant is not the sole tenant for the residential tenancy agreement. Subsection 308E(2) establishes that the vacating tenant's interest in the residential

tenancy agreement ends on the later of either the day that is 7 days after the notice ending tenancy interest is given to the lessor or the day the tenant vacates the premises. A note refers to section 125 and Chapter 2, Part 3, Division 3, Subdivision 3A about the vacating tenant applying to the authority for the refund of their share of the rental bond for the residential tenancy agreement after vacating the premises. Under subsection 308E(3), the lessor must give each remaining tenant for the agreement a written notice (a ***continuing interest notice***). The ***continuing interest notice*** must be given after the vacating tenant's interest in the residential tenancy agreement has ended in accordance with subsections 308E(3) and (5) to allow sufficient time for the tenant to safely leave the premises, whether or not the remaining tenant is the alleged perpetrator. The continuing interest notice must state that the vacating tenant's interest in the agreement has ended, and that the agreement continues for the remaining tenant (and any other remaining tenants) on the same terms, and if the remaining tenants are required to top up the rental bond the amount they must pay to top up the bond and the day by which the top up must be made.

Subsection 308E(4) requires that the day stated in the continuing interest notice for payment of a rental bond top up must not be earlier than 1 month after the notice is given to all the remaining tenants. Subsection 308E(5) requires the lessor to give all the remaining tenants the continuing interest notice no later than 14 days after the vacating tenant's interest ends, but not earlier than 7 days after the vacating tenant's interest ends.

New section 308F *Top ups of rental bond* applies if, under a residential tenancy agreement: the amount of rental bond held by the authority for the agreement is less than the amount of the rental bond required under the agreement; and the shortfall is due to a tenant's interest in the residential tenancy agreement ending under section 308E(2) (Effect of notice ending tenancy interest if more than one tenant); and all of the remaining tenants for the agreement have been given a continuing interest notice. The continuing tenants must top up the rental bond within 1 month after the last of the remaining tenants is given the continuing interest notice. Subsection 308F(3) states that the remaining tenants top up' the rental bond by paying an amount to the lessor to restore the rental bond to the full amount required under the residential tenancy agreement. The top up amount must be paid to the authority.

New section 308G *Particular costs not recoverable* applies if a residential tenancy agreement ends under subsection 308D(2) or a tenant's interest in a residential tenancy agreement ends under subsection 308E(2). The tenant is not liable for costs relating to the ending of the agreement or interest in the agreement, costs relating to goods left at the premises by them, and/or costs relating to reletting of the premises (reletting costs). Subsection 308G(3) clarifies that section 308G applies despite any other provision of this Act or a term of the residential tenancy agreement.

New section 308H *Application to tribunal about notice ending tenancy interest* applies if a tenant gives, or purports to give, the lessor a notice ending tenancy interest. Subsection 308H(2) allows the lessor, within 7 days of receiving the notice, to apply to the tribunal for an order to have the notice ending tenancy interest set aside because it does not comply with section 308B. Subsection 308H(3) allows the tribunal to make the order only if it is satisfied that the notice does not comply with section 308B. Subsection 308H(4) identifies what the tribunal must consider when deciding to make

the order. The tribunal must have regard to whether the evidence supporting the notice is the evidence required under subsection 308B(1)(b) (Notice ending tenancy interest). The tribunal must not, however, examine whether the tenant experienced domestic violence or the tenant's belief as to whether the tenant could safely continue to occupy the premises.

New section 308I *Confidentiality* applies to any persons who have had access to evidence supporting a notice ending tenancy interest who are the lessor, the lessor's agent, or a person (an employee) who has access to the evidence in the course of the person's employment by the lessor or lessor's agent. Subsection 308I(2) states that any person identified in subsection 308I(1) must not disclose the evidence to anyone except in circumstances identified under 308I(a) to (f). A maximum penalty of 100 penalty units applies. The listed allowable circumstances are: the lessor disclosing the evidence to the lessor's agent; the lessor's agent disclosing the evidence to the lessor; an employee of the lessor or lessor's agent disclosing the evidence to the lessor or agent; the person disclosing the evidence to a lawyer while obtaining legal advice; the person disclosing the evidence in a proceeding in a court or tribunal; or the person disclosing the evidence as required by a law.

Clause 23 inserts a new Chapter 5, Part 1, Division 4A and new section 324A *Death of a sole tenant* which applies when a sole tenant under a residential tenancy agreement dies. This was previously captured under subsections 277(7), (8) and (9). Under subsection 324A(1)(a) to (d), the agreement ends on the earliest of: 14 days after the tenant's personal representative or relative gives the lessor (or the lessor gives the tenant's personal representative or relative) written notice that the agreement is ending because of the tenant's death; the day agreed between the lessor and tenant's personal representative or relative; or the day decided by the tribunal on application by the lessor. Subsection 324A(2) provides that if no notice is given, or agreement or application is made to the tribunal, the residential tenancy agreement ends 1 month after the tenant's death or 2 days after the tenant's death if the agreement is a short tenancy (moveable dwelling). Subsection 324A(3) clarifies that nothing prevents a notice or application under subsection 324A(1) being withdrawn so a day can be agreed under subsection 324A(1)(c).

Clause 24 inserts a new section 357A *Reletting costs* for residential tenancy agreements. New subsection 357A(1) provides that a residential tenancy agreement may include a term requiring the tenant to pay the reasonable costs incurred by the lessor in reletting the premises if the agreement is for a fixed term, and the tenant is only made liable under the term if the tenant ends the agreement other than a way that is permitted under this Act, and the tenant's liability under the term is limited to the reasonable costs incurred by the lessor in reletting the premises.

New subsection 357A(2) clarifies that any term of a residential tenancy agreement requiring the tenant to pay reletting costs is void if the term does not comply with subsection 357A(1), and does not apply if the tenant is the victim of domestic violence and vacates the premises after giving the lessor a notice ending tenancy interest due to domestic violence.

Clause 25 replaces existing section 366 *Ending of rooming accommodation agreements* with new section 366 for ease of drafting and for consistency. New section

366 states that a rooming accommodation agreement only ends in one of the ways identified in subsections 366(a) to (g). These are:

- the provider and resident agree, in a separate written document, to end the rooming accommodation agreement
- the provider gives the resident a notice under this part requiring the resident to leave the rental premises and the resident leaves
- the resident or provider gives a notice under this part ending the agreement on a stated day
- if there is only one resident for the agreement:
    - the resident gives the provider a notice ending residency interest due to domestic violence, and vacates the rental premises as required
    - the resident dies (section 387A outlines the requirements).
- the resident vacates, or is removed from, the rental premises after receiving a notice from a mortgagee or appointed person under section 384
- the resident abandons the resident's room and the period for which the resident has paid rent has ended (section 509 prescribes indications a resident has abandoned a room)
- the tribunal makes an order terminating the agreement (Division 5 prescribes the making of termination orders by the tribunal).

Clause 26 inserts a new Chapter 5, Part 2, Division 3, Subdivision 2A, which relates to domestic violence in rooming accommodation. New section 381A *Victim's right to leave* establishes that a resident who believes they can no longer safely continue to occupy the rental premises because of domestic violence experienced by the resident may end their interest in a rooming accommodation agreement by giving the provider a notice ending residency interest that complies with new section 381B (Notice ending residency interest).

New section 381B *Notice ending residency interest* establishes requirements for a resident to end a rooming accommodation agreement due to domestic violence. New subsection 381B(1) provides that a resident exercising their right to end their interest in a rooming accommodation agreement under section 381A must give the provider notice in the approved form and supported by the evidence prescribed by regulation. New subsection 381B(2) provides that the notice is supported by the prescribed evidence if a copy of the evidence accompanies the notice or the resident allows the provider or provider's agent to inspect the evidence. New subsection 381B(3) provides that a notice complying with new section 381B is a ***notice ending residency interest***.

New section 381C *Provider's response to notice ending residency interest* applies if a ***vacating resident*** gives the provider a notice ending residency interest due to domestic violence. New subsection 381C(2) states the provider must, within 7 days after receiving the notice ending residency interest, inform the vacating resident whether the provider intends to apply to the tribunal to have the notice set aside because it does not comply with the requirements of section 381B. Section 381H allows providers to apply to the tribunal for an order setting aside the notice ending residency interest because it does not comply with section 381B. If there are other residents for the rooming accommodation, new subsection 381C(3) requires the provider to inform the vacating resident that the other residents for the same rooming accommodation agreement will be informed that the resident is vacating the rental premises; and when the remaining residents will be informed the resident is vacating

the premises, and that the rooming accommodation agreement continues for the other residents.

Clause 26 also inserts new section 381D *Effect of notice ending residency interest if sole resident* which applies if a resident gives a notice ending residency interest due to domestic violence to the provider and the resident is the sole resident for the rooming accommodation agreement. New subsection 381D(2) states that the rooming accommodation agreement ends on the later of either 7 days after the notice ending residency interest is given to the provider or the day the resident vacates the rental premises. A note refers to section 125 and Chapter 2, Part 3, Division 3, Subdivision 3A in relation to the resident applying to the authority for payment of their share of the rental bond for the rooming accommodation agreement after they have vacated.

Clause 26 also inserts new section 381E *Effect of notice ending residency interest if more than 1 resident* which applies if a ***vacating resident*** gives a notice ending residency to the provider and the vacating resident is not the sole resident for the rooming accommodation agreement. New subsection 381E(2) provides that the vacating resident's interest in the rooming accommodation agreement ends on the later of either 7 days after the notice ending residency interest is given to the provider or the day the resident vacates the rental premises. A note refers to section 125 and Chapter 2, Part 3, Division 3, Subdivision 3A in relation to the vacating resident applying to the authority for payment of their share of the rental bond for the rooming accommodation agreement after they have vacated.

New subsection 381E(3) requires the provider to give each remaining resident for the agreement a written ***continuing interest notice*** stating that the vacating resident's interest in the agreement has ended; and the agreement continues for all of the remaining residents on the same terms; and if the remaining residents are required to top up the rental bond, the amount they must pay to top up the rental bond and the day by which the top up must be made. New subsection 381E(4) provides the day stated in the continuing interest notice must not be earlier than 1 month after the notice is given to all of the remaining residents.

New subsection 381E(5) requires the provider to give all of the remaining residents the continuing interest notice no later than 14 days after the vacating resident's interest ends but not earlier than 7 days after the vacating resident's interest ends. This will assist in providing some safety to the resident by providing time to vacate the premises, whether or not the remaining residents are the alleged perpetrators.

Clause 26 also inserts new section 381F *Top ups of rental bond* which applies if the authority holds a rental bond amount for the rooming accommodation agreement that is less than the amount of the rental bond required under the agreement, and the shortfall occurred because the vacating resident's interest has ended and all of the remaining residents for the same rooming accommodation agreement have been given a continuing interest notice as required in subsection 381E(3). Under subsection 381F(2) the remaining residents must top up the rental bond within 1 month after the last of the remaining residents is given the continuing interest notice. Subsection 381F(3) indicates the residents are considered to have topped up the rental bond if they have paid an amount that restores the rental bond to the full amount required

under the rooming accommodation agreement. Any top up bond amount must be lodged with the authority.

Clause 26 also inserts new section 381G *Particular costs not recoverable* which applies if a rooming accommodation agreement or resident's interest in a rooming accommodation agreement ends under subsections 381D(2) or 381E(2) due to domestic violence. New subsection 381G(2) clarifies that a resident is not liable for costs relating to the end of the agreement or interest; costs relating to goods left at the rental premises by the resident and/or costs relating to the reletting of the resident's room. New subsection 381G(3) clarifies that the section applies despite any provision of the Act or any term of a rooming accommodation agreement to the contrary.

Clause 26 also inserts new section 381H *Application to tribunal about notice ending residency interest* which applies if a resident gives, or purports to give, to the provider a notice ending residency interest due to domestic violence. New subsection 381H(2) states that the provider may, within 7 days of receiving the notice, apply to the tribunal for an order setting aside the notice because it does not comply with new section 381B. New subsection 381H(3) states the tribunal may make the order only if satisfied the notice does not comply with new section 381B and new subsection 381H(4) outlines what the tribunal must have regard to in deciding whether or not to make the order. The tribunal must consider whether or not the evidence supporting the notice is the evidence required under subsection 381B(1)(b) but the tribunal must not examine whether or not the resident experienced domestic violence or the resident's belief as to whether or not the resident could safely continue to occupy the rental premises.

Clause 26 also inserts new section 381I *Confidentiality*. New subsection 381I(1) specifies that new section 381I applies to any persons who have had access to evidence supporting a notice ending residency interest who are the provider, the provider's agent and/or a person (an ***employee***) who has access to the information in the course of the person's employment by the provider or provider's agent.

New subsection 381I(2) provides that the person must not disclose the evidence to another person except in the following circumstances:

- the provider disclosing the evidence to the provider's agent
- the provider's agent disclosing the evidence to the provider
- an employee of the provider or provider's agent disclosing the evidence to the provider or agent
- the person disclosing the evidence to a lawyer while obtaining legal advice
- the person disclosing the evidence in a proceeding in a court or tribunal
- the person is disclosing the evidence as required by a law.

The maximum penalty for contravening new subsection 381I(2) is 100 penalty units.

Clause 27 inserts new Chapter 5, Part 2, Division 4A *Death of sole resident and* new section 387A *Death of sole resident*. New subsection 387A(1) states that if a sole resident dies, the rooming accommodation agreement ends on the earlier of the following dates:

- 7 days after the resident's personal representative or relative gives the provider written notice
- 7 days after the provider gives the resident's personal representative or relative written notice

- The day agreed between the provider and the resident's personal representative or relative
- The day decided by the tribunal on application by the provider.

