Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Bill 2024

Explanatory Notes

Short title

The short title of the Bill is the Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Bill 2024.

Policy objectives and the reasons for them

Rental law reform

The Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Bill 2024 (the Bill) amends the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act) to strengthen renters' rights, support private investment, provide better pathways to resolve issues in tenancies and stabilise rents in the private rental market.

On 6 February 2024, the Queensland Government announced *Homes for Queenslanders*, which outlines a long-term, whole of system plan to ensure Queensland has an agile and sustainable housing system where all Queenslanders can access safe, secure and affordable housing. *Homes for Queenslanders* outlines a range of initiatives over five pillars, including —Build more homes faster; Support Queensland renters; Help first homeowners into the market; Boost our social housing; and Work towards ending homelessness.

Homes for Queenslanders initiatives to support Queensland renters includes over $160 million of additional funding to help tackle cost of living through an expanded range of support available to more eligible renters to find, get and keep a rental home. The Queensland Government has also committed to further rental law reform to strengthen renters' rights and stabilise rents by:

- establishing a portable bond scheme to allow renters to transfer their bond when relocating from one rental property to another
- setting clear expectations through a rental sector Code of Conduct to foster appropriate and professional practices in Queensland's rental market
- helping to stabilise rents by banning all forms of rent bidding and applying the annual limit for rent increases to the rental property not the tenancy
- making it easier for renters to install modifications they need to live safely and securely in their rental home and to have confidence their privacy is protected
- protecting renters' privacy by requiring 48 hours entry notice and a prescribed form to be used to apply for a property

- limiting re-letting costs based on how long is left on a fixed-term lease
- ensuring renters have a fee-free option to pay rent, and choice about how they apply for a rental property and receive utility charges.

Technical amendments to the *Body Corporate and Community Management Act 1997*

The Bill will address technical and procedural issues associated with the ending of leases as part of an economic reasons termination process which is to be introduced into the *Body Corporate and Community Management Act 1997* (BCCM Act) by the *Body Corporate and Community Management and Other Legislation Amendment Act 2023*.

Local government employee superannuation scheme amendments

In response to cost-of-living pressures, stakeholders and local government employees have requested the removal of the mandatory requirement for permanent employees, other than members of a defined benefit superannuation scheme, to make contributions to their superannuation accounts. The current employee contribution rate is specified as a percentage of an employee's salary in the Local Government Regulation 2012.

Following the merger of Suncorp Super and Energy Super into LGIAsuper, the fund changed its name to Brighter Super. As the local government superannuation scheme trustee is now Brighter Super, it is necessary to amend any reference to LGIAsuper or LGIAsuper Trustee in the *Local Government Act 2009* to Brighter Super and Brighter Super Trustee respectively.

CPD for property agents

A further policy objective of the Bill is to establish a legislative scheme for mandatory continuing professional development (CPD) for property agents.

As part of the Queensland Government's 2020 election commitment plan to support jobs, help small business, and invest in Queensland industry and local communities, the Government made the following election commitment:

> *Subject to consultation with key stakeholders and the results of a regulatory impact statement, legislate to implement mandatory continuing professional development for property agents.*

The Bill amends the:

- *Residential Tenancies and Rooming Accommodation Act 2008*
- Residential Tenancies and Rooming Accommodation Regulation 2009
- State Penalties Enforcement Regulation 2014
- *Body Corporate and Community Management Act 1997*
- *Fair Trading Inspectors Act 2014*
- *Local Government Act 2009*
- *Property Occupations Act 2014*
- Local Government Regulation 2012
- *Superannuation (State Public Sector) Act 1990*
- Superannuation (Public Employees Portability) Regulation 2019

The objectives of the Bill are to:

- improve the rental bond process by ensuring bond refunds are fair and transparent and claims against the rental bond are genuine and substantiated
- balance renters' right to privacy with property owners' right to information by extending entry notice periods and appropriate handling and disposal of renters' information
- make the rental application process fairer and easier by giving renters a choice about how to submit their rental application and prescribing a rental application form that limits the information that can be collected from a prospective renter
- ease cost of living pressures for renters by protecting renters from unreasonable fees and charges, including reletting costs and rent payment methods that attract costs other than bank and other account fees usually payable for transactions
- support renters and property owners to agree to changes that can be made to the rental property to meet occupants changing needs
- help to stabilise the private rental market by applying the annual limit for rent increases to the rental property not the tenancy, and banning all forms of rent bidding
- progress reforms under National Cabinet's *A Better Deal for Renters* (ABDR)
- appropriately balance the rights of parties in the rental relationship to improve the rental experience for Queensland renters and property owners and clarify the expectations of all parties in the rental sector
- support enhanced compliance and enforcement functions
- establish a legislative scheme for mandatory continuing professional development (CPD) for property agents.
- address technical and procedural issues associated with the ending of a residential tenancy agreement or rooming accommodation agreement as part of an economic reasons termination process which is to be introduced into the *Body Corporate and Community Management Act 1997* (BCCM Act) by the *Body Corporate and Community Management and Other Legislation Amendment Act 2023*
- amend the local government superannuation scheme to remove the requirement for mandatory employee contributions, other than for defined benefit members, and to change the name of the trustee and the scheme to reflect a change in the business name of the default fund.

Background to rental law reform

The *Queensland Housing Strategy Action Plan 2017-2020* committed to a review of the RTRA Act to create modern rental laws that better protect both renters and property owners to improve housing stability in the private rental market. Delivering staged rental reform, including reforming the rental bond process and extending entry notice periods, is a government election commitment. Stage 1 rental law reforms were introduced through the *Housing Legislation Amendment Act 2021*, most of which commenced on 1 October 2022, with a staggered introduction for Minimum Housing Standards.

On 20 October 2022, the then Premier of Queensland hosted the Queensland Housing Summit to address challenges in meeting the housing needs of Queenslanders. The *Queensland Housing Summit Outcomes Report* (Housing Summit Report) was released on 1 December 2022 with $56 million in new funding to support people experiencing severe rental stress to sustain their tenancies. An action under the Housing Summit Report is the ongoing delivery of rental reforms, to balance the rights and interests of renters and property owners and sustain private investment.

On 16 August 2023, National Cabinet agreed to ABDR to harmonise and strengthen renters' rights throughout Australia across nine priorities:

- ensuring only genuine reasonable grounds are used to end a tenancy
- ensuring provisions to allow appeals against retaliatory action are fit for purpose
- moving towards a national standard of no more than one rent increase per year
- banning the soliciting of rent bidding
- improving the rights and interests of renters experiencing domestic violence
- limiting break lease fees for fixed term agreements to a maximum prescribed amount
- protecting renters' information used in the application process and throughout the tenancy
- considering options for better regulation of short-stay residential accommodation
- phasing in minimum quality standards for rental properties.

Queensland's current rental laws deliver most ABDR reforms.

On 6 February 2024, the Queensland Government announced Homes for Queenslanders – the Queensland Government's ambitious, long-term plan underpinned by more than 50 initiatives spanning the entire housing system in Queensland, including further rental law reform to strengthen renters' rights and stabilise rents.

Queensland's residential rental sector

Renting is an important housing solution in Queensland with around one third of the state's households renting their home. More Queenslanders are renting and expect to rent longer or be life-long renters.

Some of the most vulnerable Queenslanders, including people experiencing domestic and family violence and people with disability, rely on the private rental market for sustainable and long-term housing that meets their needs and from which to build and maintain their connection with family, community, services, education and employment opportunities.

The RTRA Act covers rental agreements for different types of rental properties that are privately owned, as well as social (public and community) housing arrangements:

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

Note: amendments to the RTRA Act cover all agreement types (general residential tenancy agreements, moveable dwelling agreements and rooming accommodation agreements) in most instances. For ease of reference, the term 'renters' is used to describe tenants in general residential tenancies and moveable dwelling premises, and residents in rooming accommodation. 'Property owners' is used to describe lessors in general residential tenancy and moveable dwelling agreements and providers in rooming accommodation agreements. Where the reform relates to a specific agreement type, the more specific terms 'tenant', 'resident', 'lessor' and 'provider' are used.

The environment for rental law reform

As of February 2024, the average rental vacancy rate in Queensland is 0.91 per cent according to SQM Research. Significant housing supply constraints and migration are the main contributors to this historically low vacancy rate.

High interest rates, cost of living pressures and competition for rental properties driven by low vacancy rates are leading property owners to increase rents, often substantially, creating severe housing affordability challenges. According to the Australian Bureau of Statistics Consumer Price Index, in the December 2023 quarter, Brisbane's annual increase in rental prices is 8.4 per cent, outpacing the national average of 7.3 per cent.

However this situation is not unique to Queensland. The November 2023 ANZ CoreLogic Housing Affordability Report notes as of September 2023, the portion of income required to service rent nationally is 31.0 per cent, up from 29.4 per cent the previous year.

A further challenge for the residential rental sector is that while there will always be a tension between the rights of renters and the interests of property owners, the current environment is promoting an imbalance of power in the tenancy relationship between renters and property owners, as well as between renters and property managers, who act on owners' behalf.

While rental law reform cannot directly address the underlying causes of low rental affordability such as housing supply challenges, migration and high interest rates, it can strengthen protections for renters while making sure it is viable for rental property owners to provide this housing option, provide better pathways for resolving issues in tenancies by encouraging communication, accountability and transparency in the tenancy relationship, ease cost of living pressures and help to stabilise rents.

All Queenslanders deserve a safe, affordable and secure home. Rental law reform is necessary to respond to the challenges facing the residential rental market and to ensure Queensland has modern, fair and appropriate rental laws.

Consultation outcomes – rental law reform

The environment for rental law reform is complex, with strong views held by different stakeholder groups about what needs to change and why. Renters generally prefer greater regulation to support their rights, whereas property owners and property managers prefer education and awareness raising of current legislation over legislative reform.

Consultation findings highlight the need for reform to support greater and more meaningful communication between parties in the tenancy relationship, with feedback demonstrating the frustration and difficulty renters experience when trying to get permission from the property owner to make changes to the rental property. Current tenancy laws are silent on any application process or timeframe to assist in determining the suitability and approval of renters' requests to make changes to or modify the property, and only require that property owners do not unreasonably withhold their permission.

Feedback received about rental experiences highlights concerns about poor conduct in the residential rental sector. Renters are concerned with unnecessary churn of tenancy agreements, a perceived power imbalance in rental relationships and poor communication. Property owners

also hold concerns about poor communication and property managers' respect for renters and ability to manage poor renter behaviour and protect their asset. As intermediaries, property managers' role is not always easy, with some experiencing poor behaviour from both renters and rental property owners.

Renters have expressed other privacy concerns relating to the collection, use and storage of their personal information when applying for a rental property and during the tenancy. Under current rental laws, rental property owners and property managers can request a large amount of personal information from rental applicants and can ask rental applicants to provide electronic copies of identity documents. Renters expect that their personal information will be collected, handled, stored and disposed of appropriately and are concerned about the possibility of a data breach.

There were concerns that current rental laws do not require rental property owners to provide evidence the renter has breached the terms of the agreement when making a claim against the bond. Renters do not believe that appropriate protections exist to safeguard them from unreasonable or inaccurate claims against the bond and feel disempowered to challenge such claims.

Other issues identified with bond arrangements include that if renters take out a loan from a commercial or third-party provider to pay their bond, the Residential Tenancies Authority (RTA) may only be able to issue bond refunds directly to the bond loan provider; renters can be charged an unlimited bond if the weekly rent is above a prescribed amount; the RTA cannot release bond refunds in cases where a party applied to the Queensland Civil and Administrative Tribunal (QCAT) for an order to direct the RTA to refund the bond but QCAT has dismissed the application without making an order; and the RTA has no authority to receive, hold or pay rental bonds for rooming accommodation where the owner lives on the premises and three or fewer rooms are available to be rented out.

Additionally, pressure in the rental market means some renters are having to move around more often to find a home they can afford. Renters face upfront costs to pay the bond on their new rental property before the bond held for their current rental property is refunded.

Renters and their advocates share concerns that some property owners and property managers require renters to pay rent using options that are not convenient or incur additional costs such as rent payment cards, third party platforms, cheque or money order and some rental property owners or property managers offer rent payment methods that provide them a financial incentive.

Rental property owners can pass on some service charges to renters, such as for water consumption, if certain criteria are met. Current rental laws do not set a timeframe for when these charges must be provided to renters for payment. Some renters receive multiple bills at once, often when their tenancy ends, which can be a large cost they have been unable to budget for and prevents them from monitoring and managing their usage.

Renters wishing to end a fixed term agreement early may be required to pay the reasonable costs incurred by the rental property owner in reletting the property. Current rental laws provide little guidance about what are considered to be reasonable costs and these costs can be a barrier to renters moving to more suitable or affordable housing, and a deterrent to renters entering into long-term tenancy agreements.

Unlike other tenancy agreements, the RTRA Act does not set out how a short tenancy can be ended, which has created uncertainty. Also, providers and owners of rooming accommodation who wish to enter a residents' room to install, repair or replace smoke alarms, must negotiate with individual residents who may refuse entry.

Consultation – Local government employee superannuation scheme

The local government sector, including the Local Government Association of Queensland, Local Government Managers Australia and Brisbane City Council, and unions representing local government employees (The Services Union and the Rail, Tram and Bus Union) were consulted on the proposed amendments to the *Local Government Act 2009* and the Local Government Regulation 2012.

Local government stakeholders supported the removal of mandatory employee superannuation contributions and no specific concerns were raised about the proposed amendments.

Brighter Super, the trustee of the local government superannuation scheme, requested the amendments to legislation to reflect the name change from LGIAsuper to Brighter Super.