New subsection 387A(2) clarifies that if no notice is given, or if no agreement or application is made, the rooming accommodation agreement ends 14 days after the resident's death. New subsection 387A(3) clarifies that nothing prevents the withdrawal of a notice or application under subsection 387A(1) to allow a day to be agreed between the relevant parties.

Clause 28 inserts new Chapter 5, Part 2, Division 7 about compensation and new section 396A *Reletting costs* for rooming accommodation agreements. New subsection 396A(1) provides that a rooming accommodation agreement may include a term requiring the resident to pay the reasonable costs incurred by the provider in reletting the resident's room (***reletting costs***) if the agreement is for a fixed term, and the resident is only made liable under the term if the resident ends the agreement other than a way that is permitted under the RTRA Act, and the resident's liability under the term is limited to the reasonable costs incurred by the provider in reletting the resident's room. New subsection 396A(2) clarifies that a term of a rooming accommodation agreement requiring the resident to pay reletting costs is void if the term does not comply with subsection 396A(1) and does not apply if the resident vacates the premises after giving the provider a notice ending residency interest due to domestic violence.

Clause 29 amends current section 415 *Meaning of urgent application* relating to what matters are to be considered an urgent application under the RTRA Act. An urgent matter does not require the parties to apply for conciliation through the Residential Tenancies Authority before an application can be made to the tribunal. The reference to 'a tribunal' in current section 415 is changed to 'the tribunal' as a minor drafting amendment. Current subsection 415(5) is amended to reflect additional grounds for urgent applications that will apply on assent:

- (l) section 308H (Application to tribunal about notice ending tenancy interest)
- (ma) section 324(1)(d) (Death of sole tenant)
- (v) section 381H (Application to tribunal about notice ending residency interest)
- (va) section 387A(1)(d) (Death of sole resident).

Subsections 415(5)(k) and (u) are removed. Refer to *Clause 84* for those urgent applications that will apply on proclamation.

Clause 30 amends Schedule 2 *Dictionary*. Definition for *interested person* is replaced with a new definition. Other definitions are included to reflect changes to the RTRA Act for *body corporate by-law, interested person, notice ending residency interest* and *notice ending tenancy interest.*

Part 3 Amendments commencing by proclamation

Clause 31 removes existing subsections 17A(2)(b) to (d) *Prescribed minimum housing standards* and replaces them with new subsections 174(2)(b) to clarify that it applies to premises in which rooming accommodation is, or is to be, provided; or 174(2)(c) inclusions for premises mentioned in paragraphs (a) or (b); or 174(2)(d) facilities in a

moveable dwelling park. It also amends existing subsection 17A(3) by replacing ‘for any matter relating to premises, inclusions or park facilities’ with ‘about any matter relating to the premises, inclusions or facilities mentioned in subsection (2)’ for drafting style. The references to ‘park’ in subsection 17A(3)(a) and (d) are removed for consistency in referencing. It also removes subsection 17A(6) which is no longer required due to amendments to subsection 17A(2).

Clause 32 inserts a new section 57A *Offer of residential tenancy must disclose particular information*. New subsection 57A(1) states that a lessor or agent must not advertise or offer a residential tenancy unless the information prescribed by regulation is stated or disclosed in the advertisement or offer. A maximum penalty of 20 penalty units applies.

New subsection 57A(2) clarifies that a lessor or agent must not accept a rental bond from a tenant of a premises if the residential tenancy for the premises was advertised or otherwise offered in contravention of subsection 57A(1). This is for consistency with existing section 57 requirements. A maximum penalty of 20 penalty units applies.

New subsection 57A(3) provides that section 57A does not apply to a person merely placing a sign on or near premises advertising that the premises are available for residential tenancy.

Clause 33 amends section 58 heading to refer to ‘particular information’ instead of ‘documents’. Subsection 58(1) is amended to require ‘information prescribed by regulation’ to be given to the prospective tenant. The amended subsection 58(1) reads ‘The lessor or lessor’s agent must give a prospective tenant for a residential tenancy the document prepared for section 61 and any other information prescribed by regulation before doing any of the following—.'

Clause 34 amends section 65 *Condition report at start of tenancy* so that references to ‘report’ become ‘condition report’, and references to ‘agreement’ become ‘residential tenancy agreement’ for clarity and consistent drafting style. Subsection 65(3) amends the time allowed for the tenant to sign the copy of the condition report, show the parts of the condition report the tenant disagrees with if required, and return the copy of the condition report to the lessor or agent from 3 days to 7 days. Subsection 65(6) is amended to confirm that the lessor or agent must keep for 1 year after the last residential tenancy agreement ends, a copy of the condition report that relates to the last residential tenancy agreement. New subsection 65(7) is inserted to provide that if the lessor or agent complies with the obligations under subsection 65(2) to prepare a condition report before the tenant occupies the premises under a residential tenancy agreement (the ***original agreement***), then entry condition reports are not required to be completed for later residential tenancy agreements (a ***renewal agreement***) that continues the tenant’s right to occupy the same premises. This reflects accepted industry practice but is not stated clearly in the RTRA Act. New subsection 65(8) is inserted to clarify which condition report is operational. That is, unless a new condition report is prepared for a renewal agreement, the condition report for the premises for the original agreement is taken to be the condition report for the renewal agreement.

Clause 35 inserts a new section 76A *Offer of rooming accommodation must disclose particular information.* New subsection 76A(1) states that a provider or agent must not

advertise or offer rooming accommodation unless the information prescribed by regulation is disclosed with the advertisement or offer. A maximum penalty of 20 penalty units applies.

New subsection 76A(2) clarifies that a provider or agent must not accept a rental bond from a resident for rooming accommodation if the rooming accommodation was advertised or otherwise offered in contravention of subsection 76A(1). This reflects existing section 57 requirements for residential tenancy agreements for consistency. A maximum penalty of 20 penalty units applies.

New subsection 76A(3) provides that section 76A does not apply to a person merely placing a sign on or near the rental premises advertising that the room is available for rooming accommodation.

Clause 35 also inserts a new section 76B *Provider must give particular information to prospective resident.* New section 76B states that the provider or agent must give a prospective resident the information prescribed by regulation before doing any of the listed activities. A maximum of 20 penalty units applies.

Clause 36 amends references in section 81 *Condition report at start of rooming accommodation* for 'report' to become 'condition report', and 'agreement' to become 'rooming accommodation agreement' for clarity and drafting style. Subsection 81(2) increases the time allowed for the resident to sign the copy of the condition report, show the parts of the condition report the resident disagrees with if required, and return the copy of the condition report to the provider or agent from 3 days to 7 days. Subsection 81(5) is amended to confirm that the provider must keep for 1 year after the last rooming accommodation agreement ends, a copy of the condition report that relates to the last rooming accommodation agreement. New subsection 81(5A) is inserted to clarify that if the provider or agent complies with the obligations, subsections 81(1) to (4) to prepare a condition report before the resident occupies the premises under a rooming accommodation agreement (the ***original agreement***), do not apply for subsequent rooming accommodation agreements (a ***renewal agreement***) that continue the resident's right to occupy the same room. This reflects accepted industry practice but is not stated clearly in the RTRA Act. New subsection 81(5B) is inserted to clarify which condition report is operational. That is, unless a new condition report is prepared for a renewal agreement, the condition report for the original agreement is taken to be the condition report for the renewal agreement. The subsections are then renumbered.

Clause 37 removes existing subsections 91(6) and (7) *Rent increases* and replaces them with new subsections 91(6)(a) to (b) and 91(7)(a) to (b) to provide protections for tenants where rent increases may be linked to compliance of the premises with minimum housing standards or being allowed to keep a pet or working dog at the premises.

New subsections 91(6)(a) to (b) extend the current provisions of subsection 91(7) to require that a rent increase is payable by the tenant only if the rent is increased in compliance with section 91, to establish that the rent cannot be increased if the rent increase relates to the premises being made compliant with the prescribed minimum housing standards, or the lessor's approval for a pet to be kept at the premises.

New subsections 91(7)(a) to (b) provide that, under a fixed term agreement, the rent may not be increased before the term ends unless the agreement provides for a rent increase and states the amount for the increase or how the increase is to be worked out and the increase is made under the agreement.

Clause 38 extends the reasons that tenants can apply to the tribunal for an order about a rent increase under section 92 *Tenant's application to tribunal about rent increase*. It removes existing subsection 92(1) to replace it with new subsections 92(1) and 92(1A) to clarify that a tenant can apply to the tribunal about a rent increase if the tenant believes either the rent increase is excessive, or the rent increase is not payable under section 91 as it relates to the premises being made compliant with the prescribed minimum housing standards or relates to the lessor's approval to keep a pet or working dog at the premises.

Clause 38 also removes subsection 92(4)(f) and introduces new subsections 92(4)(f) and 92(4)(g) to provide that the tribunal, in deciding an application about a rent increase, must have regard to certain things. Under subsection 92(4)(f), the tribunal must have regard to any repairs or maintenance carried out to the premises or inclusions if the proposed rent increase relates to the premises being made compliant with the minimum housing standards. Under subsection 92(4)(g), the tribunal must have regard to the lessor's approval to keep the pet or the right to keep the working dog at the premises if the application about the proposed rent increase relates to the approval to keep the pet or working dog at the premises.

New subsection 92(4A) provides that the tribunal may also have regard to other matters the tribunal considers relevant. *S*ubsections 92(1A) to (6) are renumbered as 92(2) to (8).

Clause 39 replicates the intentions of Clause 38 to extend protections to residents in rooming accommodation about rent increases. It removes current subsection 105(2) and introduces new subsection 105(3A) which states that the increased rent is payable from the day stated in the notice, and the rooming accommodation agreement is taken to be amended accordingly.

New subsection 105(3B) provides that the increased rent is only payable by a resident if the rent increase complies with the requirements of section 105, and if the rent increase does not relate to the rental premises or inclusions being made compliant with the prescribed minimum housing standards or the keeping of a pet or working dog in the resident's room. Subsections 105(3) to 105(5) are renumbered as 105(2) to 105(6).

New subsection 105(7) is inserted to provide that subsection 105(6) does not apply if the agreement is amended to provide for an increase in rent in payment of another service provided by the provider if the provision of the service is necessary for the rental premises or inclusions to comply with prescribed minimum housing standards or the provider's approval to keep a pet in the resident's room.

Clause 40 introduces a new section 105A *Resident's application to tribunal about rent increase* to provide reasons that residents can apply to the tribunal for an order about

a rent increase. This is to ensure greater consistency between existing protections for tenants on residential tenancy agreements and residents on rooming accommodation agreements and introduces a right for residents to challenge excessive rent increases. Reasons include if the resident believes the increase to be excessive, or if the resident believes the increase is not payable under section 105 as it relates to the premises being made compliant with the prescribed minimum housing standards, or it relates to the provider's approval to keep a pet in the resident's room. The resident may apply to the tribunal for an order. The application must be made within 30 days after the resident receives the notice and, if a fixed term agreement, before the term of the agreement ends. The tribunal may make an order reducing the amount of the proposed rent increase by a stated amount or stopping the proposed rent increase. In deciding an application about a rent increase, the tribunal must have regard to certain things. These include comparable market rents for comparable accommodation; the proposed increased rent compared to the current rent; the state of repair of the premises; the term of the accommodation; the period since any last rent increase; if the proposed rent increase relates to the premises or inclusions being made compliant with the minimum housing standards including any repairs or maintenance carried out to the rental premises or inclusions since the resident began to occupy the premises; or if the proposed rent increase relates to approval for a pet or a working dog to be kept in the resident's room. The tribunal may also have regard to any other matter the tribunal considers relevant and may make an interim order pending its final decision on the application.

Clause 41 amends section 148 *Order for return of bond if bond wrongfully taken* to extend application of the section to a provider or provider's agent found guilty of an offence against subsection 76A(2) (Offer of rooming accommodation must disclose particular information), as well as a lessor or lessor's agent found guilty of an offence against subsection 57(2) (Premises must be offered for rent at a fixed amount) or 57A(2) (Offer of residential tenancy must disclose prescribed information). To clarify the application to rooming accommodation arrangements, the words 'lessor or agent' are replaced with 'lessor or provider, or the lessor or provider's agent'.

Clause 41 also inserts a new subsection 148(4) to define ***convicted*** of an offence in relation to a person as including any of the following in relation to the offence: a court finding the person guilty or accepting that person's plea of guilty whether or not a conviction is recorded; the person opting to pay an infringement notice fine; and/or registration of a default certificate for an infringement notice given to the person. A ***default certificate*** and an ***infringement notice*** are as per the *State Penalties Enforcement Act 1999*, Schedule 2. This amendment is to support enforcement action taken against people for contravening sections 57, 57A and 76A.

Clause 42 amends section 171 *Supply of goods and services* to clarify conditions about keeping pets to include fumigation or cleaning. New subsection 171(3) clarifies that restrictions about the supply of goods and services under section 171 do not apply to a requirement about a service charge, or a condition of an approval to keep a pet at the premises if the condition requires the carpets at the premises to be cleaned or the premises fumigated at the end of the tenancy, provided that the condition complies with section 184F *Conditions for approval to keep pet at premises*, and does not require the tenant to buy the cleaning or fumigation services from a particular person or business.

Clause 43 amends subsection 176(3) about supply of goods and services in rooming accommodation. It provides that this section does not apply to a requirement about a food service, personal care service or utility service; or a condition of an approval to keep a pet in the resident's room if the condition requires the carpets in the room to be cleaned, or the room to be fumigated, at the end of the rooming accommodation agreement. This is unless the condition does not comply with section 256F *Conditions for approval to keep pet in resident's room*; and does not require the resident to buy the cleaning or fumigation services from a particular person or business.