Legislative framework applying to property agents - CPD

The *Property Occupations Act 2014* (PO Act) provides an occupational licensing framework for real estate agents, real estate salespeople, real property auctioneers, and resident letting agents (collectively referred to in the Explanatory Notes as 'property agents'). This framework achieves an appropriate balance between the need to regulate for the protection of consumers and the need to promote freedom of enterprise in the marketplace.

The PO Act aims to ensure only suitable people are licensed or registered, by prescribing minimum probity and training requirements that individuals must meet in order to be eligible for a licence or registration certificate.

As a result, an individual must hold the educational or other qualifications approved by the chief executive for the particular type of licence or registration certificate. The qualifications for each licence or certificate are stated on the website of the Department of Justice and Attorney-General.

The PO Act does not currently require a licensee or registration certificate holder to undergo further training or development in order to maintain their licence or certificate.

The PO Act is supported by the Fair Trading Inspectors Act 2014 (FTI Act), which enacts common provisions for fair trading legislation, including the PO Act. These common provisions mostly concern the appointment and powers of inspectors and the procedures relating to the exercise of the powers, including for the purpose of enforcing the PO Act.

Consultation – CPD for property agents

The Government undertook public consultation by releasing a Consultation Regulatory Impact Statement (CRIS) from 1 September 2022 to 30 September 2022. The CRIS included four options:

- Option 1 – Status Quo
- Option 2 – Light regulatory model (2 sessions)
- Option 3(a) – Heavy regulatory model (10 points)
- Option 3(b) – Heavy regulatory model – variation of Option 3(a) (5 points).

The CRIS sought feedback from property agents, industry stakeholders, and members of the public about options in relation to mandatory CPD for property agents.

The CRIS recommended Option 2 (light regulatory model) as the preferred option. The subsequent Decision Regulatory Impact Statement (DRIS), released in October 2023, also recommended Option 2 for introduction following the results of the regulatory impact assessment process.

Option 2 (light regulatory model) is the only option in the DRIS calculated to have a net benefit. In contrast to other options, Option 2 was considered to strike a better balance of the benefits of increasing skills of property agents on an ongoing basis (and delivering better services, protections, and outcomes for consumers) with the costs associated with introducing mandatory CPD requirements.

Mandatory CPD requirements are intended to increase the skills of property agents on an ongoing basis, recognising that property agents hold a position of trust for their clients.

In addition, mandatory CPD requirements will support agents to adapt to changes in the marketplace while minimising the burden on industry.

Achievement of policy objectives

Rental Law Reform

The Bill amends the RTRA Act and Residential Tenancies and Rooming Accommodation Regulation 2009 (RTRA Regulation) to strengthen the rights of renters, support private investment and provide better pathways to resolve issues in tenancies. The reforms will also assist in stabilising the private rental market in Queensland and help to ease cost of living pressures experienced by renting Queenslanders.

The Bill achieves this by:

- strengthening the rules and making the expectations of all parties in the rental sector clearer by:
  - establishing a head of power to allow a new Rental Sector Code of Conduct (Code) to be developed in consultation with the sector and prescribed by regulation
- improving the process for renters and property owners to agree to changes to the rental property by:
  - establishing a head of power for a framework for parties to negotiate modifications to the rental property, necessary for a renter's safety, security or accessibility
  - clarifying the process for renters and property owners to agree to personalisation changes to the rental property, including an approved application form for the renter to make a request and timeframe for the property owner to make a decision
- better balancing renters' right to privacy and property owners' need for access and

information to inform decision making about their investment by:
  - extending the notice period from 24 to 48 hours for entry other than for general inspections, safety checks, in an emergency, or with agreement
  - limiting entry at the end of a tenancy to no more than two entries per 7-day period except for safety checks or in an emergency
  - prescribing a rental application form and categories of supporting documentation to limit the information that can be requested of prospective renters
  - allowing rental applicants a choice of how to submit their rental application, including not being required to use a third party platform
  - allowing prospective renters to provide identity documents for sighting rather than copies being retained
  - requiring that renters' personal information is only collected and used by the relevant person to assess suitability during the rental application process or to manage the property
  - requiring that renters' personal information is securely stored and disposed of within three months of an unsuccessful rental application or three years after a tenancy ends
- improving the rental bond process by:
  - requiring any bond claims by a property owner to be substantiated by giving the renter evidence supporting the claim
  - allowing the RTA to refund bonds directly to renters who use commercial bond products
  - providing that the maximum bond is no more than four weeks rent for all residential tenancy and rooming accommodation agreements
  - allowing the RTA to pay a rental bond if QCAT has dismissed an application about a bond dispute
  - requiring a bond taken for rooming accommodation to be lodged with the RTA
  - enabling the RTA and the department to share personal information related to bond loans
  - establishing a head of power for a portable bond scheme to be prescribed in regulation
- easing cost of living pressures experienced by many renters through making fees and charges fairer by:
  - requiring that renters be offered a fee-free method to pay rent and be advised of any financial benefits the property owner or property manager receives from a renter paying rent in a particular way
  - specifying a timeframe property owners and property managers have to pass on utility bills to renters
  - capping reletting costs to a prescribed amount according to how much of the lease has expired
- helping to stabilise the private rental market by:
  - banning all forms of rent bidding
  - applying the 12-month limit on rent increase frequency to the rental property rather than the tenancy
  - requiring that a tenancy agreement must state the date of the last rent increase and allowing a renter to request evidence of the last rent increase
  - allowing a property owner to apply to QCAT for an order to increase the rent more frequently than the 12-month limit if complying would cause undue hardship
  - exempting property owners that apply a subsidised household income-based rent policy, for example community housing providers and specialist homelessness providers, from the annual rent increase frequency limit
  - introducing new penalty infringement notices for offences related to rent bidding,

increasing the rent on a property within 12 months of a previous increase, and failing to provide evidence of the date of last rent increase when requested
  - increasing the penalty for existing penalty infringement notices for not advertising a property at a fixed amount of rent and accepting a bond when a property was not advertised at a fixed amount.
- advancing Queensland's commitments under National Cabinet's ABDR by:
  - limiting break lease fees for fixed term agreements to a maximum prescribed amount (ABDR 6), based on the amount of the lease that has expired
  - protecting renters' information used in the application process and throughout the tenancy (ABDR 7), by prescribing a rental application form and requiring that personal information is collected, stored, used and disposed of appropriately.
- making other improvements
  - clarifying that a renter experiencing domestic and family violence can apply to QCAT for an order to be recognised as the sole renter if a co-renter has perpetrated domestic and family violence
  - prohibiting property owners and property managers from disclosing any personal information about vacating renters experiencing domestic and family violence
  - introducing a process to end a short tenancy for moveable dwellings
  - introducing a new ground for entry to rooming accommodation to install, repair or replace a smoke alarm
  - increasing the penalty units for failing to make an agreement for rooming accommodation in writing
  - allowing the RTA to share confidential information about renters, property owners and property managers with particular government entities to administer bond loans, undertake compliance and enforcement, or to prevent a serious risk to public safety
  - updating the definition of 'confidential information'
  - modernising what constitutes reasonable efforts to contact the owner of abandoned goods.

BCCM Act amendments

The Bill will achieve its objective of addressing technical and procedural issues associated with the ending of leases related to the termination of a community titles scheme for economic reasons under the BCCM Act by clarifying and improving relevant provisions in the BCCM Act as they pertain to:

- the ending of residential tenancies at appropriate points in the termination process;
- notification requirements for ending of tenancies; and
- scope to enforce the vacating of premises by tenants where necessary as part of implementation of a termination plan and associated disputes.

Local government employee superannuation scheme amendments

The Bill will achieve its objective of amending the local government superannuation scheme to remove the requirement for mandatory employee contributions, other than for defined benefit members, and to change the name of the trustee and the scheme to reflect a change in the business name of the default fund.

The Bill provides that, instead of paying the specified rate, applicable permanent local government employees may nominate a different contribution rate – including a rate of 0%.

There is no requirement for the employer to agree with the employee's nominated contribution rate.

CPD for property agents

To achieve its objective of establishing a legislative scheme for mandatory CPD for property agents, the Bill amends the PO Act and the FTI Act in the manner outlined below. The Bill provides the legislative basis for a new light regulatory CPD scheme.

Property Occupations Act 2014

The Bill amends the PO Act to introduce mandatory CPD requirements for property agents. This includes consequences for not complying with the new requirements, procedural matters regarding the process for renewing or restoring a licence or registration certificate, and recordkeeping requirements.

The Bill also provides that the CPD requirements will commence 12 months after the date of assent. This is to allow sufficient time for industry members to understand the new CPD requirements and to implement the necessary changes required for a smooth transition.

The CPD amendments in the Bill:

- require individual property agents licensed or registered under the PO Act to complete CPD requirements approved by the chief executive for each CPD year, unless exceptional circumstances apply;
- provide that a property agent's CPD year means a period of 12 months ending on the day before an anniversary of the date the licence or registration certificate was first issued, or another period approved by the chief executive. If a property agent holds more than one licence or certificate, the CPD requirements will apply in relation to the licence or certificate that has the earliest date of issue;
- provide that non-compliance with the CPD requirements will impact on the ability of a property agent to renew or restore their licence or certificate;
- require property agents, as part of the licence or registration renewal or restoration process, to make a statement about whether or not they have completed the CPD requirements for the relevant CPD year or years, and if relevant, to provide evidence of any exceptional circumstances that prevented completion; and
- require property agents to keep a record of completed CPD requirements for a period of 5 years after the end of the CPD year to which the record relates.

The amendments in the Bill clarify the application of the CPD requirements in certain circumstances, including:

- the CPD requirements will not apply to new licence and certificate holders for the first 12 months of their licence or certificate being issued, as they would likely have only recently completed the initial training requirements necessary to obtain the relevant licence or certificate;

- where an individual holds more than one licence or certificate, the individual will be required to complete one set of CPD requirements for each CPD year (applying to the

licence or certificate that has the earliest date of issue); and
- the CPD requirements will not apply to a licensee for a CPD year in which the licensee's licence has been deactivated for the majority of the year.

The Bill excludes the following licensees from the requirement to complete CPD:

- holders of a limited property agent licence as set out in Part 2 of the Property Occupations Regulation 2014 (that is, a limited real estate agent licence (affordable housing) and a limited real estate agent licence (business letting)); and
- licensees who are an entity mentioned in Part 2, Division 9, Subdivision 3 of the PO Act, these being public sector agencies and officials that hold a licence under the PO Act (for example, the Public Trustee, the chief executive of a department such as the Department of Housing, Local Government, Planning and Public Works, and Defence Housing Australia).

The mandatory CPD requirements for property agents established through amendments contained in the Bill will be operationalised through an administrative framework developed and applied by the chief executive, with support and advice from an Advisory Panel comprised of key stakeholders.

The ability of the chief executive to approve CPD requirements is consistent with existing provisions of the PO Act allowing the chief executive to administratively determine the initial training a person must complete to be eligible for a licence or certificate.

The Advisory Panel will be established administratively to give flexibility, while still ensuring crucial industry and community input. It is anticipated panel membership will include property occupation peak bodies, training organisation representatives, as well as consumer and community representation.

Subject to further consultation with the Advisory Panel when it is established, it is intended the initial CPD requirements will be for property agents to complete two CPD sessions each year, consisting of:

- one session derived from the national property services training package; and
- one session from a list approved by the chief executive.

Fair Trading Inspectors Act 2014

To support the introduction of mandatory CPD for property agents, the Bill amends the FTI Act to give effect to fair trading inspector powers for the purpose of monitoring and enforcing compliance with the new CPD requirements.

These amendments will enable Office of Fair Trading inspectors to require property agents to produce relevant documents and information pertaining to the CPD requirements.

Alternative ways of achieving policy objectives

Rental Law Reform

Public consultation on the Stage 2 Rental Law Reform Options Paper (Options Paper) sought residential rental sector and community feedback on options ranging from the status quo, supported by education and awareness activities, to moderate reform to guide decision making and positive outcomes for parties in the tenancy relationship, to substantial reform where discretion is limited. Feedback was independently analysed by Deloitte Access Economics and is outlined in the Consultation Report: *Proposed Stage 2 rental reforms in Queensland.*

Consultation on a Discussion Paper *Ensuring the annual rent increase frequency limit is effective* (Discussion Paper) invited suggestions for alternative options or approaches to the proposal to attach the rent increase frequency limit to the property. Alternative approaches that were suggested ranged from not proceeding with the proposed reform to strengthening the proposed reform by limiting the amount by which rent can be raised. Some respondents called for increased investment in social housing, and actions by other levels of government or independent bodies, such as the Reserve Bank of Australia (rate increases), and local council (land/rates). The results of this consultation are outlined in the Consultation Report*: Ensuring the annual rent increase frequency limit is effective*.

Due to the urgent need for government action to stabilise rents and improve protections for renters and rental property owners, an exemption from Queensland Government's *Better Regulation Policy* requirements was approved by Government for Stage 2 Rental Law Reforms. A six-week public consultation period was instead undertaken on options for reform and Deloitte Access Economics (Deloitte) was engaged by the Department to undertake an independent economic analysis of potential reform impacts. Government subsequently approved extending the exemption to include further regulatory action needed to address practices undermining the annual rent increase frequency limit. A four-week consultation period was instead undertaken and Deloitte was engaged by the Department to undertake an independent economic analysis of potential reform impacts.

In deciding how best to achieve the policy objectives, the department considered enhanced self-regulatory measures or increased education where possible. However, it was determined that these options would not achieve the government's objectives and that legislative amendments were warranted. The legislative reforms will be supported by a communication and education campaign by the RTA.