Clause 44 inserts new Chapter 3, Part 1A *Pets* to provide a framework for tenants and lessors to reach agreement about pets in premises where there is a residential tenancy agreement. It also inserts new section 184A *Definitions for part* which defines ***pet*** to mean a domesticated animal or an animal that is dependent on a person for the provision of food or shelter but does not include a working dog or an animal prescribed by regulation not to be a pet. ***Working dog*** is defined to mean an assistance dog, guide dog or hearing dog, a corrective services dog, or a police dog under the relevant legislation (*Guide, Hearing and Assistance Dogs Act 2009, Corrective Services Act 2006 and Police Powers and Responsibilities Act 2000*).

New section 184B *Keeping pets and other animals at premises*. New subsections 184B(1) and (2) provide that the tenant may keep a pet or other animal at the premises only with the approval of the lessor. However, the tenant may keep a working dog at the premises without the lessor's approval

New subsection 184B(3) provides that an authorisation to keep a pet, working dog or other animal at the premises is subject to a body corporate by-law, park rule or other law about keeping animals at the premises. Examples are given about restrictions due to local laws that may limit the number or types of animals that may be kept at the premises, and that the tenant may be subject to a body corporate by-law that requires the tenant to obtain approval from the body corporate as well as the lessor.

Clause 44 also inserts new section 184C *Tenant responsible for pets and other animals* which states that tenants are responsible for all nuisance and damage caused by a pet or other animal kept at the premises. This includes noise caused by the pet or other animal. The tenant is responsible for repairing any damage to the premises and inclusions caused by the pet or other animal. Damage to the premises caused by the pet is not considered fair wear and tear under subsection 188(4).

Clause 44 also inserts new Division 3 *Approvals, refusals and conditions for keeping pets at premises*. New section 184D *Request for approval to keep pet at premises* provides that the tenant may request the lessor's approval to keep a stated pet at the premises by using the approved form. The lessor must respond in writing to the tenant's request within 14 days after receiving the request. The lessor's response must be in writing and state:

- whether the lessor approves or refuses the tenant's request for a pet and,
- if the lessor approves the request, subject to conditions, what the conditions of approval are, and
- if the lessor refuses the tenant's request, what the grounds for refusal are, and the reasons the lessor believes the grounds for refusal apply to the request.

A note clarifies that the grounds for refusal are limited to the grounds stated in section 184E.

Subsection 184D(4) provides that if the lessor does not reply to the tenant's request within 14 days, or the response does not comply with the requirements of the written response, the lessor is taken to have approved the keeping of the pet at the premises. New subsection 184D(5) states that, to remove any doubt, a lessor's refusal of a tenant's request on the grounds that 'no pets are allowed' is not enough to comply with subsection 184(3)(c) to provide a ground for refusal.

New section 184E *Grounds for refusing pets being kept at premises*. New subsection 184E(1) lists the only grounds for a lessor to refuse a tenant's request for approval to keep a stated pet at the premises. These are:

- keeping the pet would exceed a reasonable number of animals being kept at the premises
- the premises is unsuitable for keeping the pet because of a lack of appropriate fencing, open space or another thing necessary to humanely accommodate the pet
- keeping the pet is likely to cause damage to the premises or inclusions that could not practicably be repaired for a cost that is less than the amount of the rental bond for the premises
- keeping the pet would pose an unacceptable risk to the health and safety of a person, including, for example, because the pet is venomous
- keeping the pet would contravene a law
- keeping the pet would contravene a body corporate by-law or park rule applying to the premises
- the tenant has not agreed to the reasonable conditions proposed by the lessor for approval to keep the pet under section 184F (Conditions for approval to keep pet at premises)
- the animal stated in the request is not a pet
- if the premises is a moveable dwelling premises, keeping the pet would contravene a condition of a licence applying to the premises, or
- another ground prescribed by regulation.

Clause 44 also inserts new section 184F *Conditions for approval to keep pet at premises*. New subsection 184F(1) provides that the lessor's approval for the tenant to keep a pet at the premises may be subject to reasonable conditions only if the conditions relate to keeping the pet at the premises, the conditions are reasonable having regard to the type of pet and the nature of the premises and the conditions are stated in the written approval given to the tenant under subsection 184D(2).

New subsection 184F(2) provides that, without limiting what may constitute a reasonable condition of an approval to keep a pet at a premises, the following conditions are taken to be reasonable:

- if the pet is not a type of pet ordinarily kept inside, a condition requiring the pet to be kept outside the premises
- if the pet is capable of carrying parasites that could infest the premises, a condition requiring a premises to be professionally fumigated at the end of the tenancy, or

- if the pet is allowed inside the premises, a condition requiring carpets in the premises to be professionally cleaned at the end of the tenancy.

It clarifies under subsection 184F(4) that the premises is considered to be professionally fumigated, and carpets to be professionally cleaned, if the fumigation or cleaning is done to a standard ordinarily achieved by businesses selling those services.

New subsection 184F(3) provides that the condition of the lessor's approval to keep a pet at the premises is void if the condition would:

- have the effect of the lessor contravening current sections 171 (relating to supply of goods and services) or 172 (prohibited incentive amounts); or
- be void under section 173 (Certain terms about penalties and other payments void); or
- increase the rent or rental bond payable by the tenant; or
- require any form of security (such as an additional rental bond) from the tenant for keeping the pet.

New section 184G *Continuation of authorisation to keep pet or working dog at premises*. The section applies if the lessor gives approval for the tenant to keep the pet at the premises or the tenant is authorised under section 184B(2) to keep a working dog at the premises, then the authorisation continues for the life of the pet or working dog. It clarifies that authorisation to keep the pet or working dog is not affected by the ending of the residential tenancy agreement, if the tenant continues occupying the premises under a new agreement; if there is a change in a lessor or lessor's agent; or, for a working dog, the retirement of the dog from the service the dog provided as a working dog.

Clause 45 amends the definition of ***significant breach*** for residential tenancy agreements by removing subsection 192(2)(c) 'keeping a pet on the premises' and replacing it with 'keeping an animal, other than a working dog, at the premises without the lessor's approval.

Clause 46 amends section 214 *Meaning of emergency repairs* for residential tenancy agreements. A new subsection 214(2) is inserted to define ***emergency repairs*** to also mean works needed for the premises or inclusions to comply with the prescribed minimum housing standards.

Clause 47 amends section 216 *Nominated repairer for emergency repairs* to ensure tenants know who to contact, and how to contact them, if emergency repairs are required. Under amendments to subsection 216(1) and (2), the lessor must nominate a person (or persons) as a ***nominated repairer*** to act for the lessor in arranging for emergency repairs, or to make the emergency repairs, of the premises or inclusions. Subsection 216(2) requires the nominated repairer details to be included in the residential tenancy agreement or a written notice given by the lessor to tenant. Under subsection 216(3) the residential tenancy agreement or written notice must state the name and telephone number of the nominated repairer, and whether the nominated repairer is the tenant's first point of contact for notifying the need for emergency repairs. Under subsection 216(4) the lessor must give the tenant a written notice of any change to the nominated repairer, including changes to contact details.

Subsection 216(5) clarifies that this section does not apply if the lessor gave the tenant the lessor's contact information, including a telephone number and, under the residential tenancy agreement, the lessor is to arrange for emergency repairs to be made to the premises or inclusions.

Clause 48 amends section 219 *Costs of emergency repairs arranged by tenant* to increase the amount the tenant can authorise. Subsection 219(1) is amended to establish the maximum amount that may be incurred for emergency repairs arranged by the tenant where the emergency repairs process has been followed is equal to the amount of 4 weeks rent payable under the residential tenancy agreement. This is an increase equivalent to an extra 2 weeks.

Clause 49 inserts new section 219A *Lessor's agent may arrange for emergency repairs to be made* to introduce a new power for agents of lessors to arrange emergency repairs to be carried out under residential tenancy agreements. Under subsection 219A(1), the lessor's agent may arrange for a suitably qualified person to carry out emergency repairs to the premises or inclusions if the repairs are not likely to cost more than the emergency repair limit for the residential tenancy agreement. The ***emergency repair limit*** for a residential tenancy agreement is an amount equal to 4 weeks rent payable under the agreement. Subsection 219A(2) provides that if the lessor's agent acts as allowed under the section and pays for the emergency repairs, the agent may make deductions from rent payments received from the tenant, up to the cost of the repairs, before disbursement of the payments to the lessor's account. The lessor's agent must inform the lessor of the action as soon as practicable after taking it.

Clause 50 removes existing section 221 *Orders of tribunal about carrying out emergency repairs* and replaces it with a new section 221 *Application for repair order* for residential tenancy agreements. New subsection 221(1) provides that the tenant, or a representative entity, may apply to the tribunal for a repair order if the premises or inclusions need repair and:

- for routine repairs, the tenant has informed the lessor or agent of the need for repairs (in line with requirements under section 217, and the repair was not done within a reasonable time after the lessor or agent was informed of the need for repair by the tenant.
- for emergency repairs, the tenant has been unable to notify the lessor or nominated repairer of the need for the repair or the repair was not made within a reasonable time after the tenant had given notice to the lessor or nominated repairer of the need for repair.

Subsection 221(2) provides that the representative entity may not apply for the repair order if the tenant does not consent to the entity applying for the order or the tenant and entity do not agree on the order to be sought. Subsection 221(3) states that section 221 does not apply for a short tenancy (moveable dwelling).

Clause 51 inserts new sections 221A to 221C dealing with repair orders granted by the tribunal for a residential tenancy agreement. New section 221A *Granting repair order* allows the tribunal to grant an application for a repair order if the tribunal is satisfied the application is made under section 221.

Under new subsection 221A(2), the tribunal must give consideration to the conduct of the lessor and agent, the risk of injury that the damage is likely to cause a person at the premises, and the loss of amenity caused by the damage. The tribunal may also consider any other matter the tribunal considers relevant.

Under new subsection 221A(3), the tribunal may make any order or give any directions about the repairs it considers appropriate in the circumstances, or if the premises is vacant, the tribunal may make an order that the premises not be occupied under a residential tenancy agreement until stated repairs are completed.

New subsection 221A(4) provides that, without limiting new subsection 221(3), the tribunal may make an order about 1 or more of the following matters:

- what is, or is not, to be repaired
- that the lessor carries out the repairs within the time decided by the tribunal
- that the tenant may arrange for a suitably qualified person to carry out the repairs for an amount decided by the tribunal
- who must pay for the repairs
- that the tenant may pay a reduced rent until the repairs are carried out to the standard decided by the tribunal
- that the lessor must pay an amount to the tenant as compensation for loss of amenity
- that a suitably qualified person must assess the need for the repairs or inspect the premises or inclusions
- that the residential tenancy agreement ends if the repairs are not completed by a stated date.

New subsections 221A(5) and (6) provide that until a repair order is complied with, the repair order continues to apply to the premises and does not end with any particular residential tenancy agreement. The tribunal must give a copy of a repair order made under this section to the authority.

New section 221B *Extensions of time to comply with repair order* to allow the lessor to apply to the tribunal for an extension of time to comply with a repair order applying to the lessor. New subsection 221B(2) provides that the tribunal may grant an extension of time to comply with the repair order only if the tribunal is satisfied the lessor is unable to complete the ordered repairs within the required time because of any of the following reasons: hardship, a shortage of a material necessary to make the repairs, the remote location of the premises causing the lessor difficulty in being supplied with a material necessary to make the repairs or engaging a suitably qualified person to make the repairs. The tribunal must notify the authority of any extension granted under this section.

New section 221C *Offence to contravene a repair order*. New subsection 221C(1) provides that a person must comply with a repair order to the extent the order applies to the person, unless the person has a reasonable excuse. A maximum penalty of 50 units is applied. New subsection 221C(2) provides that an offence against subsection (1) is a continuing offence and may be charged in 1 or more complaints for the periods the offence continues. The maximum penalty for each week the offence continues after a conviction is 5 penalty units. The offence applies whether or not the residential tenancy agreement has ended.

Clause 52 inserts a new Chapter 3, Part 8, which deals with retaliatory action taken against tenants under residential tenancy agreements.

New section 246A *Retaliatory action taken against the tenant* is inserted to provide for the section to apply if any of the following apply:

- the tenant or a representative entity takes action to enforce the tenant's rights, including, for example, by giving the lessor a notice to remedy breach, or requesting repairs or maintenance to the premises or inclusions, or requiring the lessor to reimburse the tenant for an amount properly incurred by the tenant for emergency repairs, or applying to the tribunal for an order under the RTRA Act
- the lessor or lessor's agent knows the tenant or a representative entity has complained to the authority or another government entity about an act or omission of the lessor that adversely affected the tenant
- an order of the tribunal is in force in relation to the lessor and tenant and, after a matter arises, the lessor
- gives the tenant a notice to remedy breach (other than a notice relating to failure to pay rent for at least 7 days), or increases the rent payable under the residential tenancy agreement, or takes action to end the residential tenancy agreement or refuses to enter into a further residential tenancy agreement at the end of the current agreement with the tenant.

New subsection 246A(2) states the tenant may apply to the tribunal for an order to set aside the lessor's action if the tenant reasonably believes the action was taken to intimidate or punish the tenant for a matter mentioned in subsection 246A(1)(a). Under new subsection 246A(3), the application must be made within 1 month after the tenant becomes aware of the lessor taking the action and new subsection 246A(4) provides that the tribunal may make the order only if the tribunal is satisfied the lessor's action was likely to have been taken by the lessor to intimidate or punish the tenant for a matter mentioned in subsection 246A(1)(a).

New subsection 246A(5) states the tenant may form a belief under subsection 246A(2) and the tribunal may be satisfied of a matter under subsection 246A(4) whether or not the tenant was intimidated or suffered a punishment, or anyone has been convicted or found guilty of an offence against the RTRA Act.