Technical amendments to the BCCM Act

There are no alternative ways of achieving the policy objective.

Amendments to the local government employee superannuation scheme

The policy objectives in relation to the local government employee superannuation scheme can only be achieved by legislative amendment.

CPD for property agents

The relevant clauses in the Bill are the most effective and appropriate way of achieving the policy objective relating to mandatory CPD. The amendments will facilitate an increase in skills of property agents on an ongoing basis through mandatory CPD, and support agents to adapt to changes in the marketplace, while minimising the burden on industry. There are no suitable non-legislative ways of achieving the policy objectives.

Estimated cost for government implementation

Rental Law Reform

Financial and resource implications of the Bill have been modelled and estimated for affected Queensland Government agencies, including the RTA, QCAT, Queensland Magistrate Court services (QMCS) 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 as it is not possible to definitively quantify reform impacts on business and operations due to the range of potential reactions and the inherent uncertainty in predicting parties' 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 body 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 the reforms will increase demand on its frontline services and enforcement and compliance functions by 10-20 per cent and will require updated IT systems and new resources to deliver services to stakeholders and ensure they are aware of their new rights and obligations.

Disputes that cannot be resolved by the RTA's dispute resolution service, or disputes that meet the criteria for 'urgent' matters, can be heard by QCAT. QCAT anticipates the rental reforms will increase the number of non-urgent residential tenancy matters lodged each year by 32 per cent, which equates to 965 additional applications. QCAT estimates there may be an associated 8 per cent increase in matters that proceed to the QCAT Appeals Tribunal, which are resource intensive and may be heard by up to three QCAT members. The increase in lodgements and appeals will increase telephone and registry enquiries and workloads and will be managed through additional allocated funding.

BCCM provides statutory information and dispute resolution services to Queensland's community titles sector. BCCM anticipates it will experience ongoing service delivery demands as a result of the reforms, particularly to support the provision of timely and responsive information and dispute resolution, and to support implementation of the reforms.

Implementation of the reforms will be closely monitored and robust data will be collected about reform impacts.

Technical amendments to the BCCM Act

No costs are expected to arise from the technical amendments to the BCCM Act. If there are any costs, they are intended to be met from existing budget allocations.

Amendments to the local government employee superannuation scheme

The amendments to the local government employee superannuation scheme have no financial implications for the State Government.

CPD for property agents

While there will be costs for government implementation of the Bill, they are not expected to be substantial, and it is intended they will be met from existing budget allocations.

Consistency with fundamental legislative principles

Rental Law Reform

Fundamental Legislative Principle issues
Section 4(3) of the *Legislative Standards Act 1992* (LS Act) states that whether legislation has sufficient regard to the rights and liberties of individuals depends on whether, for example, the legislation does not adversely affect rights and liberties or impose obligations retrospectively and is consistent with principles of natural justice.

Some departures from fundamental legislative principles relating to the rights and liberties of individuals may occur in the unavoidable trade-offs to balance the competing interests of parties in the tenancy relationship. Potential fundamental legislative principle issues have been identified relating to legislation having sufficient regard to the rights and liberties of individuals including property rights; privacy; natural justice; and proportion and relevance have been identified.

Whether the Bill has sufficient regard to the institution of Parliament

Section 4(4) of the LS Act states that whether a Bill has sufficient regard to the institution of Parliament depends on whether, for example, the Bill allows delegation of legislative power only in appropriate cases and to appropriate persons, sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly and authorises the amendment of an Act only by another Act.

The RTRA Act will be amended to establish heads of power to allow the RTRA Regulation to prescribe a portable bond scheme and set minimum behavioural expectations in an enforceable rental sector Code of Conduct. Potential fundamental legislative principle issues have been identified in relation to legislation having sufficient regard to the institution of Parliament.

The Bill establishes a head of power which will enable the RTRA Regulation to prescribe a portable bond scheme. The head of power sets out the particular matters that can be dealt with by the regulation, constraining the scope of the provision and safeguarding against the potential for the regulation to exceed the purpose of the Act. An additional safeguard is built into the head of power, which provides that the provision and any regulation prescribed under it will

expire after 2 years from commencement of the provision. To the extent that the head of power may conflict with fundamental legislative principles, it is justified by the urgent need to develop a portable bond scheme as a priority response to community concerns about the impact of current market housing conditions and cost of living pressures on Queensland's renting households. The head of power will enable the department to develop the details of the scheme in consultation with the sector as expeditiously as possible.

The Bill provides a head of power for an enforceable Code of Conduct to be prescribed in regulation. The head of power is constrained by section 519A(3), which provides that a provision of the code may not be inconsistent with a provision of the *Property Occupations Act 2014* or *Agents Financial Administration Act 2014*, which removes the potential for the code to duplicate provisions of other professional regulation and provides a safeguard against breach of fundamental legislative principles. To the extent that there may be residual concerns about the potential inconsistency with fundamental legislative principles, any inconsistency is justified by the need to develop the detail of the code in consultation with the sector in order to set out clear professional conduct standards and improve the behaviour of property managers and lessors. The current tight Queensland housing market has given rise to a range of undesirable practices by some property managers and owners. During consultation, renters advised of property managers and owners not addressing property issues (repairs, maintenance) and poor communication; while property owners felt some managers did not adequately protect their assets, did not always pass on renters' requests, and treated renters harshly. As intermediaries, the property manager's role is not always easy, with some experiencing poor behaviour from both renters and rental property owners.

Property rights

The amendments to section 93 of the RTRA Act will apply the 12-month rent increase frequency limit to the rental property instead of the tenancy. This may infringe upon the right to property which is relevant to the consideration of whether legislation has sufficient regard to the rights and liberties of individuals as provided for in section 4(2)(a) of the LS Act. The amendments are intended to improve rental security for renters by preventing property owners or their agents from ending tenancies at the end of a fixed term agreement to enter a new agreement with a new renter at a higher rent. The reform will ensure that the 12-month rent increase frequency limit applies across tenancies, even if the renter changes. To the extent the amendments are a departure from fundamental legislative principles, this is justified because the amendments will help to stabilise rents in the private rental market.

The Bill introduces fixed re-letting costs to cap the amount of reasonable costs where a renter breaks the lease for reasons other than ending an agreement due to domestic and family violence. As this change limits the total amount of compensation that can be sought by a property owner when a lease is broken by a renter, the provisions may be inconsistent with the property rights of owners. Presently, the RTRA Act does not prescribe the maximum amount of compensation that can be sought by a rental property owner when a renter breaks the lease. The reforms are intended to ensure that renters do not incur excessive costs by ending a fixed term agreement early so that breaking a lease does not create a barrier for renters to access more suitable housing. Ensuring that renters can access more affordable housing or alternative housing options (such as living with family members or entering social housing), is particularly important in the context of rising rental costs and cost-of-living pressures being experienced by many Queenslanders and justifies any potential departure from fundamental legislative

principles.

The Bill aims to improve the balance between renters privacy and the need for property owners and agents to enter rental properties for legitimate purposes by increasing the notice periods for several grounds of entry from 24 to 48 hours, as well as limiting the frequency of entries after a *Notice to Leave* or *Notice of Intention to Leave* has been issued. These amendments may be inconsistent with the property rights of rental property owners by placing additional limitations on owners' control over their investment properties. However, this must be balanced against the competing property rights of renters to have quiet enjoyment of their rental property. Frequent entries by property owners and their agents may cause significant stress and disruption to renters' use of rental premises. Consultation feedback indicated a prevailing view among renters that the current law does not adequately protect their privacy and security in relation to entry. Accordingly, to the extent that these provisions may depart from fundamental legislative principles, the departure is justified by the countervailing importance of protecting the property rights of renters.

The Bill also prohibits a property owner or their agent from accepting higher rent than that advertised, or from accepting rent in advance of more than four weeks. As these changes limit the ways a property owner can participate in the private rental market, they may infringe upon the rights and liberties of individuals and may be inconsistent with the principles of natural justice provided for under section 4(3)(b) of the LS Act. The change may also impact the property owner's right to property which is relevant to the consideration of whether legislation has sufficient regard to the rights and liberties of individuals as provided for in section 4(2)(a) of the LS Act. To the extent that these provisions may depart from fundamental legislative principles, any possible departure is justified in order to clearly outline a fair, transparent and equitable process and to ensure that prospective renters are not disadvantaged in the private rental market, particularly in an environment where there are low vacancy rates, high rent costs and considerable competition for rental properties.

The Bill amends the RTRA Act by inserting provisions relating to attaching fixtures and making structural changes to premises or a room. However, the Bill does not give renters an automatic right to attach fixtures or make structural changes. Rather, it provides for the making of a regulation under section 209C or 256AC prescribing the circumstances in which attaching a fixture or making a structural change is necessary for a renter's safety, security or accessibility and prescribing a process for requesting such changes. The Bill also provides processes for requesting fixtures or structural changes in other circumstances, including circumstances where body corporate approval of the change is required. Therefore, these amendments are consistent with the property rights of property owners.

Privacy

The provision of private or confidential information between the Office of Fair Trading (OFT), the RTA and the department may infringe upon the right to privacy which is relevant to the consideration of whether legislation has sufficient regard to the rights and liberties of individuals as provided for in section 4(2)(a) of the LS Act. However, the impact of the departure is mitigated by important safeguards including by limiting information sharing only in circumstances prescribed in a Memorandum of Understanding between OFT and the RTA and only for the purpose of collaboration on enforcement matters including joint investigations. This will improve administration of justice outcomes and enable efficient allocation of resources.

Enabling the RTA to share bond loan information with the department will only occur in circumstances stipulated in the Policy and Procedures Manual for information sharing between the department and the RTA. As the department issues and administers bond loans to eligible persons, which are then lodged with the RTA, the department requires current information from the RTA about the state of the rental bond, such as the bond loan balance against which the bond loan is secured. To the extent that the amendment may depart from fundamental legislative principles, any departure is justified as the personal information will continue to be protected through safe storage and access and will only occur in circumstances where the original bond loan information is held by both parties.

Natural Justice

Section 4(3)(b) of the LS Act states that whether legislation has sufficient regard to the rights and liberties of individuals depends on whether legislation is consistent with natural justice. The Bill allows for the RTA to pay rental bonds if QCAT has dismissed an application regarding a bond dispute. While this amendment may infringe upon the principle that legislation must be consistent with principles of natural justice, it seeks to ensure that bond monies can be returned to the relevant parties based on the original application for the bond, instead of being held indefinitely by the RTA.

To the extent the amendments may depart from fundamental legislative principles, any departure is justified because any payment would only occur after a dispute resolution process has occurred and only in the circumstance where the application is dismissed by QCAT and QCAT does not make an order. An application is generally dismissed by QCAT when a party does not attend a hearing. Under the current law, if QCAT does not make an order in this circumstance, the bond cannot be released by the RTA to a party and will continue to be held by the RTA indefinitely. The amendment will remove this restriction and allow the RTA to disburse the bond in accordance with the original claim, which will remove the need for parties to re-commence dispute resolution proceedings and improve the rental bond process. The amendment will be supported by educational material, and the RTA will provide advice when engaging with parties (e.g., during the dispute resolution process) to ensure parties are aware of the potential repercussion of not attending a hearing.

Proportion and relevance

Some penalties in the RTRA Act have been amended and may infringe upon the principle that consequences imposed by legislation should be proportionate and relevant to the actions to which the consequences are applies and that a penalty for an offence should be proportionate to that offence. Those principles are relevant to consideration of whether legislation has sufficient regard to the rights and liberties of individuals as provided for in section 4(2)(a) of the LS Act. To the extent that the amendments may depart from fundamental legislative principles, that departure is justified because the penalties are proportionate to the impact of the offences and reflect the seriousness of the conduct.

The reforms will introduce higher fines for non-compliance with several requirements in the RTRA Act, including the secure storage and disposal of personal information; retaining and requesting of inappropriate information; and advertising premises for rent at a fixed amount.

The reforms also increase penalties for non-compliance with several requirements in the RTRA Act, including offences relating to rent bidding, rooming accommodation agreements and fee-free rental payments. In the case of the prohibition on rent bidding, the penalty is considered proportionate because it is consistent with other jurisdictions and will encourage compliance with the RTRA Act, therefore reinforcing the rights of renters and contributing to market stabilisation.

The new penalty provisions are proportionate and appropriate responses to encourage parties to comply with the RTRA Act. The new penalty provisions are consistent with those imposed on offences of similar importance provided for under the RTRA Act.

Amendments to the local government employee superannuation scheme

The amendments are consistent with fundamental legislative principles.

CPD for property agents

Amendments in the Bill relating to mandatory CPD for property agents are generally consistent with the fundamental legislative principles (FLP) in the *Legislative Standards Act 1992*. Aspects of the Bill that raise possible FLP issues, and justifications for any breaches, are addressed below.

***Legislative Standards Act 1992* – section 4(2)(a) – Legislation has sufficient regard to rights and liberties of individuals.**

Penalties

The Bill amends the PO Act to introduce a small number of new requirements with specified penalties for the breach of these requirements:

- Failure of a licensee and real estate salesperson to comply with a requirement to keep a record of the CPD completed by the person and to keep those records for a period of 5 years after the end of the CPD year to which the record relates (Clauses 112 and 118). Maximum penalty—10 penalty units.
- Failure of a person who is or has been a public service employee performing functions under or relating to the administration of the PO Act to keep specified information confidential, other than under prescribed circumstances (Clause 119). Maximum penalty—35 penalty units.

For legislation to have sufficient regard to the rights and liberties of individuals, new requirements should be appropriate and reasonable, and the penalty should be proportionate to the requirements.

Any potential breach of FLPs is considered justified. The penalties are required to ensure there are sufficient deterrents against non-compliance with the new requirements. The new requirements in relation to record keeping and their associated penalties are consistent with existing penalties in the Property Occupations Regulation 2014 in relation to similar requirements. The new confidentiality requirements and associated penalty are consistent with similar provisions in other fair trading legislation.

***Legislative Standards Act 1992* – section 4(3)(a) – Legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review**

***Legislative Standards Act 1992* – section 4(4)(a) – Legislation has sufficient regard to the institution of Parliament by allowing the delegation of legislative power only in appropriate cases and to appropriate persons**

Mandatory CPD requirements approved by the chief executive

Clauses 108, 110, 112, 114, 116 and 118 of the Bill provide that property agents must complete CPD requirements approved by the chief executive for each CPD year, unless 'exceptional circumstances' apply. As the CPD requirements imposed on property agents will be administratively determined by the chief executive, it is arguable that this approach may not have sufficient regard to the following FLPs:

- that legislation make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review (section 4(3)(a) of the *Legislative Standards Act 1992*); and
- that legislation have sufficient regard to the institution of Parliament by allowing the delegation of legislative power only in appropriate cases and to appropriate persons (section 4(4)(a) of the *Legislative Standards Act 1992*).

It is considered appropriate for limited powers relating to CPD for property agents to be delegated to the chief executive. This approach will allow sufficient flexibility for the chief executive to ensure the mandatory CPD requirements can be responsive to issues, concerns, and trends emerging in the marketplace. This approach will also ensure the ability to rapidly update CPD requirements to respond to changes (for instance, where particular training courses are no longer available, or the names or identifying details of these courses change).

The details of the training requirements will be published on the Department's website, which will provide certainty to property agents about the specific training requirements they are required to undertake.

It is also noted the approach taken by the Bill is consistent with existing provisions which allow the chief executive to approve mandatory initial training individuals must complete to be eligible for a licence or certificate.

'Exceptional circumstances'

Clauses 108, 110, 112, 114, 116 and 118 of the Bill provide that property agents must complete CPD requirements approved by the chief executive for each CPD year unless 'exceptional circumstances' apply.

As there is no definition of 'exceptional circumstances' in the Bill, this arguably may not have sufficient regard to the FLP that legislation make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review (section 4(3)(a) of the *Legislative Standards Act 1992*).

The absence of a legislative definition of 'exceptional circumstances' can be justified. A prescriptive definition of 'exceptional circumstances' in the legislation would not be appropriate, as it would be too limiting. The chief executive necessarily needs flexibility to exempt persons from CPD requirements if the particular circumstances warrant such exemption. It should also be noted that the chief executive is expected to provide some administrative guidance, to help clarify for property agents what circumstances are likely to fall into this category.

Additionally, Part 9 (QCAT proceedings), Division 4 (Review proceedings) of the PO Act provides an appropriate review process for a property agent through the Queensland Civil and Administrative Tribunal (QCAT) where the chief executive (or delegate) has determined that an exceptional circumstance does not apply and has subsequently decided to refuse renewal or restoration of a licence or registration certificate.

Consultation

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On 18 April 2023, an Options Paper was released for a six-week consultation period to seek feedback from renters, property owners and property managers and the community on options to change Queensland's rental laws and identify their impacts across five key legislative reform priorities: installing modifications, making minor personalisation changes, balancing privacy and access, improving the rental bond process, and fairer fees and charges.

Over 5,600 responses were received from renters, property owners, property managers, interest groups and the community. Property owners were the most engaged stakeholder group, comprising 61 per cent of survey responses and 48 per cent written submissions.

A Discussion Paper was released on 12 July 2023 for a four-week public consultation period. The Discussion Paper sought feedback on the reform option to apply the annual rent increase frequency limit to the property instead of individual tenancies to prevent property owners from ending tenancies to increase rent more frequently.

1,501 responses were received from stakeholder organisations, property owners, property managers, real estate agents and members of the community. Approximately 47 per cent of respondents identified as property owners, 7 per cent identified as rental property managers or real estate agents and 23 per cent identified as renters.

Extensive community consultation was previously undertaken in 2018 through the *Open Doors to Renting Reform* consultation program.

CPD for property agents

The CRIS and related communication tools were publicly launched on 1 September 2022. Consultation ran until 30 September 2022.

Together with the CRIS, an Industry Consultation Guide and an integrated communication campaign were developed. This included a public online survey to support interested parties to easily nominate their preferred option, and an electronic direct mail to all property agents with the Industry Consultation Guide and a link to the online survey.

A number of peak bodies and organisations were invited to make submissions to the CRIS. Submissions in response to the CRIS, and the responses to the survey, are outlined in the DRIS. Submissions in response to the CRIS were received from a range of stakeholders, including the Real Estate Institute of Queensland, the Australian Resident Accommodation Managers Association, the Australian Livestock and Property Agents Association, and Settlement Services International Limited (formerly Access Community Services Limited).

Consistency with legislation of other jurisdictions

Rental Law Reform

The RTRA Act and RTRA Regulation are specific to the State of Queensland and are not complementary to legislation of the Commonwealth or another state or territory. However, Victoria, New South Wales (NSW), South Australia (SA), the Northern Territory (NT) and the Australian Capital Territory (ACT) have recently amended their rental laws and Western Australia (WA) has introduced a Bill proposing changes to their tenancy laws. The amendments to the Bill align Queensland's rental laws with the approach taken in most Australian jurisdictions towards improving the rights of renters, modernising existing tenancy laws and ensuring property owners and property managers can continue to effectively manage their properties to ensure ongoing viability of the private rental market.

Head of power for Code of Conduct
All Australian jurisdictions have a Code for real estate professionals provided or acknowledged by government in some way. All Codes are administered by the equivalent of the Department of Justice and Attorney General and most through an Office of Fair Trading as a form of consumer protection.

There is a wide spectrum of enforcement mechanisms and specificity in relation to behaviour or conduct standards provided for in the Codes of each jurisdiction. For example, the ACT and NSW Codes have provisions regarding behaviour towards renters, such as responding promptly to requests, while other Codes have only high-level requirements such as prohibiting misleading conduct. All Codes apply only to licensed real estate professionals and none regulate the behaviour of property owners or renters.

Prescribed rental application form
In September 2023, Victoria announced a prescribed rental application form which sets out what information can be requested from prospective renters as part of its suite of proposed housing reforms.

From 2 January 2024, the *Residential Tenancies Act 1999* (NT) includes a head of power to prescribe a rental application form.

No other Australian jurisdiction currently prescribes a rental application form.

Secure storage and disposal of personal information
Tenancy laws in Victoria and SA include provisions to protect renters' privacy through secure storage and disposal of personal information.

Since September 2023, laws in SA protect renters' information from misuse, interference, loss, unauthorised access, modification or disclosure, and require safe destruction of information three years after the end of the tenancy, or 30 days after the tenancy agreement is entered into for unsuccessful applicants.

From 2 January 2024, tenancy laws in the NT require that reasonable steps be taken to protect renters' personal information, including prescribed requirements to destroy personal information within established timeframes.

Substantiation of bond claims

In NSW, SA, Tasmania and the NT, claims against the rental bond must be substantiated by the property owner.

In NSW, where a renter disputes a claim against the bond, the property owner has seven days to provide evidence to support the claim, such as quotes or condition reports. A similar process exists in SA.

In Tasmania and the NT, all claims against a bond must be substantiated, regardless of whether the renter disputes the claim.

Bonds capped at a maximum of four weeks rent

NSW, Tasmania, ACT and the NT limit the amount of bond that can be taken to 4 weeks rent, and no weekly threshold applies.

Victoria and WA apply a weekly rent threshold, above which there is no limit to the bond that can be charged. These thresholds are $900 and $1200 respectively.

SA applies a weekly rent threshold of $800, above which the limit to the bond is a maximum of six weeks rent.

Head of power for portable bond scheme

In June 2023, NSW passed the *Residential Tenancies Amendment (Rental Fairness) Bill 2023* (NSW), which amended the *Residential Tenancies Act 2010* (NSW) to include a head of power to establish a rental bond roll-over scheme. In September 2023, Victoria announced a portable bond scheme as part of proposed housing reforms.

No details regarding the operation of the portable bond scheme for either jurisdiction have been publicly released, but the intention is to create a more affordable bond process for renters by allowing bonds to be transferred when relocating from one rental property to another.

Fee-free option to pay rent

In all Australian jurisdictions, except the NT and ACT, tenancy laws require that a renter must be given or permitted to use a fee-free method to pay rent.

Since 2021, Victoria's tenancy laws require that the property owner or property manager must offer at least one reasonably available fee-free rent payment method. Similar requirements have existed in NSW since 2011.

SA tenancy legislation requires that a property owner or property manager must permit a renter to pay rent using a method that does not incur a fee. Similarly, in Tasmania, a property owner

or property manager is prevented from requiring rent to be paid using a method that incurs a fee or charge.

WA has a standard term in every tenancy agreement that the rental property owner or property managers may not require the renter to pay any monetary amount other than rent, security bond and pet bond.

Prompt utility bills
In SA, a renter is not required to pay utility bills for water if they request a copy of the rates and charges and the property manager fails to provide it within 30 days. No other Australian jurisdiction clarifies the timeframe for property owners or managers to provide renters with a copy of utility bills for their payment.

Capped reletting costs
Since March 2020, laws in NSW cap break lease fees according to the proportion of the lease that has expired, where the lease is three years or less in length. The reletting costs range from four weeks rent if less than 25 per cent of the lease has expired to one weeks rent if 75 per cent or more of the lease has expired.

In Victoria, caps on compensation in the event of early termination of an agreement by a renter also exist, however these only apply to fixed term agreements of more than five years.

From 2 January 2024, the NT caps the maximum compensation for early termination of a fixed term agreement at 28 days rent if less than half of the agreed term has expired, or 14 days rent if half or more of the agreed term has expired.

Tenancy laws in the ACT have an optional break lease fee clause that may be included as a term in the residential tenancy agreement. However, the clause only applies to a fixed term agreement, and where the property owner and renter agree to the clause being included.

In December 2023, SA passed new laws to cap reletting costs at one months' rent if there is less than 24 months remaining on the agreement, and one months' rent for each 12 months remaining on the agreement for other terms up to a maximum of six months' rent.

Ban on accepting rent offers over the advertised price or rent in advance
In September 2023, the Victorian Government announced a provision which would prevent property owners and property managers accepting offers of higher rent and restrict how much rent in advance can be accepted as part of proposed reforms.

From 2 January 2024, NT laws ban a property owner from accepting offers of rent higher than the advertised amount. If the owner withdraws the property from the market, it cannot be readvertised at a higher rent within one month of that withdrawal.

No other Australian jurisdiction prevents accepting offers of higher rent or rent in advance.

Amendments to the local government employee superannuation scheme

The amendments to the local government superannuation scheme are specific to the State of Queensland.

CPD for property agents

The Bill is specific to the State of Queensland and is not uniform with or complementary to legislation of the Commonwealth or another state.

While the Bill is not intended to achieve uniformity with other jurisdictions, other jurisdictions currently impose mandatory CPD requirements on property agents, namely New South Wales, Western Australia, Tasmania and the Australian Capital Territory. However, the CPD models and annual requirements differ significantly across jurisdictions.

Notes on provisions

Part 1 Preliminary

Clause 1 states that the Act may be cited as the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024.*

Clause 2 outlines the date for commencement of particular provisions.

The following provisions commence on 1 July 2024:
- part 3, division 3
- schedule 1, part 2

Part 3, divisions 2 and 4 commence 1 year after the date of Assent.

Part 2, division 3 commences on a day to be fixed by proclamation.

Part 2 Amendment of Residential Tenancies and Rooming Accommodation Act 2008

Division 1 Preliminary

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

Division 2 Amendments commencing on assent

Clause 4 amends section 29 *Act applies to certain residential tenancy agreements etc* to amend example 3 for section 29(2) to provide that under sections 32 and 44A the Act generally does not apply to an agreement if the tenant or resident is a boarder or lodger.

Clause 5 amends section 44(3) *Rooming accommodation agreements to which Act does not apply* to clarify that while the Act does not apply to the rooming accommodation agreements mentioned in subsection (1), the provisions of the Act about rental bonds apply to agreements mentioned in subsection (1)(a) or (f). This change means that the provisions of the Act about rental bonds will apply to rooming accommodation agreements where the provider lives in the premises as their only or main place of residence and there are three or fewer rooms available to rent by residents.

Clause 6 inserts new section 44A *Boarders and lodgers.* New subsection 44A(1) states that the Act does not apply to rooming accommodation agreements where the resident is a boarder or lodger. However, under new subsection 44A(2) if a rental bond is paid under a rooming accommodation agreement where the resident is a boarder or lodger, the provisions of the Act about rental bonds apply to the agreement. Matters to which the tribunal must have regard when deciding whether a person is a boarder or lodger are outlined in section 433.

Clause 7 amends section 57 *Offer of residential tenancy must be for rent at a fixed amount.* Subclauses 7(1) and (3) replace the term 'lessor or lessor's agent' with 'person' to ensure that the provision applies to all persons offering residential tenancy agreements, including third party platforms. The maximum penalty units for non-compliance with sections 57(1) and (2) have been increased from 20 penalty units to 50 penalty units.

New subsection 57(2A) prohibits a person from soliciting, inviting, or accepting an offer of an amount of rent that is more than the fixed amount stated in an advertisement or offer as the amount of rent for the premises. A maximum penalty of 50 penalty units applies for contravention of this provision.

Clause 7(6) renumbers subsections 57(2A) and (3) as subsections 57(3) and (4), to assist with navigation of the Act.