Clause 53 amends subsection 253(e) *Resident's obligations generally* to replace reference to 'the provider's permission' with 'an authorisation under section 256B;'. This means a resident's obligations include not keeping an animal on the rental premises without the provider's authorisation.

Clause 54 inserts new Chapter 4, Part 1A to provide a framework for residents and providers to reach agreement about pets in premises where there is a rooming accommodation agreement. Under Division 1, new section 256A *Definitions for part* is inserted to define ***pet*** to mean a domesticated animal or an animal that is dependent on a person for the provision of food or shelter but does not include a working dog or an animal prescribed by regulation not to be a pet. ***Working dog*** is defined to mean an assistance dog, guide dog or hearing dog, a corrective services dog, or a police dog as defined under relevant legislation (*Guide, Hearing and Assistance Dogs Act 2009, Corrective Services Act 2006 and Police Powers and Responsibilities Act 2000*).

New section 256B *Keeping pets and other animals in resident's rooms* which covers keeping pets under rooming accommodation agreements. New subsection 256B(1) states that a resident may keep a pet or other animal in their room only with the approval of the provider. However, under new subsection 256B(2) the resident may keep a working dog in their room without the provider's approval.

New subsection 256B(3) states that an authorisation for a resident to keep a pet, working dog or other animal in their room is subject to a body corporate by-law, house rules or other law about keeping animals at their rental premises. Examples provided are where the rental premises may be subject to a local law that limits the number or types of animals that may be kept at the premises, and where the rental premises may be subject to a body corporate by-law that requires the resident to obtain approval from the body corporate as well as the provider before keeping a pet at the premises.

New section 256C *Resident responsible for pets and other animals* which relate to rooming accommodation agreements. It states that residents are responsible for all nuisance, including noise, and damage caused by a pet or other animal kept in the resident's room. It clarifies that the resident is responsible for repairing any damage to the resident's room and inclusions caused by the pet or other animal and that damage caused by a pet or other animal is not considered fair wear and tear under subsection 253(i).

New section 256D *Request for approval to keep pet in residents' room.* It states that the resident may request the provider's approval for the resident to keep a stated pet in the resident's room in the approved form. The provider must respond in writing to the resident's request within 14 days after receiving the request. The provider's response must state:

- whether the provider approves or refuses the resident's request for a pet and,
- if the provider approves the request, subject to conditions, what the conditions of approval are, and
- if the provider refuses the resident's request, what the grounds for refusal are and the reasons why the lessor believes the grounds apply to the request.

It notes that the grounds for refusal are limited to the grounds provided under section 256E, and that a provider's response stating 'no pets allowed' is not a ground for refusal. A resident can dispute the ground stated in the provider's refusal, including by applying to the tribunal for an order under section 427. This is not an urgent application.

If the provider does not reply to the resident's request within 14 days, or if the provider's response does not comply with the requirements under subsection 256(3), the provider is taken to have approved the keeping of the pet in the resident's room.

New section 256E *Grounds for refusing pets being kept in resident's room* which covers pets being kept under a rooming accommodation agreement. New subsection 256E(1) lists the only grounds for a provider to refuse a resident's request to keep a stated pet in the resident's room. These are:

- keeping the pet would exceed a reasonable number of animals being kept in the room or at the rental premises

- the resident's room is unsuitable for keeping the pet because of a lack of appropriate space or another thing necessary to humanely accommodate the pet
- keeping the pet is likely to cause damage to the resident's room or inclusions that could not practicably be repaired for a cost that is less than the amount of the rental bond for the room
- keeping the pet would pose an unacceptable risk to the health and safety of a person, including, for example, because the pet is venomous
- keeping the pet would contravene a law
- keeping the pet would contravene a body corporate by-law, or house rule applying to the rental premises
- the resident has not agreed to the reasonable conditions proposed by the provider for approval to keep the pet which meet the requirements of section 256F
- the animal stated in the request is not a pet, or
- another ground prescribed by regulation.

New section 256F *Conditions for approval to keep pet in resident's room* which relate to rooming accommodation agreements. New subsection 256F(1) provides that the provider's approval for the resident to keep a pet in their room may be subject to conditions if the conditions relate only to keeping the pet in the resident's room, and are reasonable having regard to the type of pet, the room and the rental premises and are stated in a written approval given to the resident under subsection 256D(2).

New subsection 256F(2) provides that, without limiting what may constitute a reasonable condition of the provider's approval, the following conditions are taken to be reasonable conditions of approval for a resident to keep a pet:

- a condition requiring the pet generally be kept in the resident's room
- if the pet can carry parasites that could infest the room, a condition requiring the room to be professionally fumigated at the end of the rooming accommodation agreement
- if the pet is allowed inside the room, a condition requiring carpets in the room be professionally cleaned at the end of the rooming accommodation agreement.

Fumigation and carpet cleaning are considered to have been professionally done if the room is fumigated or the cleaning is done to a standard ordinarily achieved by businesses selling those services.

New subsection 256F(3) provides that the condition of the provider's approval for a resident to keep a pet in their room is void if the condition would

- have the effect of the provider contravening current section 176 (relating to supply of goods and services) or section 177 (prohibited incentive amounts); or
- be void under section 178 (certain terms about penalties and other payments) as a term of the rooming accommodation agreement; or
- increase the rent or rental bond payable by the resident; or
- require any form of security from the resident for keeping the pet.

New section 256G *Continuation of authorisation to keep pet or working dog in resident's room* which relates to rooming accommodation agreements. The section applies if the provider gives approval for the resident to keep a pet in the resident's room or the resident is authorised to keep a working dog in the resident's room under subsection 256B(2), then the authorisation continues for the life of the pet or working dog. It notes the provider may be taken to have approved a pet being kept in the resident's room if the provider had failed to comply with section 256D (Request to keep pet in the resident's room) in responding to a resident's request. It clarifies that the continuation of the authorisation to keep a pet or working dog is not affected by the ending of the rooming accommodation agreement if the resident continues occupying the room under a new agreement; a change in the provider or the provider's agent; or, for a working dog, the retirement of the dog from the service the dog provided as a working dog.

Clause 55 inserts a new Chapter 4, Part 4 of the RTRA Act, which deals with retaliatory action taken against a resident in rooming accommodation. New section 276A *Retaliatory action taken against resident* applies if any of the following apply:

- the resident takes action to enforce the resident's rights, including, for example, by giving the provider a notice to remedy breach, or requesting repairs or maintenance to the premises or inclusions, or applying to the tribunal for an order under the RTRA Act, or
- the provider or provider's agent knows the resident has complained to the authority or another government entity about an act or omission of the provider that adversely affects the resident, or
- an order of the tribunal is in force in relation to the provider and resident, and after a matter mentioned above arises, the provider takes any of the following action gives the resident a notice to remedy breach (other than a notice relating to failure to pay rent for at least 7 days), or
- increases the rent payable under the rooming accommodation agreement; or
- takes action to end the rooming accommodation agreement; or
- refuses to enter into a further rooming accommodation agreement at the end of the current agreement with the resident.

New subsection 276A(2) states the resident can apply to the tribunal for an order to set aside the provider's action if the resident reasonably believes the action was taken to intimidate or punish the resident for a matter mentioned in subsection 276A(1)(a).

New subsections 276A(3) and 276A(4) provide that the application must be made within 1 month after the resident becomes aware of the provider taking the action and the tribunal may make the order sought if the tribunal is satisfied the provider's action was likely to have been taken to intimidate or punish the resident.

New subsection 276A(5) provides that the resident may form a belief under subsection 276A(2) and the tribunal may be satisfied of a matter under subsection 276A(4) whether or not the resident was intimidated or suffered a punishment, or any person has been convicted or found guilty of an offence against the RTRA Act.

Clause 56 amends current section 286 *Notice to leave if premises being sold* for residential tenancy agreements. Current subsection 286(1), which only applies to periodic agreements, is replaced and extends the application to both periodic and fixed

term agreements. It clarifies that the lessor may give the tenant a notice to leave because the lessor has entered a contract to sell the premises with vacant possession. It also includes a new provision where the lessor is preparing to sell the premises and the preparation requires the premises to be vacant. The note in subsection 286(2) is removed because it is no longer relevant. New subsection 286(3) is inserted to state that this section does not apply to a residential tenancy that is a short tenancy (moveable dwelling) for clarification.

Clause 57 amends current section 290A *Notice to leave because of serious breach* to clarify that the section applies to a serious breach of a residential tenancy agreement in public or community housing so it is not confused with new section 297B (Application for termination because of serious breach). Section 290A is amended to insert a new subsection 290A(1AA) to clarify the section applies to lessors who are either the chief executive of the housing department, acting on behalf of the State, or a community housing provider. The note refers to new section 297B which requires other lessors to apply for a tribunal order to terminate a residential tenancy agreement due to serious breach. Subsection 290A(4) and the note are removed as that information is contained in subsection (1) and the subsections are renumbered

Clause 58 inserts new sections 290B to 290G to include additional grounds for a lessor to end a residential tenancy agreement. Required notice periods for all grounds to end a residential tenancy agreement are contained in Schedule 1. New sections 365A to 365D apply when lessors or their agents knowingly include false or misleading information that they know to be false or misleading in a material particular in a notice to leave. They may be subject to penalties or restrictions on reletting the premises in certain conditions.

New section 290B *Notice to leave for State government program* allows the lessor to give the tenant a notice to leave because the premises are required for use under a program administered by the State under an Act. This notice to leave is for ***State government program***. It clarifies that this ground does not apply to a residential tenancy that is a short tenancy (moveable dwelling).

New section 290C *Notice to leave for planned demolition or redevelopment* allows the lessor to give the tenant a notice to leave because they require the premises to be vacant for a planned demolition or redevelopment. This notice to leave is for ***demolition or redevelopment***. It clarifies that this ground does not apply to a residential tenancy that is a short tenancy (moveable dwelling).

New section 290D *Notice to leave for significant repair or renovations* allows the lessor to give the tenant a notice to leave if the premises require significant repairs or the lessor intends to carry out significant renovations to the premises and the repairs or renovations cannot be safely carried out while the tenant occupies the premises. This notice to leave is for ***significant repair or renovations.*** It clarifies that this ground does not apply to a residential tenancy that is a short tenancy (moveable dwelling).

New section 290E *Notice to leave for change of use* allows the lessor to give the tenant a notice to leave because they require the premises for a use other than a residential tenancy, or they require the premises for the other use for a period of at least 6 months.

This notice to leave is for ***change of use***. It clarifies that this ground does not apply to a residential tenancy that is a short tenancy (moveable dwelling).

New section 290F *Notice to leave if entitlement to student accommodation ends* which applies if the premises are used for student accommodation and the tenant's entitlement to occupy is dependent upon the tenant being a student. Under subsections 290F(2) and (3) the lessor can give the tenant a notice to leave if the tenant ceases to be a student, and this notice to leave is for ***ending of entitlement to student accommodation***.

Subsection 290F(4) clarifies that this section does not apply to moveable dwelling premises in a moveable dwelling park and (5) provides a definition for student and student accommodation. ***Student*** means a person enrolled in a course that, under the *Social Security Act 1991 (Cwlth)*, section 569B, is an approved course of education or study for section 569A(b) of that Act. ***Student accommodation*** means a premises that is primarily used to provide accommodation to persons who are students. It is intended to apply to purpose built off-campus student accommodation. It is not intended to apply to general residential premises, such as a share house, where the tenants may or may not be students.

New section 290G *Notice to leave for owner occupation* allows the lessor to give the tenant a notice to leave the premises to the tenant if the lessor, or their immediate family, needs to occupy the premises. This notice to leave is for ***owner occupation***. It clarifies that this ground does not apply to a residential tenancy that is a short tenancy (moveable dwelling). New subsection 290G(4) defines immediate family of a lessor as: a spouse of the lessor, or a child of the lessor or their spouse, or a parent of the lessor or their spouse, or another person who normally lives with the lessor and is dependent on the lessor for health care or financial support.

Clause 59 amends current section 291 *Notice to leave without ground* to reflect that lessors or agents are no longer permitted to give notices to leave 'without grounds' and must use an approved ground for residential tenancy agreements. 'End of a fixed term' has been introduced as a new ground for a lessor or agent to give a tenant to end a fixed term agreement. The heading for current section 291 is amended from 'Notice to leave without ground' to 'Notice to leave for end of a fixed term agreement'. References to 'without grounds' are removed from subsections 291(1) and (4) and replaced with references to the end of a fixed term agreement for consistent drafting style and clarification. The note under subsection 291(4) is also removed. The effect is that a notice to leave for end of a fixed term must not be used in a way that constitutes taking retaliatory action against the tenant. New subsection (5) clarifies that this ground does not apply to a residential tenancy that is a short tenancy (moveable dwelling).

Clause 60 removes current section 292 *Application to tribunal about notice to leave without ground* as 'without grounds' is no longer a reason for lessors to end a residential tenancy agreement and the section is redundant.

Clause 61 inserts a new section 297B *Application for termination because of serious breach* under a residential tenancy agreement. New subsection 297B(1) states the lessor may apply to the tribunal for a termination order if they reasonably believe the

tenant, an occupant, a guest of the tenant or a person allowed on the premises by the tenant has:

- used the premises or any property adjoining or adjacent to the premises including common areas for an illegal activity, or
- intentionally or recklessly destroyed or seriously damaged part of the premises, or
- endangered another person in the premises or a person occupying or allowed on premises nearby, or
- interfered significantly with the reasonable peace, comfort or privacy of another tenant or another tenant's appropriate use of their property.

Subsection 297B(2) determines that an application to the tribunal made under this section is an application for ***serious breach***. Subsection 297B(3) allows the lessor to form a reasonable belief that the premises or property have been used for an illegal activity whether or not anyone has been convicted or found guilty of an offence.