The purpose of these amendments is to prevent rent bidding for residential tenancy agreements by not allowing a person to solicit or invite an offer of rent that is more that the advertised amount.

Clause 8 amends section 61 *Written agreements required* to insert new section 61(2)(c) to provide that a written tenancy agreement must include the date that the rent was last increased for the premises at the time the agreement was entered into. Under section 61(1) it is an offence for a lessor or lessor's agent to not ensure that a residential tenancy agreement is in writing in the way required by the section. This means it will be an offence to not disclose the date of the last rent increase for the rental property on the tenancy agreement, with a maximum penalty of 20 penalty units. This will make it easier for new tenants to know when their rent is allowed to increase.

Clause 9 amends section 73 *Standard terms* to amend the section reference in the note under section 73(2) to provide that under section 77(2)(a), every rooming accommodation agreement must include the standard terms. This change is necessitated by amendments to section 77(2) that require the date of the last rent increase for a room in the premises to be disclosed on a written rooming accommodation agreement. This will make it easier for new residents to know when their rent is allowed to increase.

Clause 10 inserts new section 76AA *Offer of rooming accommodation must be for rent at a fixed amount.* New subsection 76AA(1) prohibits a person from advertising or offering rooming accommodation for rental premises unless a fixed amount is stated in the advertisement or offer as the amount of rent for the premises. New subsection 76AA(2) states that a person must not accept a rental bond from the resident if the rooming accommodation was advertised or offered without stating a fixed amount of rent for the rental premises. A maximum penalty of 50 penalty units applies to both subsections.

Subsection 76AA(3) prohibits a person from soliciting, inviting or accepting an offer for rooming accommodation that is more than the fixed amount stated in an advertisement or offer as the amount of rent for the rental premises. A maximum penalty of 50 penalty units applies for contravention of this provision.

Subsection 76AA(4) provides that a person will not contravene sections 76AA(1)-(4) merely by placing a sign on or near the rental premises advertising or offering rooming accommodation without stating the amount of rent on the sign.

The purpose of these amendments is to prevent rent bidding for rooming accommodation agreements by not allowing a person to solicit or accept an offer of rent that is more than the fixed amount. The provisions are similar to those for residential tenancy agreements.

Clause 11 amends section 77 *Written agreement required* to increase the maximum penalty for subsection 77(1) from 20 penalty units to 40 penalty units. Subsection 77(2) is amended to provide that, in addition to the standard and special terms, a rooming accommodation agreement must disclose the date of the last rent increase for the room in the rental premises at the time the agreement is entered into. Under section 77(1) it is an offence for a provider or provider's agent not to enter into a rooming accommodation agreement in writing in the way required by the section. This means that it will be an offence to not disclose the date of the last rent increase on the rooming accommodation agreement, with a maximum penalty of 40 penalty units. This will make it easier for new residents to know when their rent is allowed to increase.

Clause 12 inserts new section 82A *Meaning of exempt lessor* which defines 'exempt lessors' for the purpose of certain provisions of Chapter 2, Part 2, Division 1. Section 82A provides that a lessor of premises is an exempt lessor if:

(a) the lessor receives funding for the premises under the *Housing Act 2003* if the amount of rent payable for the premises is determined by household income; or
(b) the lessor receives funding for the premises that is the subject of a funding declaration under the *Community Services Act 2007* if the amount of rent payable for the premises is determined by household income; or
(c) the lessor is the chief executive of the housing department, acting on behalf of the State; or
(d) the lessor is the State, and the tenant is an officer or employee of the State; or
(e) the lessor is the replacement lessor under a community housing provider tenancy agreement; or
(f) the lessor or owner is a lessor or owner prescribed by regulation to be an exempt lessor or owner.

Examples are community housing providers and specialist homelessness services receiving funding under the *Housing Act 2003*.
Certain additional lessors who apply a subsidised income-based rental policy, such as community housing and crisis accommodation providers have been made exempt from the annual limit on rent increases. These providers require flexibility to adjust rent when a renter's income changes, an additional member of the household moves in or out of the home, or a new renter takes possession.

Clause 13 amends section 87 *Rent in advance,* which deals with the maximum amount of rent in advance for a residential tenancy agreement. References in section 87(1) and (2) change the wording from 'lessor or lessor's agent' to 'person', which extends the coverage of the provision to third party entities such as rental application platforms. Section 87(1) has also been amended to provide that a person must not accept (changed from the previous obligation that a lessor or lessor's agent must not require) more than the specified maximum amount of rent in advance. The maximum amount of rent in advance that can be required or accepted is 2 weeks rent for a periodic agreement or a moveable dwelling agreement, or 4 weeks rent for another agreement

(previously 1 month). This will also apply during the term of the tenancy. The maximum penalty for non-compliance with this provision has been increased to 50 penalty units.

Clause 14 amends section 91 *Rent increases* to require under section 91(3)(c) that a written notice of a rent increase must disclose the day of the last rent increase for the premises. It also references section 93 to note that the minimum period before rent can be increased under a residential tenancy agreement must be taken into consideration when increasing rent. Additionally, section 91(8) is amended to provide that the section applies subject to section 93 *Minimum period before rent can be increased* and 93A *Evidence of last rent increase.*

Clause 15 amends section 93 *Minimum period before rent can be increased* to provide under section 93(1) that a lessor or agent must not increase the rent for a residential premises less than 12 months after the day of the last rent increase for that premises. Non-compliance with this provision is an offence, with a maximum penalty of 20 penalty units.

Subsection 93(2) clarifies that for the purposes of section 93, rent is ***increased*** if:

(a) a rent increase happens during the term of a residential tenancy agreement; or
(b) a new residential tenancy agreement is entered into for the premises and immediately before rent becomes payable under the new agreement either:
  (i) rent was not payable for the residential premises; or
  (ii) the amount of rent payable for the residential premises was less than the rent that will be payable under the new agreement.

Subsection 93(2A) clarifies that the 12-month period applies even if the last rent increase for the residential premises related to a different residential tenancy agreement, including a residential tenancy agreement entered into by a previous owner of the premises.

An example is provided to demonstrate how the 12-month limit on rent increase frequency applies to a rental premises where there is a change in tenants.

Subsection 93(2B) clarifies that a residential premises for a moveable dwelling tenancy includes the site, moveable dwelling, or both for the purpose of section 93(1). This means, that the 12–month limit on the frequency of rent increases applies to that particular moveable dwelling and/or site, not the entire moveable dwelling park.

Section 93(5) is amended to clarify that this section does not apply to an exempt lessor, or an agent of an exempt lessor which is defined under section 82A. Subsection 93(5)(b) provides that the section does not apply to the extent that the rent payable under a residential tenancy agreement is increased under an order of the tribunal under section 93B.

Clause 15(4) renumbers subsections 93(2A) to (5) as sections 93(3) to (7) to assist with navigation of the Act.

Clause 16 inserts new sections 93A *Evidence of last rent increase* and 93B *Tribunal order about rent increase*.

New section 93A *Evidence of last rent increase* provides that a tenant may request in writing that a lessor or agent provide the tenant with evidence of the day that the rent was last increased

for the premises (93A(1)). Examples of evidence of the day of the last rent increase are provided and include a copy of a previous tenancy agreement, a written rent increase notice, or a copy of the rent ledger for the premises.

Section 93A(2) requires the lessor or lessor's agent to give the tenant the evidence within 14 days after receiving the request. Non-compliance is an offence, with a maximum penalty of 40 penalty units.

Subsection 93A(3) requires that any evidence provided to the tenant under this section must remove personal information about any other person (such as the previous tenant) or is otherwise de-identified to protect their personal information.

The purpose of these amendments is to enable tenants to substantiate when their rent is allowed to increase.

New section 93B *Tribunal order about rent increase* allows a lessor to apply to the tribunal for an order permitting the lessor to increase rent by a stated amount if the lessor would be caused undue hardship by not being permitted to raise the rent within the 12-month period mentioned in section 93(1).

Subsection 93B(4) provides that the tribunal must, when deciding the application, have regard to any representation made by a tenant under the residential tenancy agreement about the proposed rent increase and the likely effect on the affordability of the premises and the tenant's ability to continue to pay the rent for the premises.

Subsection 93B(5) clarifies that section 93B does not apply to an exempt lessor or an agent of an exempt lessor which is defined under section 82A.

The purpose of these amendments is to provide lessors who may be significantly affected by the annual rent increase limit with the option to apply to the tribunal for an order to increase the rent within the 12 month period.

Clause 17 amends section 94 *Rent decreases* to clarify that where the rent payable under an agreement is decreased under section 94 or by an order of the tribunal and later reverts to the amount payable before the decrease, this is not considered a rent increase for the purpose of sections 91 or section 93. The 12-month limit on rent increases and the obligation to substantiate the date of the last rent increase will not apply in these circumstances.

Clause 18 amends section 101 *Rent in advance*, which deals with the maximum amount of rent in advance for a rooming accommodation agreement. The wording 'provider or provider's agent has been changed to 'person', to extend the coverage of the provision to third party entities such as rental application platforms. Section 101(1) has been amended to provide that a person must not accept (previous obligation was that a lessor or lessor's agent must not require) more than the maximum amount of rent in advance. The maximum amount of rent in advance that can be required or accepted for rooming accommodation is 2 weeks rent. The maximum penalty for non-compliance with this provision has been increased to 50 penalty units.

Clause 19 amends section 105B *Minimum period before rent can be increased* to provide that a provider or provider's agent must not increase the rent payable by a resident less than 12 months after the day of the last rent increase for the resident's room. Non-compliance with this requirement is an offence, with a maximum penalty of 20 penalty units.

Subsection 105B(2) clarifies that for the purposes of section 105B, rent is ***increased*** for the resident's room if:

(a) a rent increase happens during the term of a rooming accommodation agreement; or
(b) a new rooming accommodation agreement is entered into for the resident's room and immediately before rent becomes payable under the new agreement either:
  (i) rent was not payable for the resident's room; or
  (ii) the amount of rent payable for the resident's room was less than the rent that will be payable under the new agreement.

Subsection 105B(2A) clarifies that the 12-month period applies even if the increase related to a rent increase for the resident's room under a different rooming accommodation agreement, including if the agreement was with a previous provider of rental premises. An example demonstrates how this applies if there are different residents under different rooming accommodation agreements for the same room.

Subsection 105B(3A) provides that if the amount of rent payable under a rooming accommodation agreement includes payment for both accommodation and a service, the 12-month period mentioned in subsection 105B(1) applies only in relation to an increase in rent payable for accommodation under the agreement.

Subsection 105B(4A) provides that this section does not apply to the extent the rent payable under a rooming accommodation agreement is increased under an order of the tribunal under section 105E.

Clause 19(4) renumbers subsections 105B(2A) to (4A) as sections 105B(3) to (7) to assist with navigation of the Act.

Clause 20 inserts new sections 105C *Evidence of last rent increase*, 105D *Rent increase in relation to service provided under agreement*, and 105E *Tribunal order about rent increase*.

New section 105C *Evidence of last rent increase* provides that a resident may request in writing that the provider or provider's agent provide the resident with evidence of the day that the rent was last increased for the resident's room. Examples of evidence of the day of the last rent increase are provided and include a copy of the previous rooming accommodation agreement for the resident's room, a written rent increase notice, or a copy of the rent ledger for the resident's room.

Subsection 105C(2) requires the provider or provider's agent must give the resident the evidence within 14 days after receiving the request. Non-compliance with this requirement is an offence, with a maximum penalty of 40 penalty units.

Subsection 105C(3) requires that any evidence provided to the resident under this section removes personal information about another person (such as the previous resident's name),or is otherwise de-identified.

New section 105D *Rent increase in relation to service provided under agreement* clarifies that an increase in the rent payable under a rooming accommodation agreement that relates only to an increase in the cost of a personal care service or food service provided under the agreement is taken not to be a rent increase for the purpose of section 105 or 105B. There is an existing requirement under section 77 for rooming accommodation agreements to state the components of the rent attributable to accommodation, a food service, a personal care service or another service.

The purpose of these amendments is to enable residents to substantiate when the accommodation portion of their rent is allowed to increase.

New section 105E *Tribunal order about rent increase* allows a provider to apply to the tribunal for an order permitting the provider to increase the rent by a stated amount if the provider would be caused undue hardship due to not being permitted to raise the rent for the resident's room within the 12 month period outlined in section 105B(1).

New subsection 105E(4) provides that the tribunal must, when deciding the application, have regard to any representation made by a resident about the proposed increase and the likely effect on the affordability of the rental premises and the resident's ability to continue to pay the rent for the resident's room.

The purpose of these amendments is to provide providers who are significantly affected by the reform with the option to apply to the tribunal for an order to increase the rent for a resident's room within the 12 month period.

Clause 21 inserts new section 107A *Rent decreases* to clarify that where the rent payable under a rooming accommodation agreement is decreased under section 106, 107 or by an order of a tribunal and later reverts to the amount payable before the decrease, this is not considered a rent increase for the purpose of sections 105 or section 105B, so the 12-month limit on rent increases and the obligation to substantiate the date of the last rent increase will not apply in these circumstances.

Clause 22 amends section 136E *Payment of rental bond after dispute resolution process* to clarify that the RTA may make payment of a rental bond if a bond application was made to the tribunal, but the application was dismissed. This change addresses an administrative issue where a bond is tied up indefinitely and the RTA cannot release the bond unless the parties recommence dispute resolution proceedings.

Clause 23 amends section 138 *Payment to rental bond supplier* to clarify when the RTA can make payments to rental bond suppliers or contributors (as defined by section 113 of the RTRA Act). This amendment is clarifies that where an amount is owing to the department of housing due to a bond loan, that the RTA will first pay the department of housing, and if there is any remaining bond, it is paid to the contributor. This ensures that where a renter has used a commercial bond product, that the bond is not first paid to the commercial bond supplier before it is paid to a contributor.