Subsection 297B(4) clarifies that section 297B does not apply to a residential tenancy agreement where the lessor is the chief executive officer of the housing department, acting on behalf of the State, or where the lessor is a community housing provider, as the serious breaches by tenants with those lessors are covered under section 290A (Notice to leave for serious breach at public or community housing).

Clause 62 amends current section 299 *Application by lessor for termination for repeated breaches by tenant*. Subsection 299(4) is amended by inserting the definition for 'provision' as 299(4)(g) a provision of a body corporate by-law or park rule.

Clause 63 inserts new sections 307A to 307D to provide new grounds for tenants to end a residential tenancy agreement.

New section 307A *Notice of intention to leave because of condition of premises* is inserted. Within the first 7 days on which the tenant occupies the premises under a residential tenancy agreement, the tenant may give a notice of intention to leave the premises to the lessor because:

- the premises are not fit for the tenant to live in,
- the premises or inclusions are not in good repair,
- the lessor is in breach of a law dealing with issues about the health or safety of persons using or entering the premises,
- the premises or inclusions do not comply with the prescribed minimum housing standards.

However, subsection 307A(2) provides that the tenant may not give a notice to leave under subsection 307A(1) if the circumstance was caused by an action or failure of the tenant. A notice of intention to leave under section 307A is called a notice of intention to leave because of ***condition of premises***. This ground does not apply to a residential tenancy that is a short tenancy (moveable dwelling).

New section 307B *Notice of intention to leave because of death of cotenant* is inserted. It provides that the tenant may give the lessor a notice of intention to leave the premises if another tenant under the residential tenancy agreement dies, and it would be impractical for the tenant or cause the tenant excessive hardship for the tenant to

remain in occupation under the residential tenancy agreement. A notice of intention to leave under section 307B is called a notice of intention to leave because of ***death of cotenant***. This ground does not apply to a residential tenancy that is a short tenancy (moveable dwelling).

New section 307C *Notice of intention to leave if entitlement to student accommodation ends* is inserted. It establishes that the section applies if the premises are used for student accommodation and the tenant's entitlement to occupy the premises depends on the tenant being a student. Subsections 307C(2) and (3) allow a tenant to give a notice of intention to leave the premises to the lessor if the tenant stops being a student and that the notice is called a notice of intention to leave for ***ending of entitlement to student accommodation***. Subsection 307C(4) clarifies that it does not apply to moveable dwelling premises in a moveable dwelling park. Subsection (5) limits this section to students and student accommodation as defined. ***Student*** means a person enrolled in a course that, under the *Social Security Act 1991 (Cwlth)*, section 569B, is an approved course of education or study for section 569A(b) of that Act. ***Student accommodation*** means a premises that is primarily used to provide accommodation to students. It is intended to apply to purpose built off-campus student accommodation. It is not intended to apply to general residential premises, such as a share house, where the tenants may or may not be students.

New section 307D *Notice of intention to leave because of failure to comply with repair order* is inserted. Subsection (1) provides that a tenant may give a notice of intention to leave the premises to the lessor if a repair order applies to the lessor about the premises, and the repair order requires repairs to be carried out to the premises or inclusions by a stated day, and the lessor fails to comply with the repair order by the stated day. A notice of intention to leave under this section is called a notice of intention to leave because of ***failure to comply with repair order***.

Clause 64 inserts a new section 312A *Application for termination because of misrepresentation*. Subsection 312A(1) allows a tenant, within the first 3 months of occupying the premises under a residential tenancy agreement, to apply to the tribunal for a termination order because the lessor or lessor's agent gave the tenant false or misleading information about matters outlined in 312A(a) to (e). Those matters are: the condition of the premises or its inclusions; the services provided for the premises; a matter relating to the premises that is likely to affect the tenant's quiet enjoyment of the premises; the agreement or any other document the lessor must give the tenant under the RTRA Act (for example, body corporate by-laws that apply to the premises), or the rights and obligations of the tenant or lessor under the RTRA Act. Subsection 312A(2) establishes that an application made under this section is called an application made because of ***misrepresentation***.

Clause 65 amends existing section 326 *Notice to leave* for residential tenancy agreements by removing existing subsections 326(1)(d) to (f) and replacing them with new subsections. Subsection 326(1)(d) clarifies the day stated in the notice is the ***handover day***. Subsections 326(1)(e) and (f) require the notice to state and give particulars of the ground on which it is given and new subsection 26(1)(g) is inserted to require any required information to be provided with the approved form.

Subsection 326(3) is also replaced with a new subsection 326(3) to clarify that the handover day stated in the notice to leave must not be before the end of the minimum notice period for the notice. New subsection 326(5) states that a notice to leave given for a fixed term agreement is not ineffective merely because the handover day is earlier than the day the term ends unless the minimum notice period for the notice must not end before the day the term ends. New subsection 326(6) is inserted to clarify that subsection 326(5) does not prevent a notice to leave being given to a tenant at any time before the end of the term for a fixed term agreement. Subsection 326(5) clarifies when the handover day can be. New subsection 326(7) defines ***minimum notice period***, for a notice to leave, to mean the notice period stated for the notice in Schedule 1, Part 1.

Clause 66 amends existing section 327 *Notice of intention to leave*. Existing subsection 327(1)(d) is amended to include a reference to ***handover day***. Existing subsection 327(2) is removed and replaced with a new subsection 327(2) to clarify that the handover day in the notice of intention to leave must not be before the end of the minimum notice period for the notice. New subsection 327(4) is inserted to clarify that a notice of intention to leave given for a fixed term agreement is not ineffective merely because the handover day is earlier than the day the term ends unless the minimum notice period for the notice must not end before the day the term ends. New subsection 327(5) is inserted to clarify that subsection 327(4) does not prevent a notice of intention to leave being given to a lessor at any time before the end of the term of the fixed term agreement. Subsection 327(6) is inserted to define ***minimum notice period***, for a notice of intention to leave, as the notice period stated for the notice in Schedule 1, Part 2.

Clause 67 removes existing sections 329 to 332 as this information is now contained in Schedule 1.

Clause 68 amends existing section 335 *Applications for termination orders* for residential tenancy agreements by inserting subsection 335(1)(h) which provides for ‘serious breach’ as a ground on which the lessor may apply to the tribunal for a termination order. It also amends existing subsection 335(2) by including (h) misrepresentation as grounds for an application that a tenant may make to the tribunal for a termination order.

Clause 69 amends existing section 340 *Failure to leave for other grounds* for residential tenancy agreements by removing section 340(1)(b)(ix) and replacing it with grounds (ix) to (xvi) which are: serious breach at public or community housing; State government program; demolition or redevelopment; significant repair or renovations; change of use; ending of entitlement to student accommodation; owner occupation; and end of a fixed term agreement.

Clause 70 removes existing section 341 *Failure to leave without ground* as lessors and agents cannot issue tenants with a notice to leave without ground for residential tenancy agreements.

Clause 71 inserts new sections 347A and 347B relating to tribunal orders for residential tenancy agreements. New section 347A *Serious breach* relates to tribunal considerations for serious breaches by tenants. New subsection 347A(1) provides

that, if an application is made to a tribunal by a lessor for a termination order because of a serious breach by the tenant, the tribunal may make the order if satisfied that the applicant has established the ground of the application; and the relevant action justifies terminating the agreement.

New subsection 347A(2) outlines the matters that the tribunal must have regard to when deciding if the relevant action justifies terminating the residential tenancy agreement. These are: the damage done to the premises and inclusions by the relevant action including the likely cost of the damage compared to the rental bond for the premises; whether the relevant action was recurrent and the frequency of any recurrences; and the adverse effects the relevant action had on any person, including physical harm and financial loss.

Under new subsection 347A(3) the tribunal, when deciding the application, may have regard to any other matters it considers relevant. New subsection 347A(4) defines ***relevant action*** in this section, for an application to the tribunal for a termination order because of serious breach, means an action of a person constituting the grounds for making the application under section 297B(1).

Clause 71 also inserts new section 347B *Misrepresentation* relating to tribunal orders about misrepresentation for residential tenancy agreements. New subsection 347B(1) provides that a tribunal may make a termination order because of misrepresentation if the tribunal is satisfied that the applicant has established the grounds for the application; and the false or misleading information, that is the subject of the application, justifies terminating the residential tenancy agreement.

New subsection 347B(2) provides that the tribunal, when deciding whether the false or misleading information justifies terminating the agreement, must have regard to several matters. These are the extent to which the false or misleading information did any of the following: induced the tenant to enter into the agreement, misrepresented the condition of the premises or inclusions; adversely affected the tenant in exercising a right under the RTRA Act, and adversely affected the tenant's quiet enjoyment of the premises. The tribunal should also have regard to any adverse effects likely to be suffered by the tenant or other persons if the agreement were not terminated. In deciding the application, the tribunal may have regard to any other matter the tribunal considers relevant.

Clause 72 amends existing section 350 *Issue of warrant of possession* to allow the tribunal additional powers to issue a warrant of possession. Existing subsections 350(1) and 350(2) are renumbered as subsections 350(2) and (3). New subsection 350(1) is inserted to allow the owner of residential premises to apply to the tribunal for the issue of a warrant of possession where there is no residential tenancy agreement in place for the premises, and a person is occupying the premises without the consent of the owner. An example may be a squatter who had never entered into a residential tenancy agreement as well as a person who was a tenant under a residential tenancy agreement that has ended.

New subsection 350(4) clarifies that nothing in section 350 prevents the owner of the residential premises from recovering possession of the premises under any other

process or law. It includes a note to refer to section 353 in relation to recovering possession of premises in a way authorised under the RTRA Act.

Clause 73 amends existing section 351 *Warrant of possession* to allow possession of the premises to be given to 'the owner of the premises or the person in whose favour a termination order was made.' Subsection 351(2) is amended to replace the reference to 'former tenant' with 'person occupying the premises' to reflect changes to section 350 (Issue of warrant of possession).

Clause 74 amends existing section 353 by replacing the heading 'Way of recovering possession of premises' with the heading 'Limited ways of recovering possession of premises from tenants' to better reflect the content. Existing subsections 353(1)(a) and (b) are removed and replaced with new subsection 353(1)(a) and (b) to clarify the section applies to a person who is the tenant under a residential tenancy agreement or who was the tenant under a residential tenancy agreement and who is holding over after termination of the agreement.

Clause 75 inserts new Chapter 5, Part 1, Division 11 which relates to offences. New section 365A *False or misleading information in a notice to leave* relates to misleading information in a notice given by a lessor or agent to a tenant to end a residential tenancy agreement. New subsection 365A(1) states that the new section 365A applies if the lessor gives the tenant a notice to leave for sale contract, significant repair or renovations, demolition or redevelopment, change of use or owner occupation.

Under new subsection 365A(2) a lessor or lessor's agent must not give a tenant a notice to leave containing information the lessor or agent knows is false or misleading in a material particular. A maximum penalty of 50 penalty units applies. However, subsection 365A(2) does not apply if the lessor or lessor's agent, when giving information in a document, tells the tenant (to the best of the lessor or agent's ability) how the document is false or misleading, and gives the tenant the correct information if the lessor or agent has, or can reasonably obtain, the correct information.

Clause 75 also inserts new section 365B *Lessor must not let premises for 6 months after ending tenancy for premises being sold*. New subsection 365B(1) states the lessor must not offer a residential tenancy agreement for the premises for 6 months after the handover day where a residential tenancy ends because the lessor has given the tenant a notice to leave for sale contract. A maximum penalty of 50 penalty units applies. This is intended to apply to the lessor who is selling the premises, not the prospective purchaser if they become the new lessor.

New subsection 365B(2) states that in a proceeding for an offence, the lessor has a defence to the offence under subsection 365B(1) if the lessor proves the lessor genuinely made the premises available for sale but no offers, acceptable to the lessor, were received or the lessor entered into a contract for the sale of the premises but the contract ended without the premises being sold. Two examples are included: where the lessor only received offers below the expected sale price, and the sale contract was terminated by the buyer under a term of the contract or a statutory right, including a cooling off period.

Clause 75 also inserts new section 365C *Lessor must not let premises for 6 months after ending tenancy for change of use*. New subsection 365C(1) states the lessor must not offer a residential tenancy for the premises for 6 months after the handover day if a residential tenancy ends because the lessor has given the tenant a notice to leave for change of use. A maximum penalty of 50 penalty units applies. New subsection 365C(2) states that in a proceeding for an offence, the lessor has a defence against the offence in subsection 365C(1) if they can prove the change of use did not happen for reasons beyond the lessor's control.

Clause 75 also inserts new section 365D *Lessor must not let premises for 6 months after ending tenancy for owner occupation*. New subsection 365D(1) states the lessor must not offer a residential tenancy for the premises for 6 months after the handover day if a residential tenancy ends because the lessor has given the tenant a notice to leave for owner occupation. A maximum penalty of 50 penalty units applies.

New subsection 365D(2) states that in a proceeding for an offence, the lessor has a defence to the offence under subsection 365D(1) if the lessor proves the intended occupant's need to occupy the premises ended or the intended occupant became unable to occupy the premises, and the lessor did not offer a residential tenancy for the premises until after the intended occupant's need ended or the intended occupant became unable to occupy the premises, and the premises remained vacant between the tenant vacating the premises and the offer in paragraph (b) being accepted. New subsection 365D(3) clarifies the meaning of ***intended occupant*** for this section means the lessor or member of the lessor's immediate family whose need to occupy the premises formed the basis for giving the notice to leave.

Clause 76 inserts new sections 371A to 371E to introduce new grounds for providers to give notices to leave to residents in rooming accommodation.