Clause 24 amends section 148 *Order for return of bond if wrongfully taken*, which provides that where a lessor, provider, or agent is convicted of an offence in relation to accepting a rental

bond when the premises have not been advertised with a fixed amount of rent or other information prescribed by regulation under section 76A or 76AA, the RTA must not release the bond to the lessor, provider or agent and must immediately refund the bond to the tenant or resident. The amendment broadens the scope of section 148 to include new section 76AA(2), which provides that it is an offence for a provider or provider's agent to accept a rental bond if the rooming accommodation was advertised without stating a fixed amount of rent. This change extends the same protections to rooming accommodation residents that apply to tenants in section 57(2).

Clause 25 inserts new section 155A *Transfer of rental bond* which allows the RTA to transfer all or a part of the rental bond for one residential tenancy agreement or rooming accommodation agreement as the rental bond for another new agreement in the circumstances to be prescribed by regulation. This will facilitate the development of a portable bond scheme in Queensland to lessen the financial burden on tenants when moving from one rental property to another, by allowing the transfer of the rental bond between properties.

Subsection 155A(3) provides that if an amount is paid as a rental bond under section 111 *Meaning of rental bond* the amount is taken to be an amount under the agreement to which the amount is transferred.

Subsection 155A(4) sets out the matters that may be dealt with by the regulation:

(a) requirements relating to the transfer of the rental bond that must be complied with for the transfer to take effect, including for example the payment of fees;
(b) how the provision of the Act relating to payment or refund of a rental bond applies in relation to a rental bond transferred under this section;
(c) how a provision of the Act relating to the making of claims against the rental bond applies in relation to a transferred bond.

Subsection 155A(5) provides that this section and any regulation made under this section expire 2 years after this section commences.

Clause 26 inserts new chapter 3, part 5, division 1, subdivision 1.

Subdivision 1 Fixtures and structural changes generally

New section 206A *Application of subdivision* provides that the subdivision applies to attaching fixtures and making structural changes to premises that do not fall within new subdivision 2 *Fixtures and structural changes for safety, security or accessibility.*

This subdivision will commence on Assent and will incorporate the existing provisions in relation to structural changes and fixtures set out in sections 207 to 209. The new provisions in relation to fixtures and structural changes that are not for a tenant's safety, security or accessibility (**clause 65**) will commence on proclamation and replace the current provisions in new subdivision 1.

Clause 27 inserts new chapter 3, part 5, division 1, subdivision 2.

Subdivision 2 Fixtures and structural changes for safety, security and accessibility

New section 209B *Attaching fixtures or making structural changes for safety, security or accessibility* applies in relation to attaching fixtures and making structural changes to residential premises that are necessary for a tenant's safety, security or accessibility, and is attached or made in the circumstances and in accordance with any requirements prescribed by the regulation.

Clause 28 amends section 245 *Injury to domestic associate* to allow a co-tenant or domestic associate to apply to the tribunal for an order to be recognised as the sole tenant because that person's domestic associate has committed domestic violence against the person. This amendment is intended to clarify an ambiguity with the current wording of section 245(2) which may be interpreted to exclude a person who is renting a premises where their domestic associate is a cotenant from seeking an order recognising that person as the sole tenant.

Clause 29 inserts a new heading into chapter 4, part 1, division 1.

Division 1 Provider's obligations

Clause 30 inserts a new heading into chapter 4, part 1, division 2.

Division 2 Locks and keys

Clause 31 inserts a new heading into chapter 4, part 1, division 3.

Division 3 Resident's obligations

The amendments made by clauses 29 to 31 assist navigation of the sections of the Act relating to rooming accommodation and provide greater structural consistency with the equivalent provisions for residential tenancies.

Clause 32 inserts chapter 4, part 1, division 4.

Division 4 Fixtures and structural changes

Subdivision 1 Fixtures and structural changes generally

New section 253A *Application of subdivision* provides that the subdivision applies to attaching fixtures and making structural changes to rental premises that do not fall within new subdivision 2 *Fixtures and structural changes for safety, security or accessibility.*

This subdivision will commence on Assent and will incorporate the existing provisions in relation to structural changes and fixtures set out in sections 254 to 256. The new provisions in relation to fixtures and structural changes that are not for a resident's safety, security or accessibility will commence on proclamation and at that time will replace the current provisions in new subdivision 1.

Clause 33 inserts new chapter 4, part 1, division 4, subdivision 2.

Subdivision 2 Fixtures and structural changes for safety, security or accessibility

New section 256AA *Attaching fixtures or making structural changes for safety, security or accessibility* applies in relation to attaching fixtures and making structural changes to residential premises that are necessary for a resident's safety, security or accessibility, and is attached or made in the circumstances and in accordance with any requirements by the regulation.

Clause 34 amends section 259 *Entry after giving notice* to insert a new ground of entry allowing a provider to access a resident's room with 24 hours' notice to install, maintain or replace a smoke alarm. This ground of entry is intended to replicate an existing ground of entry for residential tenancies and will facilitate improved safety outcomes.

Clause 35 amends section 277 *Ending of residential tenancy agreements* to insert a note referring to *Body Corporate and Community Management Act 1997* for the termination of a residential tenancy agreement if a community titles scheme is terminated.

Clause 36 inserts new section 292 *Notice to leave for end of agreed short tenancy period*, which introduces a formal process for a lessor to terminate a residential tenancy that is a short tenancy (moveable dwelling). The lessor may issue a notice to leave for end of short tenancy (moveable dwelling) if the lessor and tenant made a short tenancy statement or short tenancy (extension) statement and the notice relates to the end of the agreed base period or extended period in the statement. The notice to leave must be issued not more than two days before the end of base period or extended period stated in the statement.

Clause 37 inserts new section 307E *Notice of intention to leave for end of agreed short tenancy period*, which introduces a formal process for a tenant to terminate a residential tenancy that is a short tenancy (moveable dwelling). The tenant may issue a notice of intention to leave for end of short tenancy (moveable dwelling) if the lessor and tenant made a short tenancy statement or short tenancy (extension) statement and the notice relates to the end of the base period or extended period in the statement. The notice to leave must be issued not more than one day before the end of base period or extended period stated in the statement.

Clause 38 amends section 308I *Confidentiality* to strengthen the requirement to not disclose information about tenants experiencing domestic and family violence. The amendment replaces the term 'evidence supporting' in sections 308I(1) and (2) with 'relevant information'. New sub provision (3) defines 'relevant information' as evidence supporting the notice ending tenancy interest or personal information about a tenant who gives the lessor a notice ending tenancy interest, including information that the tenant intends to vacate the premises.

Clause 39 amends section 326 *Notice to leave* to insert new sub provision 326(6A) which provides that the handover day for a notice to leave for end of short tenancy (moveable dwelling) must be the last day of either the base period or, if a short tenancy (extension) statement was made, the extended period.

Clause 39(2) renumbers subsections 326(6A) to (7) as subsections 326(7) and (8) to assist navigation of the RTRA Act.

Clause 40 amends section 327 *Notice of intention to leave* to insert new sub provision 327(2A) which provides that the handover day for a notice of intention to leave for end of short tenancy (moveable dwelling) must be the last day of either the base period or, if a short tenancy (extension) statement was made, the extended period.

Clause 40 also renumbers subsections 327(2A) to (6) as subsections 327(3) to (7) to assist navigation of the RTRA Act.

Clause 41 amends section 366 *Ending of rooming accommodation agreements* to insert a note referring to *Body Corporate and Community Management Act 1997* for the termination of a rooming accommodation agreement if a community titles scheme is terminated.

Clause 42 amends section 380C *Notice to leave if entitlement to student accommodation ends* to correct a minor drafting error in the header to the provision. Section 380C provides that a resident may issue a notice terminating a rooming accommodation agreement if the resident stops being a student and the premises are used for student accommodation and entitlement to occupy the accommodation is conditional on the resident being a student. The header of section 380C has been changed to *Notice to leave terminating agreement*, which corrects the minor drafting error.

Clause 43 amends section 381I *Confidentiality* to strengthen the requirement to not disclose information about residents experiencing domestic and family violence. The amendment replaces the term 'evidence supporting' in sections 381I(1) and (2) with 'relevant information'. New sub provision (3) defines 'relevant information' as evidence supporting the notice ending tenancy interest or personal information about a resident who gives the provider a notice ending tenancy interest, including information that the resident intends to vacate the premises.

Clause 44 amends section 393 *Item other than personal document or money* which deals with a provider's obligations in relation to a resident's property that is not personal documents or money that was left on premises after a rooming accommodation agreement ends. The amendment removes dated references to advertising in printed newspaper, and inserts sub provision 393(3A) which clarifies that reasonable efforts to contact a former resident include by:

(a) telephone, including text message, or by email or private message on a social media platform;
(b) attempting to contact an emergency contact listed in the agreement;
(c) publishing a notice in an online newsletter for the city or state in which the former resident was residing.

Subsection 393(4)(b) is amended to provide that the provider may sell or dispose of the property after 28 days if reasonable efforts have been made to contact the former resident and the property has not been reclaimed.

Clause 44(4) renumbers subsections 393(3A) to (7) as subsections 393(4) to (8) to assist navigation of the RTRA Act.

Clause 45 inserts new section 519A *Code of conduct*. Section 519A provides that the regulation may prescribe a code of conduct, and that a conduct provision of the code may apply to the conduct of lessors, providers, agents, tenants and residents. Subsection 519A(4) clarifies that a

provision of the code may not be inconsistent with a provision of the *Agents Financial Administration Act 2014* or the *Property Occupations Act 2014*.

Subsection 519A(5) provides that despite section 520(2)(b) (which limits a penalty prescribed under the regulation to a maximum of 20 penalty units), the regulation may prescribe penalties of up to 50 penalty units for non-compliance with a conduct provision. This means that there will be flexibility when developing the code to ensure that penalties for particular provisions of the code are proportionate in the circumstances.

Clause 46 amends section 527A *Definitions for ch 13A* by removing a duplicated definition for 'replacement lessor' and corrects a minor drafting error.

Clause 47 inserts new chapter 14, part 8.

Part 8 Transitional provisions for Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024

Division 1 Preliminary

New section 577 *Definitions for part* provides definitions for part 8 for amending Act, former Act and new Act.

Division 2 Provisions commencing on assent

New section 578 *Existing agreements not required to include date of last rent increase* provides that despite new sections 61(2)(c) and 77(2)(c), a residential tenancy agreement or rooming accommodation agreement entered into before commencement is not required to include the day the rent was last increased for the premises.

New section 579 *Rent increases before the commencement relevant to working out 12-month period – s 93* provides that, for the purpose of working out the 12-month period under section 93(1), a reference in new section 93 to a rent increase for the residential premises includes a reference to a rent increase that happened before commencement.

New section 580 *Rent increases before the commencement relevant to working out 12-month period – s 105B* provides that, for the purpose of working out the 12-month period under section 105B(1), a reference in new section 105B to a rent increase for the resident's room includes a reference to a rent increase that happened before commencement.

New section 581 *Payment of rental bond after dispute resolution process and application dismissed by tribunal* provides transitional arrangements for new section 136E. The amended section 136E will apply to rental bonds held by the RTA where an application is made to the tribunal prior to the commencement of the section, and subsequently dismissed by the tribunal.

Clause 48 amends schedule 1, part 1, division 3 *Notice periods* to provide that the prescribed notice period for a notice to leave for end of short tenancy (moveable dwelling) is two days after the notice is issued by the lessor to the tenant; and the prescribed notice period for a notice of intention to leave for end of short tenancy (moveable dwelling is one day after the notice is issued by the tenant to the lessor.

Clause 49 amends schedule 2 *Dictionary* to insert several new operative definitions for the amendments commencing on assent and remove definitions for rental bond supplier and replacement lessor.

End of a short tenancy (moveable dwelling) is defined by reference to section 292(4) for a notice to leave, and section 307E(4) for a notice of intention to leave.

Exempt lessor is defined by reference to section 82A.

Extended period is defined by reference to section 48(1).

Replacement lessor is defined by reference to section 527A.

The definition of personal information for the purposes of chapter 9 is also removed from schedule 2, as a new definition is provided for by amended section 457.

Division 3 Amendments commencing by proclamation

Clause 50 inserts new sections 57B to 57D, which deal with applications for residential tenancy agreements.

New section 57B *Application for residential tenancy* provides that if a lessor or their agent requires a prospective tenant to apply for a residential tenancy, the prospective tenant may only be required to apply using the approved application form. Non-compliance with this requirement is an offence, with a maximum penalty of 20 penalty units.

Subsection 57B(2) clarifies that the requirement does not apply to an exempt lessor or agent of an exempt lessor, as defined in subsection 57B(7). This exception is required because exempt lessors use different criteria to determine an applicant's eligibility than renters in the private market.

Subsection 57B(4) provides that the approved required application form may only request information about:

(a) the name and contact details of the prospective tenant;
(b) details of any previous residential tenancy agreements or rooming accommodation agreements the prospective tenant has been a party to;
(c) the prospective tenant's current employment;
(d) details about the prospective tenant's income;
(e) referees for the prospective tenant;
(f) the intended term of the tenancy;
(g) any other information prescribed by regulation.

Subsection 57B(5) provides that the lessor or their agent must nominate a choice of two ways for the prospective tenant to submit the approved application form. Non-compliance with this requirement is an offence, with a maximum penalty of 20 penalty units.