New section 371A *Notice to leave if rental premises being sold* is inserted. New subsection 371A(1) clarifies that the section applies if a provider is preparing to sell the rental premises and the preparations require the rental premises to be vacant or a provider has entered into a contract to sell the rental premises with vacant possession. New subsection 371A(2) states that a provider can give a resident a notice which requires the resident to leave the rental premises, and the requirements for the notice to leave and what information must be included are outlined in the new subsection 371A(3). The notice to leave must be in the approved form, and state why the resident is required to leave the premises, and state the day by which the resident must leave the premises, and be accompanied by the information required under the approved form for the notice, and be signed by the provider. Under new section 371A(4) the day by which the resident is required to leave the premises must not be earlier than either 1 month after the notice is given to the resident and, if the rooming accommodation agreement is a fixed term agreement, the day the term of the agreement ends.

New section 371B *Notice to leave for planned demolition or redevelopment*. New subsection 371B(1) allows a provider to give a resident a notice to leave the rental premises if the provider requires the premises to be vacant for a planned demolition or redevelopment. New subsection 371B(2) states the requirements for the notice to leave and what information must be included. The notice to leave must be in the approved form, and state why the resident is being required to leave, and state the

day by which the resident must leave the rental premises, and be accompanied by the information required under the approved form for the notice, and be signed by the provider. New subsection 371B(3) requires the day by which the resident is required to leave the rental premises must not be earlier than either of 2 months after the notice is given to the resident and, if the rooming accommodation agreement is a fixed term agreement, the day the term of the agreement ends.

New section 371C *Notice to leave because of significant repair or renovations*. New subsection 371C(1) allows a provider to give a resident a notice to leave the rental premises on the grounds the premises requires significant repairs or the provider intends to carry out significant renovations to the premises, and the repairs or renovations cannot be effectively, efficiently or safely carried out while the resident occupies the premises. New subsection 371C(2) states the requirements for the notice and what information must be included. The notice must be in the approved form, and state why the resident is being required to leave, and state the day by which the resident must leave the rental premises, and be accompanied by the information required under the approved form for the notice, and be signed by the provider. New subsection 371C(3) requires the day by which the resident is required to leave the premises must not be earlier than either 1 month after the notice is given to the resident and, if the rooming accommodation agreement is a fixed term agreement, the day the term of the agreement ends.

New section 371D *Notice to leave for change of use*. New subsection 371D(1) allows a provider to give a resident a notice to leave the rental premises because the provider requires the premises for use as holiday accommodation or other short stay service accommodation; or a use that is not a residential use; or to make a change to the premises which will make it no longer able to be used as a residential dwelling.

New subsection 371D(2) states the requirements for the notice and what information must be included. The notice must be in the approved form, and state why the resident is being required to leave, and state the day by which the resident must leave the rental premises, be accompanied by the information required under the approved form or the notice, and be signed by the provider. New subsection 371D(3) requires the day by which the resident is required to leave the premises must not be earlier than either the day that is 1 month after the notice is given to the resident or, if the rooming accommodation agreement is a fixed term agreement, the day the term of the agreement ends.

New section 371E *Notice to leave if entitlement to student accommodation ends* which applies if the rental premises are used for student accommodation and the resident's entitlement to occupy the student accommodation depends on the resident being a student. New subsection 371E(2) allows a provider to give a resident a notice to leave the premises if the resident stops being a student. New subsection 371E(3) states the requirements for the notice and what information must be included. The notice must be in the approved form and state why the resident is being required to leave, and state the day by which the resident must leave, and be signed by the provider.

New section 371E(4) requires the day by which the resident is required to leave the premises must not be earlier than 1 month after the notice is given to the resident.

New subsection 371E(5) limits the application of this section to defined types of students and student accommodation. ***Student*** means a person enrolled in a course that, under the *Social Security Act 1991 (Cwlth)*, section 569B, is an approved course of education or study for section 569A(b) of that Act. ***Student accommodation*** means premises primarily used to provide accommodation to students. It is intended to apply to purpose built off-campus student accommodation. It is not intended to apply to general rooming accommodation where the residents are not required to be students.

Clause 77 replaces current section 372 *Terminating of agreement by provider without ground* which had allowed a provider to end a rooming accommodation agreement 'without grounds'. Providers are no longer able to give 'without grounds' notices and can only end agreements on specific grounds set out in the RTRA Act. New section 372 *Notice to leave for end of fixed term agreement* introduces 'end of a fixed term' as a new ground. New subsection 372(1) clarifies that the section applies to a rooming accommodation agreement that is a fixed term agreement. A provider may give to a resident a notice requiring the resident to leave the rental premises at the end of the rooming accommodation agreement. New subsection 372(3) provides that the notice must be in the approved form, and state why the resident is being required to leave, and state the day by which the resident is required to leave the rental premises, and be signed by the provider. New subsection 372(4) states that the day by which the resident is required to leave the rental premises must not be earlier than either 14 days after the notice is given to the resident and the end of the rooming accommodation agreement.

Clause 78 removes existing section 373 *Application to tribunal about terminating agreement without ground* as providers cannot end rooming accommodation agreements 'without ground' and this section becomes redundant.

Clause 79 amends section 376 *Application by provider for termination for repeated breaches by resident* by inserting in subsection 376(4) an additional provision for repeated breaches which is a body corporate by-law or house rule.

Clause 80 inserts new sections 380A to 380C which provide new grounds for residents to end a rooming accommodation agreement.

New section 380A *Notice terminating agreement because of condition of rental premises* establishes a new ground for a resident to end a rooming accommodation agreement. Within the first 7 days of the resident occupying the rental premises under a rooming accommodation agreement, the resident may give the provider a notice terminating the rooming accommodation agreement in certain conditions. Under new subsection 380A(1)(a) to (d) these are if the provider is in breach of a law dealing with issues about the health or safety of persons using or entering the resident's room or common areas; or the resident's room or common areas are not fit for the resident to live in; or the resident's room or common areas or provided facilities are not safe or in good repair; or the rental premises or inclusions do not comply with prescribed minimum housing standards. The grounds that the premises do not comply with prescribed minimum housing standards cannot be used until those provisions commence. New subsection 380A(2) provides that a resident may not end the rooming accommodation agreement using the circumstances mentioned in subsection 380A(1) if the circumstances were caused by an action or failure of the resident. New

subsection 380A(3) requires the notice to be in the approved form; and state why the resident is terminating the agreement; and state the day on which the resident is ending the agreement; and be signed by the resident. Under new subsection 380A(4), the day stated in the notice must not be earlier than 2 days after the notice is given to the provider.

New section 380B *Notice terminating agreement because of death of coresident* establishes that a resident may give a provider notice ending a rooming accommodation agreement if a co-resident dies. New subsection 380B(2) requires the notice to be in the approved form; and state why the resident is terminating the agreement; and state the day on which the resident is terminating the agreement; and be signed by the resident. Under new subsection 380B(3) the day stated in the notice must not be earlier than 7 days after the notice is given to the provider.

New section 380C *Notice to leave if entitlement to student accommodation ends* establishes a new ground to end a rooming accommodation agreement if the rental premises are used for student accommodation and a resident's entitlement to occupy the student accommodation depends on the resident being a student. New subsection 380C(2) allows a resident to give the provider a notice terminating the rooming accommodation agreement if the resident stops being a student. New subsection 380C(3) provides that the notice must be in the approved form, and state why the resident is terminating the agreement, and state the day on which the resident is terminating the agreement, and be signed by the resident. The day stated in the notice must not be earlier than 1 month after the notice is given to the provider.

Subsection 380C(6) limits the application of this section to defined types of students and student accommodation. ***Student*** means a person enrolled in a course that, under the *Social Security Act 1991 (Cwlth)*, section 569B, is an approved course of education or study for section 569A(b) of that Act. ***Student accommodation*** means a premises that is primarily used to provide accommodation to persons who are students. It is intended to apply to purpose built off-campus student accommodation. It is not intended to apply to general rooming accommodation premises where the residents may or may not be students, or on-campus accommodation. Section 380C does not apply to moveable dwelling premises in a moveable dwelling park under subsection 380C(5).

Clause 81 inserts new section 381J *Application by resident for termination because of misrepresentation* under Chapter 5, Part 2, Division 3, Subdivision 3. Within the first 3 months of occupying the room under a rooming accommodation agreement, the resident may apply to the tribunal for a termination order because the provider or the provider's agent gave false or misleading information. The false or misleading information may be about the condition of the rental premises, resident's room or inclusions; the services provided for the resident's room; a matter relating to the rental premises or resident's room that is likely to affect the resident's quiet enjoyment of the room; or the agreement or any other document the provider must give the resident (for example body corporate by-laws that apply to the rental premises); or the rights and obligations of the resident or provider under the RTRA Act. New subsection 381J(2) provides that an application made under this section is an application made because of ***misrepresentation***.

Clause 82 amends existing section 388 *Applications for termination orders* to include 'misrepresentation' as an additional reason a resident can apply to the tribunal for a termination order for the rooming accommodation agreement.

Clause 83 inserts new section 389A relating to misrepresentation about rooming accommodation agreements. New section 389A *Orders relating to misrepresentation* allows the tribunal to make an order terminating a rooming accommodation agreement because of misrepresentation if it is satisfied on identified matters. These are that the applicant (the resident) has established the grounds for making the application; and the false or misleading information that is the subject of the application justifies terminating the agreement.

New subsection 389A(2) outlines what the tribunal must have regard to when deciding whether the false or misleading information justifies terminating the rooming accommodation agreement. These are the extent to which the false and misleading information did any of the following: induced the resident to enter into the agreement; misrepresented the condition of the rental premises, resident's room or inclusions; misrepresented the services provided for the room; adversely affected the resident in exercising a right under the RTRA Act and the resident's quiet enjoyment of the resident's room; and any adverse effects likely to be suffered by the resident or other persons if the agreement were not terminated. The tribunal may have regard to any other matters the tribunal considers relevant when deciding the application.

Clause 84 amends current section 415 *Meaning of urgent application* relating to what matters are to be considered an urgent application under the RTRA Act. Urgent matters do not need to apply for conciliation through the Residential Tenancies Authority before an application can be made to the tribunal. Current subsection 415(5) is amended to include new grounds for urgent applications:

- (e) section 221 (Application for repair order) if the application is about emergency repairs
- (ea) section 221B (Extension of time to comply with repair order)
- (ha) section 246A (Retaliatory action taken against tenant)
- (ja) section 276A (Retaliatory action taken against resident)
- (mb) section 350 (Issue of warrant of possession)

Clause 85 amends existing section 426 *Disputes about lessor's notices*. Current subsection 426(1) is removed and replaced. New subsection 426(1) allows a tenant to apply to the tribunal for an order about a notice informing the tenant of the lessor's objection to keeping a pet at the premises, as well as the existing grounds for an order about a notice to remedy breach or a notice to leave. A note refers to section 184D for the requirements of a notice informing the tenant of the lessor's refusal to approve the tenant keeping a pet at the premises. Current subsection 426(5) is removed as it relates to notices to leave without grounds which are no longer permitted.

Clause 86 amends existing section 427 *Disputes about providers' notices*. Existing subsection 427(1)(b) is amended to remove 'other than a notice under section 372'. New subsection 427(1)(c) is inserted to include a notice informing the resident of the provider's refusal to approve the resident keeping a pet in the resident's room. It includes a note to see section 256D for the requirements of a notice informing the resident of the provider's refusal to approve keeping a pet in the resident's room.

Clause 87 inserts a new Chapter 14, Part 5, which sets out transitional provisions for the *Housing Legislation Amendment Act 2021*.

New section 569 *Changes in processes not limited to relevant circumstances happening after the commencement* sets out how existing residential tenancy agreements and rooming accommodation agreements may be affected by the 2021 amendments. This section applies if, after the amendment of the RTRA Act by a 2021 amendment, a person takes any of the identified actions under the RTRA Act because of an act, omission or other circumstances (the ***relevant circumstances***) to give a notice or make an application or make a request. Under subsection 569(2), the person may take the action under the RTRA Act may be taken whether the relevant circumstances happened before or after the 2021 amendments commenced. Subsection 569(3) states that, unless new section 570 *Incomplete processes to be completed under pre-amended Act* applies in relation to the action, the action must be dealt with under the RTRA Act as in force from the commencements. In new section 569, ***2021 amendments*** means an amendment of the RTRA Act by the *Housing Legislation Amendment Act 2021*, Chapter 2, Part 3 or Schedule 1, Part 2.

Clause 87 also inserts new section 570 *Incomplete processes to be completed under pre-amended Act*. New subsection 570(1) clarifies that the section applies if, before the commencement of a 2021 amendment, a person gave a notice or made an application under the RTRA Act (the ***initiating action***) and under the pre-amended RTRA Act, a person (the ***responder***) may or must take particular action because of the initiating action, and the responder did not take or complete the action before the commencement of the 2021 amendment. It states that, despite the commencement of the 2021 amendment, the right or obligation mentioned in subsection 570(1)(b) continues under the pre-amended RTRA Act and the pre-amended RTRA Act applies for the purpose of taking the action mentioned in subsection 570(1)(b).

New subsection 570(3) defines terms for new section 570 as follows:

- ***2021 amendment*** means an amendment of the RTRA Act by the *Housing Legislation Amendment Act 2021*, Chapter 2, Part 3 or Schedule 1, Part 2.
- ***pre-amended Act,*** in relation to a 2021 amendment, means the RTRA Act as in force immediately before its amendment by the 2021 amendment.

Clause 87 also inserts new section 571 *Pets previously approved for premises*. This section applies if, before the commencement, a lessor or provider approved a pet being kept at the premises or in a resident's room at the rental premises, then the approval continues in effect for the pet and premises or resident's room until ended by agreement of the lessor and tenant or provider and resident. Subsection 571(3) indicates that a condition of the approval for the pet is of no effect to the extent it is inconsistent with the RTRA Act, as in force from the commencement.

Clause 88 inserts new Schedule 1 *Notice periods*. The content regarding handover days and notice periods for existing grounds has been moved from within the pre-amended RTRA Act (sections 329-332) and placed in a schedule with sections 326 and 327 now defining 'minimum notice period' as meaning the notice period stated for the notice in Schedule 1. It includes new notices and required notice periods for handover day to provide clarity about types of notices to leave, notices of intention to leave and notice periods required.

- Part 1 *Notices to leave*
- Division 1. Notices to leave given by lessor to tenant for general residential tenancies (not moveable dwelling premises).
    - Unremedied breach for failure to pay rent (section 281). 7 days.
    - Unremedied breach for a breach other than failure to pay rent (section 281). 14 days.
    - Noncompliance with a tribunal order (section 282). 7 days.
    - Non-livability (section 284(3)). The day the notice is given to the tenant.
    - Compulsory acquisition (section 284(4)). 2 months.
    - Sale contract (amended, section 286). 2 months and not before the end of a fixed term agreement.
    - Ending of entitlement under employment (section 288). 4 weeks.
    - Ending of accommodation assistance (section 289). 4 weeks.
    - Ending of housing assistance (section 290). 4 weeks.
    - Serious breach at public or community housing (section 290A). 7 days.
    - State government program (new, section 290B). 2 months and not before the end of a fixed term agreement.
    - Demolition or redevelopment (new, section 290C). 2 months and not before the end of a fixed term agreement.
    - Significant repair or renovations (new, section 290D). 2 months and not before the end of a fixed term agreement.
    - Change of use (new, section 290E). 2 months and not before the end of a fixed term agreement.
    - Ending of entitlement to student accommodation (new, section 290F). 1 month.
    - Owner occupation (new, section 290G). 2 months and not before the end of a fixed term agreement.
    - End of fixed term agreement (new, section 291). 2 months and not before the end of a fixed term agreement.

- Division 2. Notices to leave given by lessor to tenant for long tenancies (moveable dwelling)
    - Unremedied breach (section 281). 2 days.
    - Noncompliance with tribunal order (section 282). 7 days.
    - Noncompliance with moveable dwelling relocation (section 283). 2 days.
    - Non-livability (sections 284(3) and 285). Day notice is given to tenant.
    - Compulsory acquisition (section 284(4)). 2 months.
    - Sale contract (amended section 286). 2 months and not before the end of a fixed term agreement.
    - Voluntary park closure (section 287(2)). 3 months.
    - Compulsory park closure (section 287(3)). Day the notice is given to the tenant.
    - Ending of entitlement under employment (section 288). 4 weeks.
    - Ending of accommodation assistance (section 289). 4 weeks.
    - Ending of housing assistance (section 290). 2 months.
    - State government program (new, section 290B). 2 months and not before the end of a fixed term agreement.
    - Demolition or redevelopment (new, section 290C). 2 months, and not before the end of a fixed term agreement.

- Significant repairs or renovations (new, section 290D). 2 months and not before the end of a fixed term agreement.
- Change of use (new, section 290E). 3 months and not before the end of a fixed term agreement.
- Owner occupation (new, section 290G). 2 months and not before the end of a fixed term agreement.
- End of a fixed term agreement (new, section 291). 2 months and not before the end of a fixed term agreement.

- Division 3. Notices to leave given by lessor to tenant for short tenancies (moveable dwelling). For clarification of short tenancies (moveable dwellings), refer to sections 46 to 51 of the RTRA Act.
  - Unremedied breach (section 281). 2 days.
  - Noncompliance with tribunal order (section 282). 2 days.
  - Noncompliance with moveable dwelling relocation (section 283). 2 days.
  - Non-livability (sections 284(3) and 285). Day the notice is given.
  - Compulsory acquisition (section 284(4)). Day the notice is given.
  - Voluntary park closure (section 287(2)). 2 days.
  - Compulsory park closure (section 287(3)). Day notice is given.
  - Ending of entitlement under employment (section 288). 2 days.
  - Ending of accommodation assistance (section 289). 2 days.
  - Ending of housing assistance (section 290). 2 days.

- Part 2 *Notices of intention to leave*
- Division 1. Notices of intention to leave given by tenant to lessor for premises that are not moveable dwelling premises
  - Unremedied breach (section 302). 7 days.
  - Noncompliance with a tribunal order (section 304). 7 days.
  - Non-livability (section 305(3)). Day the notice is given.
  - Compulsory acquisition (section 305(4)). 14 days.
  - Intention to sell (section 307). 14 days.
  - Condition of premises (new, section 307A). 14 days.
  - Death of cotenant (new, section 307B). 14 days.
  - Ending of entitlement to student accommodation (new section 307C). 1 month.
  - Failure to comply with tribunal repair order (new section 307D). 14 days.
  - Without ground (section 308). 14 days and not before the end of a fixed term agreement.

- Division 2. Notices of intention to leave given by tenant to lessor for long tenancies (moveable dwelling)
  - Unremedied breach (section 302). 2 days.
  - Noncompliance with a tribunal order (section 304). 7 days.
  - Non-livability (section 305(3)). Day the notice is given.
  - Compulsory acquisition (section 305(4)). 14 days.
  - Non-livability (section 306). Day the notice is given.
  - Intention to sell (section 307). 14 days.
  - Condition of premises (new, section 307A). 14 days.
  - Death of a cotenant (new, section 307B). 7 days.
  - Failure to comply with tribunal repair order (new, section 307D). 14 days.

    - Without ground (section 308) 14 days and not before the end of a fixed term agreement.

- Division 3. Notices of intention to leave given by tenant to lessor for short tenancies (moveable dwelling). For clarification of short tenancies (moveable dwellings), refer to sections 46 to 51 of the RTRA Act.
    - Unremedied breach (section 302). 1 day.
    - Noncompliance with tribunal order (section 304). 1 day.
    - Non-livability (section 305(3)). Day the notice is given.
    - Compulsory acquisition (section 305(4)). 1 day.
    - Non-livability (section 306). Day the notice is given.
    - Intention to sell (section 307). 1 day.
    - Failure to comply with tribunal repair order (new, section 307D). Day the notice is given.
    - Without ground (section 308). 1 day.

Clause 89 amends Schedule 2 dictionary. Definitions for *serious breach* and *without ground* are replaced. The definition of *handover day* is also amended with references to relevant sections.

New definitions are included to reflect changes to the RTRA Act. These include:

- *change of use*
- *condition of premises*
- *death of cotenant*
- *demolition or redevelopment*
- *ending of entitlement to student accommodation*
- *end of fixed term agreement*
- *failure to comply with repair order*
- *housing department*
- *misrepresentation*
- *owner occupation*
- *pet*
- *prescribed minimum housing standards*
- *repair order*
- *representative entity*
- *serious breach*
- *serious breach at public or community housing*
- *significant repair or renovations*
- *State government program*
- *without ground*
- *working dog.*

Chapter 3 Amendment of Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020

Clause 90 indicates that this chapter amends the *Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020* (the COVID-19 Regulation). The omission of, or amendment to, identified sections from the COVID-19 Regulation is necessary to avoid duplication as the provisions will be made

permanent in the RTRA Act through the 2021 amendments. This will also ensure continuity of provisions.

Clauses 91 to 94 remove those parts and sections of the COVID-19 Regulation relating to tenants ending residential tenancy agreements and residents ending rooming accommodation agreements due to experiencing domestic violence as these are included in the RTRA Act by the 2021 amendments. The sections removed are Part 2, Division 7 (Domestic violence in residential tenancy agreements) and Part 3, Division 7 (Domestic violence in rooming accommodation agreements). It also amends references to reletting costs to cover transitional arrangements and refers to notices that were given to the lessor or provider that complied with the repealed sections.

Clause 95 inserts new Part 5, Division 4 *Transitional provisions for Housing Legislation Amendment Act 2021*. New section 100 *Incomplete domestic violence processes – residential tenancy* applies if, before the commencement of the *Housing Legislation Amendment Act 2021* Chapter 2, Part 1 identified action was taken. That is, a tenant gave a lessor a compliant notice ending tenancy interest to the lessor under repealed sections 21 and 22 of the COVID-19 Regulation and the tenant, lessor or another tenant has not taken or completed an action required or permitted in relation to the notice. Subsection 100(2) clarifies that, despite the repeal of the domestic violence provisions, the tenant, lessor or another tenant either must or may take or complete the action as permitted under the repealed provisions. Under subsection 100(4), the tribunal may deal with the application and make a termination order under repealed section 34 of the COVID-19 Regulation if a tenant applied to the tribunal for a termination order and the application was not decided, withdrawn or rejected. Subsection 100(5) clarifies that the provisions of the RTRA Act that do not apply or are overridden under the domestic violence provisions continue to not apply or be overridden to the extent provided for under the domestic violence provisions. Subsection 100(6) defines domestic violence provisions to mean repealed Part 2, Division 7 of the COVID-19 Regulation.

It also inserts new section 101 *Incomplete domestic violence processes – rooming accommodation* which applies if, before the commencement of the *Housing Legislation Amendment Act 2021* Chapter 2, Part 2 identified action was taken. That is, a resident gave a provider a compliant notice ending tenancy interest to the provider under repealed sections 59 and 60 of the COVID-19 Regulation and the resident, provider or another resident has not taken or completed an action required or permitted in relation to the notice. Subsection 101(2) clarifies that, despite the repeal of the domestic violence provisions, the resident, provider or another resident either must or may take or complete the action as required under the repealed provisions. Under subsections 101(3) and 101(4), the tribunal may deal with the application and make the termination order under repealed section 68 of the COVID-19 Regulation if a resident applied to the tribunal for a termination order and the application was not decided, withdrawn or rejected. Subsection 101(5) clarifies that the provisions of the RTRA Act that do not apply or are overridden under the domestic violence provisions continue to not apply or be overridden to the extent provided for under the domestic violence provisions. Subsection 101(6) defines domestic violence provisions to mean repealed Part 3, Division 7 of the COVID-19 Regulation.

Clause 96 removes the definitions for *notice ending residency* and *notice ending tenancy* from the dictionary in the COVID-19 Regulation.

Chapter 4 Amendment of Residential Tenancies and Rooming Accommodation Regulation 2009

Clause 97 indicates that this chapter amends the *Residential Tenancies and Rooming Accommodation Regulation 2009* (the RTRA Regulation).

Clause 98 inserts new section 19A *Prescribed minimum housing standards - Act section 17A* into the RTRA Regulation. It provides that the prescribed minimum housing standards under section 17A of the RTRA Act for the following premises are stated in Schedule 5A. The premises are residential premises let, or to be let, under a residential tenancy agreement and premises in which rooming accommodation is or is to be provided.

Subsection 19A(2) states that the prescribed minimum housing standards apply to a premises from 1 September 2023 if a residential tenancy agreement or rooming accommodation agreement starts on or after 1 September 2023. Subsection 19A(3) provides that, from 1 September 2024, the prescribed minimum housing standards apply to all rental premises to which the standards had not already applied under subsection 19A(2).

Clause 99 inserts a new section 25A *Supporting evidence* into the RTRA Regulation to clarify what evidence is required under sections 308B and 381B of the RTRA Act to support a tenant or resident who needs to end their agreement due to domestic violence. New subsection 25A(1) states that the evidence prescribed for subsections 308(1)(b) and 381B(1)(b) of the RTRA Act is:

- any of the following orders or notices under the *Domestic and Family Violence Protection Act 2012*: a protection order, a temporary protection order, a police protection notice, an interstate order, or
- an injunction under the *Family Law Act 1975 (Cwlth)* section 68B(1)(a) or (b) or section 114(1)(a), or
- a report, in the approved form, about domestic violence signed by any of the following entities: a health practitioner, a person who is eligible for membership of the Australian Association of Social Workers, a refuge or crisis worker, a domestic and family violence support worker or case manager, or an Aboriginal and Torres Strait Islander medical service, or a solicitor.

Under this section, a ***health practitioner*** means a person registered under the Health Practitioner Regulation National Law to practise, other than as a student, in any of the following health professions under that law: Aboriginal and Torres Strait Islander health practice; medical, midwifery; nursing; occupational therapy or psychology.

Clause 100 inserts new Schedule 5A *Prescribed minimum housing standards* into the RTRA Regulation which are divided into standards under: Part 1 *Safety and security* and Part 2 *Reasonable functionality*.

Clause 100 establishes the standards for the safety and security of premises as:

- *Weatherproof and structurally sound.* Premises must be weatherproof, structurally sound and in good repair. To be weatherproof, the roofing or windows must prevent water entering the premises when it rains. Indications the premises are structurally sound are where the floor, wall, ceiling or roof or the deck or stairs is not likely to collapse because of a rot or defect; or a floor, wall or ceiling or other supporting structure is not affected by significant dampness, or the condition of the premises is not likely to cause damage to an occupant's personal property.
- *Fixtures and fittings.* The fixtures and fittings, including electrical appliances, for the premises must be in good repair and must not be likely to cause injury to a person through the ordinary use of the fixtures or fittings.
- *Locks on windows and doors.* Premises must have a functioning lock or latch fitted to all external windows and doors to secure the premises against unauthorised entry. Premises let under a rooming accommodation agreement must have a functioning lock or latch fitted to all windows and doors of a resident's room to secure the room against unauthorised entry. This applies only to windows and doors that a person outside the premises or room could access without having to use a ladder.
- *Vermin, damp and mould.* Premises must be free of vermin, damp and mould where the lessor or provider is responsible for those parts of the premises. This obligation does not apply to vermin, damp or mould caused by the tenant. For example, where the tenant is not using an exhaust fan that the lessor has previously installed in the bathroom of the premises.
- *Privacy.* Premises must have privacy coverings for windows in all rooms in which tenants or residents are reasonably likely to expect privacy such as bedrooms. Privacy coverings for windows include blinds; curtains; tinting and glass frosting. Privacy coverings do not apply if the window of a room is not in the line of sight between a person outside and a person inside, for example the premises is obstructed by a fence, a hedge, tree or other feature of the property.