Subsection 57B(6) provides that at least one of the nominated ways for subsection 57B(5) must not be a restricted way for submitting an application. A "Restricted way" is defined as:

(a) a way that involves the prospective tenant using an online platform to give personal information to a person other than the lessor who collects the information on behalf of the lessor, other than a real estate agent;
(b) another way prescribed by regulation to be a restricted way.

Subsection 57B(7) provides for a definition of 'exempt lessor' for the purpose of section 57B. An exempt lessor is defined as:

(a) a lessor who receives funding for the premises under the *Housing Act 2003* including, for example, funding for the provision of social housing services; or
(b) a lessor who receives funding for the premises that is subject of a funding declaration under the *Community Services Act 2007*; or
(c) a lessor who is the chief executive of the housing department, acting on behalf of the State; or
(d) a lessor who is the State, if the tenant is an officer or employee of the State; or
(e) a lessor who is the replacement lessor under a community housing provider tenancy agreement; or
(f) a lessor prescribed by regulation to be an exempt lessor.

New section 57C *Request for information for application* provides that a lessor or their agent may request information about a prospective tenant if it relates to the information outlined in section 57B(4), or comprises no more than two documents about each of the following:

(i) documents verifying the identity of the prospective tenant;
(ii) documents about the prospective tenant's ability to pay rent;
(iii) documents about the suitability of the prospective tenant for the residential tenancy.

Non-compliance with section 57C(1) is an offence, with a maximum penalty of 20 penalty units.

New subsection 57C(2) provides that a lessor or their agent must not request information from a prospective tenant about any of the following:

(a) legal action taken by the prospective tenant, including dispute resolution or matters considered by the tribunal;
(b) a notice to remedy breach given to the prospective tenant by a lessor or a provider;
(c) a notice to remedy breach given by the prospective tenant to a lessor or provider;
(d) the prospective tenant's history in relation to rental bonds, including any claim on a rental bond;
(e) statements of credit accounts or bank accounts belonging to the prospective tenant detailing transactions.

Non-compliance with subsection 57C(2) is an offence, with a maximum penalty of 20 penalty units.

New section 57D *Verification of identity for application* provides that a prospective tenant may provide documents to a lessor or the lessor's agent to verify their identity by either providing a copy of the original identity document or allowing the lessor or agent to sight or access the original document. If an original document is sighted by the lessor or their agent, the lessor or

agent must not keep a copy of the original document without the tenant's consent. Non-compliance with this provision is an offence, with a maximum penalty of 20 penalty units.

Clause 51 inserts new sections 76C to 76E, which deal with applications for rooming accommodation agreements.

New section 76C *Application for rooming accommodation* provides that if a provider or their agent requires a prospective resident to apply for rooming accommodation, the prospective resident may only be required to apply using the approved application form. Non-compliance with this requirement is an offence, with a maximum penalty of 20 penalty units.

Subsection 76C(3) provides that the approved application form may only request information about:

(a) the name and contact details of the prospective resident;
(b) details of any previous residential tenancy agreements or rooming accommodation agreements the prospective resident has been a party to;
(c) the prospective resident's current employment;
(d) details about the prospective resident's income;
(e) referees for the prospective resident;
(f) the intended term of the residency interest;
(g) any other information prescribed by regulation.

Subsection 76C(4) provides that the provider or their agent must nominate a choice of two ways for the resident to submit the approved application form. Non-compliance with this requirement is an offence, with a maximum penalty of 20 penalty units.

Subsection 76C(5) provides that at least one of the nominated ways for subsection 76C(4) must not be a restricted way. "Restricted way" is defined as:

(a) a way that involves the prospective resident using an online platform to give personal information to a person other than the provider who collects the information on behalf of the provider, other than a real estate agent;
(b) another way prescribed by regulation to be a prohibited way.

New section 76D *Request for information for application* provides that a provider or their agent may request information about a prospective resident if it relates to the information outlined in section 76C(3), or comprises no more than two documents about each of the following:

(i) documents verifying the identity of the prospective resident;
(ii) documents about the prospective resident's ability to pay rent;
(iii) documents about the suitability of the prospective resident for the rooming accommodation.

Non-compliance with section 76D(1) is an offence, with a maximum penalty of 20 penalty units.

Subsection 76D(2) provides that a provider or their agent must not request information from a prospective resident about any of the following:

(a) legal action taken by the prospective resident, including dispute resolution or matters considered by the tribunal;
(b) a notice to remedy breach given to the prospective resident by a lessor or a provider;
(c) a notice to remedy breach given by the prospective resident to a lessor or provider;
(d) the prospective resident's history in relation to rental bonds, including any claim on a rental bond;
(e) statements of credit accounts or bank accounts belonging to the prospective resident detailing transactions.

Non-compliance with subsection 76D(2) is an offence, with a maximum penalty of 20 penalty units.

New section 76E *Verification of identity for application* provides that a prospective resident may provide documents to a provider or the provider's agent to verify their identity by either providing a copy of the original identity document or allowing the provider or agent to access or sight the original identity document. If an original document is sighted by the provider or their agent, the provider or agent must not keep a copy of the original document without the resident's consent. Non-compliance with this provision is an offence, with a maximum penalty of 20 penalty units.

Clause 52 replaces sections 83 and 84 and inserts new sections 84A and 84B.

New section 83 *How rent is to be paid* provides that the tenant must pay rent in the way stated in the residential tenancy agreement, but that the lessor or their agent must ensure that the agreement provides for at least two ways of paying rent, and that at least one of those ways does not incur a cost to the tenant (other than bank fees or other account fees usually payable by the tenant) and is reasonably available to the tenant.

New section 84 *Changes to way rent to be paid by agreement* provides that if after signing a residential tenancy agreement the lessor or tenant give the other party a written notice proposing to change the way in which rent is to be paid and the other party agrees in writing, the rent must be paid in the manner set out by the written agreement.

New section 84A *Changes to way rent to be paid – no agreement* provides that if a lessor or their agent proposes to change the way rent is to be paid during the agreement and the tenant does not agree, the lessor or agent must provide the tenant with a written notice that provides a choice of at least two other ways to pay rent, including a way that does not incur a cost to the tenant (other than bank fees or other account fees usually payable by the tenant) and is reasonably available to the tenant. The tenant must pay rent in one of the ways set out in the written notice from the day that is 14 days after the tenant is given the notice.

New section 84B *Tenant must be advised of associated costs and benefits* provides that the lessor or their agent must advise the tenant in writing of any costs associated with paying rent of which the tenant would not reasonably be aware of and that the lessor or agent knows or could reasonably be expected to find out. This obligation applies when entering into a residential tenancy agreement or when the method of paying rent is changed under section 84 or 84A. Non-compliance with this obligation is an offence, with a maximum penalty of 40 penalty units.

Subsection 84B(3) provides that the lessor or their agent must declare any financial benefit that the lessor or agent would receive from a way of paying rent. Non-compliance with this provision is an offence, with a maximum penalty of 20 penalty units.

Clause 53 replaces sections 98 and 99 and inserts new sections 99A and 99B.

New section 98 *How rent is to be paid* provides that the resident must pay rent in the way stated in the rooming accommodation agreement, but that the provider or their agent must ensure that the agreement provides for at least two ways of paying rent, and that at least one of those ways does not incur a cost to the resident (other than bank fees or other account fees usually payable by the resident) and is reasonably available to the resident.

New section 99 *Changes to way rent to be paid by agreement* provides that if after signing a rooming accommodation agreement the provider or resident gives the other party a written notice proposing to change the way in which rent is to be paid and the other party agrees in writing, the rent must be paid in the manner set out by the written agreement.

New section 99A *Changes to way rent to be paid – no agreement* provides that if a provider or their agent proposes to change the way rent is to be paid during the agreement and the resident does not agree, the provider or agent must provide the resident with a written notice that provides a choice of at least two other ways to pay rent, including a way that does not incur a cost to the resident (other than bank fees or other account fees usually payable by the resident) and is reasonably available to the resident. The resident must pay rent in one of the ways set out in the written notice from the day that is 14 days after the resident is given the notice.

New section 99B *Resident must be advised of associated costs and benefits* provides that the provider or their agent must advise the resident in writing of any costs associated with paying rent of which the resident would not reasonably be aware of and that the provider or agent knows or could reasonably find out about the costs. This obligation applies when entering into a rooming accommodation agreement or when the method of paying rent is changed under section 99 or 99A. Non-compliance with this obligation is an offence, with a maximum penalty of 40 penalty units.

Subsection 99B(3) provides that the provider or their agent must declare any financial benefit that the provider or agent may receive if the resident uses a particular way to pay rent. Non-compliance with this provision is an offence, with a maximum penalty of 20 penalty units.

Clause 54 inserts new section 136AA *Evidence of claim on rental bond to be given to tenant or resident* provides that a lessor, provider or their agent must provide a tenant or resident with evidence supporting any claim on all or part of the rental bond when an application is made to the RTA for payment of a rental bond that directs that payment be made to the lessor or provider. The evidence must be provided to the tenant or resident within 14 days of the lessor, provider or their agent making the claim to the RTA. Non-compliance with this obligation is an offence, with a maximum penalty of 20 penalty units.

This amendment puts the onus on lessors, providers, and their agents to prove claims, rather than requiring a tenant or resident to disprove claims against their rental bond and encourages greater transparency and fairness by ensuring that any bond claims are supported by evidence. Examples of evidence include receipts, quotes to repair damage and records of unpaid rent.

Subsection 136AA(4) provides that the obligation does not apply if the lessor, provider or their agent has been unable to contact the tenant or resident after making reasonable efforts. Subsection 136AA(5) sets out that reasonable efforts, includes:

(a) attempting to contact the tenant or resident by telephone, including text message, or by email or private message on a social media platform;
(b) attempting to contact an emergency contact listed on the agreement.

Subsection 136AA(6) provides that section 136AA(2) applies as a provision requiring a notice to be issued for the purpose of section 525(2) and (3). This subsection clarifies that where a resident has limited capacity and has appointed a person to manage the resident's affairs or has appointed an attorney with an enduring power of attorney under the *Powers of Attorney Act 1998*, the evidence substantiating a bond claim must be provided to the attorney or person managing the resident's affairs.

Clause 55 amends section 146 *Payments above maximum amount* to omit sub provisions 146(3) and (4). Section 146(3) currently provides that the maximum bond amount under section 146(1) does not apply if the weekly rent under a residential tenancy or rooming accommodation agreement is more than an amount prescribed by regulation (currently $700.00 for residential tenancy agreements and $500.00 for rooming accommodation agreements). Section 146(4) currently provides that a regulation may prescribe different amounts for the weekly rent amount for the purpose of section 146(3). Omitting these provisions is intended to provide tenants and residents with certainty about the maximum bond that can be required for a rental property.

Clause 56 amends section 165 *General service charges for premises other than moveable dwelling premises* to insert new sub provisions 165(4) to (6). New subsection 165(4) and (5) provide that if the tenant is required to pay an amount for outgoings that is charged by the relevant supply authority for the quantity of the thing, service or facility supplied to the premises, the lessor must give the tenant a copy of the documents about the amount charged by the relevant supply authority within 1 month after the lessor receives the documents. New subsection 165(6) provides that a tenant is not required to pay an amount for the outgoings if the tenant does not receive the copy of the documents under subsections (4) and (5).

Clause 57 amends section 166 *Water service charges for premises other than moveable dwelling premises* to insert new sub provisions s 166(6A), (6B) and (6C). New subsections 166(6A) and (6B) provide that if the tenant is required to pay an amount for water consumption charges, the lessor must give the tenant a copy of the documents about the amount charged by the relevant water supplier within 4 weeks after the lessor receives the documents. New sub provision 166(6C) provides that a tenant is not required to pay an amount for the water service charges if the tenant does not receive the copy of the documents under subsections (6A) and (6B) and within the required timeframe.

Clause 58 amends section 167 *Service charges for moveable dwelling premises individually metered* to insert new sub provisions 167(4) to (6). New subsections 167(4) and (5) provide that if the tenant is required to pay an amount for outgoings that is charged by the relevant supply authority for the quantity of the thing, service or facility supplied to the premises, the lessor must give the tenant a copy of the documents about the amount charged by the relevant supply authority within 4 weeks after the lessor receives the documents. New subsection 167(6) provides that a tenant is not required to pay an amount for the outgoings if the tenant does not

receive the copy of the documents under subsections (4) and (5) and within the required timeframe.

Clause 59 amends section 170 *Charge for utility service* to insert new sub provisions 170(2A), (2B) and (2C). New subsections 170(2A) and (2B) provide that if the resident is required to pay an amount for a utility service, the provider must give the resident a copy of the documents about the amount charged by the supplying entity within 4 weeks after the provider receives the documents. New subsection 170(2C) provides that a resident is not required to pay an amount for the utility service if the resident does not receive the copy of the documents under subsections (2A) and (2B) and within the required timeframe.

Clause 60 amends section 173 *Certain terms about penalties and other payments void* to remove the word 'reasonable' from 'reasonable costs' for residential tenancy agreements. This change in terminology is required to support other changes to the RTRA Act which cap reletting costs to a prescribed amount according to how much of the lease has expired.

Clause 61 amends section 178 *Certain terms about penalties and other payments void* to remove the word 'reasonable' from 'reasonable costs' for rooming accommodation agreements. This change in terminology is required to support other changes to the RTRA Act which cap reletting costs to a prescribed amount according to how much of the lease has expired.

Clause 62 amends section 193 *Notice of Entry* to increase the required notice period for entry by a lessor or lessor's agent other than for general inspections from 24 hours to 48 hours. The example is amended to change Wednesday to Thursday, to reflect the change in the required notice period.