Clause 100 also establishes the standards for the reasonable functionality of premises as:

- *Plumbing and drainage.* Premises must have adequate plumbing and drainage for the number of persons occupying the premises and be connected to a water supply service or other infrastructure that supplies hot and cold water suitable for drinking.
- *Bathrooms and toilets.* The bathroom and toilet facilities must provide the user with privacy and each toilet must be functional to flush and refill and be connected to a sewer, septic system or other waste disposal system.
- *Kitchen.* A kitchen must include a functioning cook-top, if a kitchen has been provided as part of the premises.
- *Laundry.* A laundry must include those fixtures (other than whitegoods) required to provide a functional laundry, if a laundry has been included in the premises.

Chapter 5 Amendment of *Retirement Villages Act 1999*

Clause 101 indicates that this chapter amends the *Retirement Villages Act 1999* (RV Act).

Clause 102 amends section 6 (What is ***retirement village land***) by omitting 'within the meaning of the *Body Corporate and Community Management Act 1997*'.

Clause 103 inserts new Division 5B into Part 3 of the RV Act*,* this includes the insertion of new sections 70C – 70M described below*.*

New section 70C provides the definitions for Part 3, Division 5B of the RV Act*.*

New section 70D creates a power for a regulation to declare that an exemption applies to a stated retirement village scheme. This section provides that the Minister may recommend to the Governor in Council the making of a regulation using this power where the residence contracts under the scheme are based on a freehold interest and the Minister is satisfied that the exemption would be appropriate because of the extent to which:

- residents are in a position to control or influence the affairs of the scheme operator in relation to the operation of the scheme; and
- the scheme operator's assets, and ability to generate income, are likely to be insufficient to purchase a freehold interest in a former resident's accommodation unit.

New subsection 70D(3) further provides that when deciding whether an exemption would be appropriate, the Minister may have regard to any relevant matters, and provides a non-exhaustive list of matters which includes:

- whether the retirement village land is included in a community titles scheme and how common property is held
- the extent to which the scheme operator involves itself in the sale of a former resident's accommodation unit other than as required by the RV Act
- the extent to which the former resident is required to refurbish, reinstate, or renovate the former resident's accommodation, other than as required by the RV Act, before it may be sold
- the extent to which the scheme operator makes a profit from fees or charges payable by residents
- whether amounts are payable to the scheme operator on the sale of an accommodation unit.

This section also provides that where the Minister stops being satisfied about the proposed section 70D(2)(a) or (b) matters in relation to an exempt scheme, the Minister must recommend to the Governor in Council the making of a regulation ending the exemption of the scheme.

The purpose of section 70D is to indicate that resident control and capacity to fund buybacks are key considerations when recommending an exemption of a freehold retirement village, while providing examples of relevant matters the Minister may consider when making an holistic determination of whether an exemption is appropriate.

New section 70E gives effect to the exemption and provides that provisions related to the 18-month mandatory payment of exit entitlements under section 63(1)(c), and the mandatory buyback of freehold accommodation units under section 63A of the RV Act, do not apply to the scheme operator of an exempt retirement village.

New section 70F requires a scheme operator of an exempt retirement village to notify the chief executive of any changes to the retirement village scheme relevant to the exemption, within 28 days after becoming aware of the change. This ensures the chief executive is provided with sufficient information to provide appropriate advice to the Minister about whether an exemption remains appropriate. Non-compliance is subject to a maximum penalty of 50 penalty units.

New section 70G allows the chief executive to require particular information from an exempt scheme by a notice, which must state a reasonable timeframe which cannot be less than 28 days after the information is requested. This ensures the chief executive has sufficient capacity to advise the Minister on whether an exemption remains appropriate. The scheme operator must comply with the notice unless they have a reasonable excuse. Non-compliance with a request for information under this section is subject to a maximum penalty of 50 penalty units.

New section 70H provides that the transitional provisions under Subdivision 3 apply where a resident's right to reside is terminated before the day an exemption was granted under section 70D.

New section 70I specifies that the exit entitlement requirements under the RV Act will no longer apply to an accommodation unit of a former resident from the exemption start day. However, this does not impact on rights and liabilities incurred where the mandatory payment of exit entitlements was due prior to the exemption start day.

New section 70J is a transitional provision for mandatory buyback contracts underway but not finalised at the time an exemption is granted to the village under section 70D. Any incomplete contracts of sale for the purchase of a unit in accordance with section 63A are automatically terminated on the day that the exemption is granted. Upon termination, the scheme operator may give the seller a notice requiring repayment of an amount paid under the contract towards the purchase of the unit. The notice must state the day, not less than 30 days after giving the notice, by which the amount must be repaid. Where settlement for the contract is due to occur after the day the exemption is granted, no compensation for the termination is otherwise payable to the seller.

New section 70K provides that an exemption does not remove any rights to compensation from a scheme operator where completion of the buyback contract was required before the exemption start day.

New section 70L clarifies that if an offence against section 63(1) or 63A(2) is committed by the scheme operator before an exemption is granted, a proceeding for the offence may be continued or started, and the scheme operator may be dealt with for the offence.

New Section 70M provides that where an exemption ends and a right to reside was terminated during the exemption, the 18-month period for payment of exit entitlements and mandatory buybacks commences on the date the exemption ended, rather than the day the right to reside was terminated.

Clause 104 amends section 237Q of the RV Act (a transitional provision setting out timing for introduction of mandatory buybacks) to clarify that this section applies subject to the amendments in the Bill.

Clause 105 inserts into the RV Act new Part 15, Division 5 *Transitional provision for Housing Legislation Amendment Act 2021* relating to the amendments in the Bill. This clarifies that an exemption from the mandatory buyback and exit entitlement requirements in accordance with these amendments will have effect even if a former resident's right to reside was terminated before the day section 70D commences.

Clause 106 inserts definitions, including those used for new Part 3 Division 5B into the Dictionary of the RV Act. These are ***community titles scheme***, ***exemption start day***, ***exempt scheme***, and ***right to reside***.

Chapter 6 Other amendments

Clause 107 Legislation amended inserts Schedule 1 *Other amendments* which outlines minor and consequential amendments to the RTRA Act. These amendments do not change the intent or application of the pre-amended RTRA Act. They reflect drafting style changes or inclusions of additional information to clarify the intent, for example that the section applies to both tenants and residents; and lessors and providers and their agents. They are organised in order of commencement.

Part 1 Amendments commencing on assent

Residential Tenancies and Rooming Accommodation Act 2008

Section 69 *By-laws* is amended to replace references to 'by-laws' to become 'body corporate by-laws'.

Section 70 *Continuation of fixed term agreements* is amended to replace references to 'an agreement' with 'a residential tenancy agreement' and correct section references. It also clarifies that it applies to a separate written agreement between the lessor and tenant to end the residential tenancy agreement under subsection 277(a).

Section 71 *Tenant may apply to tribunal about significant change in subsequent agreement* has a minor wording amendment from 'other that' to ', other than'.

Section 82 *Continuation of fixed term agreement* is amended by replacing subsection 82(1)(b) and referencing section 366(a). It more clearly references the application to rooming accommodation agreements.

Section 114 *Bond loan contributor* is amended to include 'cotenant or coresident'.

Section 116 *Duty to pay bond* is amended to refer to 'an amount that is to be applied to a rental bond' for specificity.

Section 118 *Duty to pay rental bond instalments under rooming accommodation agreement* is amended by inserting new subsection 118(5) to state that the section does not apply to a rental bond for accommodation of a boarder or lodger.

Section 119 *Duty to pay rental bond if financial protection given* is amended to include 'lessor under a residential tenancy agreement or provider under a rooming accommodation agreement' for completeness. It is also amended to include references to 'tenant or resident is given to the lessor or provider', or lessor's agent, and to the authority for clarity and completeness. This is because the section only referred to tenants and lessors and not also residents and providers.

Section 122 *Continuance of rental bond* is amended to replace references to 'new agreement' with 'renewal agreement' to better reflect the intention of the section.

Section 125 *Application for payment* amends a reference to 'lessor' and replaces it with 'lessor, provider or' to cover providers of residential tenancies and rooming accommodation.

Section 126 *Application of sdiv 2* has a note inserted, referring to section 135A.

Section 128 *Application by lessor* is amended to read 'Application only by lessor or provider', and other references to lessor are extended to apply to the lessor or provider where relevant. Subsection 128(3)(a) is amended to state the authority must make the payment as required under subdivision 4 for clarity.

Section 129 *Application by contributor* is amended to include 'or provider' after 'lessor' to capture both, and the heading amended. Subsection 129(3)(a) is amended to state the authority must make the payment as required under subdivision 4 for clarity.

Section 130 *Application of sdiv3* has a note inserted to refer to section 135A.

Section 131 *Joint application by lessor and every contributor* heading and section is amended to read 'Joint application by every contributor and the lessor or provider' so a reference to provider is included.

Section 132 *Joint application by lessor and some contributors* heading is amended to refer to 'Joint application by some contributors and the lessor or provider', and the section amended to refer to 'some, but not all, of the contributors and the lessor or provider' for accuracy. Subsection 132(5)(a) is amended to state the authority must make the payment as required under subdivision 4 for clarity.

Section 133 *Application by lessor* heading is amended to refer to 'Application only by lessor or provider', and a reference in subsection (1) to 'by the lessor only' to be extended to include provider. Subsection 133(3)(a) is amended to state the authority must make the payment as required under subdivision 4 for clarity.

Section 134 *Application by every contributor* heading is amended to refer to 'Application made only by all contributors', and references to 'lessor' are amended to 'lessor or provider'. Subsection 134(3)(a) is amended to state the authority must make the payment as required under subdivision 4 for clarity.

Section 135 *Application by some contributors* heading is amended to 'Application only by some contributors' and references to 'lessor' are amended to be 'lessor or provider'.

Subsection 135(2)(a) and (3)(a) are amended to state the authority must make the payment as required under subdivision 4 for clarity.

Chapter 2, Part 3, Division 3, Subdivision 4 heading *Other matters about payment* is amended to 'General process for payment of rental bond if interested persons for the payment' for clarity.

Section 141 *Payment under person's direction* is amended to refer to 'tenant or resident'. It also amends subsection 141(4) to state that if the payment of the rental bond is required to be made to the lessor, the authority may make the payment only to the lessor or lessor's agent; or to the provider or provider's agent if the payment is to be made to the provider.

Section 145 *Receipt* is amended by replacing the current subsection 145(3) with a new subsection 145(3) to include references to both tenants and residents for clarity. No existing obligations are altered.

Section 146 *Payments above maximum amount* is amended by renumbering subsection 146 (1)(a) and (b). References to agreements are extended to refer to residential tenancy agreement or rooming accommodation agreement for clarity.

Section 153 *Other payments from rental bond interest account* is amended to include 'and providers and residents' for consistency.

Section 154 *Increase in rental bond* is amended to include references to 'tenant or resident', 'lessor or provider' as relevant. It also refers to 'the residential tenancy agreement or rooming accommodation agreement' rather than just 'the agreement' to ensure it is clear that it extends to rooming accommodation.

Section 155 *Rental bond resulting from rent decrease* is amended to include references to 'tenant or resident', 'lessor or provider' as relevant. It also refers to 'the residential tenancy agreement or rooming accommodation agreement' rather than just 'the agreement' to ensure it is clear that it extends to rooming accommodation.

Section 509 *Indications a resident has abandoned a room* corrects the reference from 366(5) to 366(f).

Part 2 Amendments commencing by proclamation

Residential Tenancies and Rooming Accommodation Act 2008

Section 57 heading is amended to become 'Offer of a residential tenancy must be for rent at a fixed amount' to reflect the intention of the section.

References to 'the agreement' in section 61 *Written agreements required* and section 62 *Giving, signing and keeping written agreement* are replaced with 'residential tenancy agreement' for clarity.

Section 66 *Condition report at end of tenancy* is amended by inserting new subsections 66(1) and 66(1A) to clarify obligations for exit condition reports,

particularly where there is a renewal agreement. The section applies if a tenant's right to occupy ends when a residential tenancy agreement ends but does not apply if the tenant is continuing to occupy under a renewal agreement. The tenant must (on or before the residential tenancy agreement ends) prepare the approved exit condition report form for the premises and any inclusions, sign the exit condition report and give a copy to the lessor or agent as soon as practicable after the agreement ends. Section 66 is also amended so that it references 'condition report' or 'copy of the condition report' for clarity, and subsections renumbered.

Section 67 *Information statement* is amended by changing 'the agreement' to 'a residential tenancy agreement' for drafting consistency. It also inserts a new subsection 67(5). This is to clarify lessor and agent obligations for providing an information statement to a tenant where there is a renewal agreement. It confirms that the lessor or agent is not required to give a tenant another copy of an information statement if there is a later residential tenancy agreement which continues the tenant's right to live in the same premises.

Section 68 *Park rules* is amended by inserting a new subsection 68(5). This is to clarify lessor and agent obligations for providing a copy of relevant park rules. It confirms that the lessor or agent is not required to give a tenant another copy of park rules if there is a later residential tenancy agreement which continues the tenant's right to live in the same premises. If there are changes to any park rules, section 229 would apply.

Section 69 *By-laws* is amended by inserting a new subsection 69(2). This is to clarify lessor and agent obligations for providing a copy of relevant by-laws. It confirms that the lessor or agent is not required to give a tenant another copy of by-laws if there is a later residential tenancy agreement which continues the tenant's right to live in the same premises.

Notes are removed from the identified sections as they are no longer relevant or accurate.

Section 381 *Terminating of agreement by resident without ground* is amended to become 'Notice terminating of agreement by resident without ground' for accuracy.