Clause 63 inserts new section 195A *When lessor or lessor's agent may enter—notice to leave or notice of intention to leave given* to provide that, where a tenant has issued a notice of intention to leave or the lessor has issued a notice to leave, the lessor or their agent must not enter the premises more than twice in a 7-day period.

Subsection 195A(3) clarifies that the limitation on entry after a notice to leave or notice of intention to leave has been given does not apply to the following grounds of entry:

- to comply with the *Fire and Emergency Services Act 1990* in relation to smoke alarms;
- to comply with the *Electrical Safety Act 2002* in relation to approved safety switches;
- if the tenant agrees,
- in an emergency;
- if the lessor or their agent believes on reasonable grounds that the entry is necessary to protect the premises or inclusions from imminent or further damage.

Clause 64 replaces sections 207 to 209 and inserts new section 209A.

New section 207 *Process for approval to attach fixtures or make structural changes – body corporate approval* applies to requests by a tenant to attach fixtures or make structural changes where a body corporate law or by-law requires the approval of the body corporate before the fixture can be attached or the structural change made.

The tenant may, on the approved form, request to install a fixture or make a structural change to the premises. The lessor must decide within 28 days whether to approve or refuse the request, and advise the tenant of the lessor's decision. If the lessor approves the request, they must state that their approval is subject to the agreement of the body corporate.

If the lessor approves the request, the lessor must forward the request to the body corporate within the same 28-day timeframe and advise the tenant as soon as reasonably practicable of the body corporate's decision about the request.

If the body corporate approves the request the tenant may attach the fixture or make the structural change in accordance with the lessor's agreement, and subject to any conditions of the agreement given by the lessor.

New section 208 *Process for approval to attach fixtures and make structural changes – lessor approval* provides that a tenant may, on the approved form, request the lessor's approval to attach a fixture or make a structural change at the premises. The lessor must respond to the request within 28 days (or a longer period if both parties agree) and either approve or refuse the request. The lessor may agree subject to conditions. Section 209 provides more information about the lessor's agreement.

Subsection 208(4) provides that the lessor must not act unreasonably in refusing the tenant's request.

Subsection 208(5) provides that a tenant may attach the fixture or make the structural change to the premises in accordance with the lessor's agreement. Section 209A provides more information about when a tenant attaches a fixture or makes a structural change without the lessor's agreement.

Subsection 208(6) additionally provides that the tenant may attach the fixture or make the structural change in accordance with an order of the tribunal. Subdivision 3 provides more information about an order by a tribunal about attaching fixtures, or making structural changes, to the premises.

New section 209 *Agreement about fixtures and structural changes* provides that an agreement to attach fixtures or make structural changes to the premises must be in writing, describe the nature of the fixture or change, and include any conditions of the agreement, including:

- maintenance obligations if the fixture is attached by the tenant
- whether the tenant may remove the fixture;
- when and how removal may be performed;
- any obligation for the tenant to repair damage caused to the premises or to compensate the lessor for the lessor's reasonable costs of repairing the damage in removing the fixture;
- if removal by the tenant is not allowed, any obligation of the lessor to compensate the tenant for any improvement the fixture makes to the premises.

New section 209A *Attaching fixture or making structural change without lessor's agreement* provides that if the tenant attaches a fixture or makes a structural change without the lessor's consent or in a way that is inconsistent with the lessor's agreement, the lessor may waive the

breach and treat the fixture or change as an improvement to the premises instead of taking action for non-compliance with the tenancy agreement.

Clause 65 inserts new chapter 3, part 5, division 1, subdivision 3.

Subdivision 3 Tribunal orders about fixtures and structural changes

New section 209C *Tribunal order about attaching fixtures or making structural changes* provides that a tenant may apply to the tribunal for an order about the attachment of a fixture or making of a structural change if the lessor does not approve a tenant's request under subdivisions 1 or 2. The tribunal may make any order that it considers appropriate about the attachment of the fixture or making of the structural change.

Subsection 209C(4) provides that in deciding the order the tribunal may have regard to:

(a) the potential for the fixture or structural change to improve the safety, security and accessibility of the premises for the tenant;
(b) the likelihood that the fixture or structural change can be removed at the end of the tenancy, or the premises can be restored to the condition the premises were in at the beginning of the tenancy;
(c) whether the proposed fixture or structural change would add value to the premises and whether the lessor may treat the fixture or structural change as an improvement to the premises;
(d) whether building approvals are required for the proposed fixture or structural change;
(e) whether the proposed fixture or structural change would need to be installed by a qualified tradesperson;
(f) if the premises are part of a body corporate scheme—whether body corporate approval is required for the fixture or for the structural change to be made;
(g) for a proposed structural change – the extent to which the proposed structural change will modify the premises;
(h) any other matter the tribunal considers relevant.

Clause 66 amends section 211 *Changing locks* to omit subsection 211(6), which provided for a definition of "body corporate law" for the purposes of the section. This change is necessitated by amendments to the dictionary in Schedule 2 of the Act, which now includes a common definition of "body corporate law" that applies across the RTRA Act.

Clause 67 replaces sections 254 to 256 and inserts new sections 255A.

New section 254 *Process for approval to attach fixtures or make structural changes – body corporate approval* applies to requests by a resident to attach fixtures or make structural changes where a body corporate law or by-law requires the approval of the body corporate before the fixture can be attached or the structural change made.

The resident may, on the approved form, request to install a fixture or make a structural change to the premises. The provider must decide within 28 days whether to approve or refuse the request, advise the resident of the provider's decision. If the provider approves the request, they must state that their approval is subject to the agreement of the body corporate.

If the provider approves the request, the provider must forward the request to the body corporate within the same 28-day timeframe and advise the resident as soon as reasonably practicable of the body corporate's decision about the request.

If the body corporate approves the request the resident may attach the fixture or make the structural change in accordance with the provider's agreement and subject to any conditions of agreement given by the provider. Section 255A provides more information.

New section 255 *Process for approval to attach fixtures and make structural changes – provider approval* provides that a resident may, on the approved form, request the provider's approval to attach a fixture or make a structural change at the premises. The provider must respond to the request within 28 days (or a longer period if both parties agree) and either approve or refuse the request. The provider may set out terms of the agreement. Section 255Q provides more information about provider's agreement.

Subsection 255(4) provides that the provider must not act unreasonably in refusing the resident's request.

Subsection 255(5) provides that a resident may attach the fixture or make the structural change to the premises in accordance with the provider's agreement. Section 256 provides more information about when a resident attaches a fixture or makes a structural change without the provider's agreement.

Subsection 255(6) additionally provides that the resident may attach the fixture or make the structural change in accordance with an order of a tribunal. Subdivision 3 provides more information about an order by the tribunal about attaching fixtures, or making structural changes, to rental premises.

New section 255A *Agreement about fixtures or structural changes* provides that an agreement to attach fixtures or make structural changes to the premises must be in writing, describe the nature of the fixture or change, and include certain conditions of the agreement including:

- maintenance obligations if the fixture is attached by the resident;
- whether the resident may remove the fixture;
- when and how removal may be performed;
- any obligation for the resident to repair damage caused to the premises or to compensate the provider for the provider's reasonable costs of repairing the damage in removing the fixture;
- if removal by the resident is not allowed, any obligation of the provider to compensate the resident for any improvement the fixture makes to the premises.

New section 256 *Attaching fixture or making structural change without provider's agreement* provides that if the resident attaches a fixture or makes a structural change without the provider's consent or in a way that is inconsistent with the provider's agreement, the provider may waive the breach and treat the fixture or change as an improvement to the premises instead of taking action for breach of the rooming accommodation agreement.

Clause 68 inserts new chapter 4, part 1, division 4, subdivision 3.

Subdivision 3 Tribunal orders about fixtures and structural changes

New section 256AB *Tribunal order about attaching fixtures or making structural changes* provides that the resident may apply to the tribunal for an order about the attachment of a fixture or making of a structural change if the provider does not approve a request under subdivisions 1 or 2. The tribunal may make any order that it considers appropriate about the attachment of the fixture or making of the structural change.

Subsection 256AB(4) provides that in deciding the order the tribunal may have regard to:

(a) the potential for the fixture or structural change to improve the safety, security and accessibility of the rental premises for the resident;
(b) the likelihood that the fixture or structural change can be removed at the end of the tenancy or the rental premises can be restored to the condition the rental premises were in at the beginning of the agreement;
(c) whether the proposed fixture or structural change would add value to the rental premises and whether the provider may treat the fixture or structural change as an improvement to the rental premises;
(d) whether building approvals are required for the proposed fixture or structural change;
(e) whether the proposed fixture or structural change would need to be installed by a qualified tradesperson;
(f) if the premises are part of a body corporate scheme—whether body corporate approval is required for the fixture to be attached or for the structural change to be made;
(g) for a proposed structural change – the extent to which the proposed structural change will modify the rental premises;
(h) any other matter the tribunal considers relevant.

Clause 69 amends section 259 *Entry after giving notice* to increase the required notice period for entry by a provider or their agent other than for entry to clean the room from 24 hours to 48 hours. Subsection 259(4) provides that the provider or selling agent must also give a notice of the proposed entry to the agent to whom the resident rent at least 48 hours before the entry, except for entry to clean the resident's room.

Clause 70 inserts new section 259A *When provider or provider's agent may enter—notice to leave or notice of intention to leave given* to provide that, where a provider has issued a notice to leave or notice terminating agreement, or the resident has issued a notice of intention to leave or notice terminating agreement, the provider or their agent must not enter the resident's room more than twice in a 7-day period unless the resident agrees.

Subsection 259A(3) clarifies that the section does not prohibit the provider or agent from entering a resident's room with the resident's agreement or:

- in an emergency; or
- if the provider reasonably believes the room has been abandoned; or
- to carry out urgent repairs to the rental premises or a facility in the rental premises.

Clause 71 amends section 262 *Entry by providers agent or other person* to include new section 259A as a ground of entry to which section 262 applies.

Clause 72 amends section 357A *Reletting costs* to cap the amount of reasonable costs where a tenant terminates a lease before the end of a fixed term and other than in a way permitted under the RTRA Act.

Sections 357A(1) and (2) are amended to change instances of the term 'reasonable costs' to 'reletting costs', to account for the new schedule of costs.

Section 357A(3) and (4) set out the prescribed reletting costs payable by a tenant for breaking a fixed term agreement.

Where the fixed term of a lease is three years or less, the reletting costs are the lesser of:

- an amount of rent equal to the rent that would be payable by the tenant between the tenant handing over vacant possession of the premises and the date a new agreement commences after the premises are relet, or;
- four week's rent if less than 25 per cent of the agreed term has expired;
- three week's rent if more than 25 per cent and less than 50 per cent of the agreed term has expired;
- two week's rent if between 50 per cent and 75 per cent of the agreed term has expired;
- one week's rent if more than 75 per cent of the agreed term has expired.

Where the fixed term of a lease is more than three years, the reletting costs are the lesser of:

- an amount of rent equal to the rent that would be payable by the tenant between the tenant handing over vacant possession of the premises and the date a new agreement commences after the premises are relet, or;
- one month's rent for every 12-month period remaining on the agreement, up to a maximum amount equal to 6 month's rent.

Clause 73 amends section 396A *Reletting costs* to cap the amount of reasonable costs where a resident terminates a lease before the end of a fixed term other than in a way permitted under the RTRA Act.

Section 396A(1) is amended to change instances of the term 'reasonable costs' to 'reletting costs', to account for the new schedule of costs.

Section 396A(3) and (4) set out the prescribed reletting costs payable by a resident .

Where the fixed term of a lease is three years or less, the reletting costs are the lesser of:

- an amount of rent equal to the rent that would be payable by the resident between the resident leaving the rental premises and the date a new agreement commence when the premises are relet, or;
- four week's rent if less than 25 per cent of the agreed term has expired;
- three week's rent if more than 25 per cent and less than 50 per cent of the agreed term has expired;
- two week's rent if between 50 per cent and 75 per cent of the agreed term has expired;
- one week's rent if more than 75 per cent of the agreed term has expired.

Where the fixed term of a lease is more than three years, the reletting costs are the lesser of:

- an amount of rent equal to the rent that would be payable by the resident between the resident leaving the rental premises and the date a new agreement is entered into when the premises are relet, or;
- one month's rent for every 12-month period remaining on the agreement, up to a maximum amount equal to 6 month's rent.

Clause 74 amends section 415 *Meaning of urgent application* to provide that an application under chapter 9, part 3 is considered an urgent application. This amendment has been made to clarify that applications that are in relation to new part 3 of chapter 9 (which deals with private information) are not considered urgent applications under the RTRA Act.

Clause 75 amends section 420 *Orders about breach of agreements* inserts new subsection (3) to clarify that an order for compensation made by the tribunal in favour of a lessor relating to reletting of the premises must not be more than the reletting costs under new section 357A(3).

Clause 76 amends section 421 *Matters to which tribunal must have regard for orders for compensation* amends subsection 421(1) to provide that, without limiting section 420(1), in making an order for compensation in favour of a lessor or provider, the tribunal must have regard to whether the lessor or provider has met their duty to mitigate loss or expense. This change is necessitated by the amendments providing for capped reletting costs and clarifies that the duty to mitigate loss still applies where a lessor or provider is claiming compensation as a result of a tenant or resident breaking the lease.

Clause 77 amends section 477 *False or misleading documents* to extend the scope of the provision to the RTA, as the provision currently only applies to an authorised person. The effect of this amendment will be to make it an offence to give the RTA or an RTA compliance officer a document containing information that the person knows is false or misleading in a material particular. The maximum penalty for this provision is 20 penalty units.

Clause 78 replaces chapter 9 heading 'Tenancy databases' with 'Information about tenants' to reflect the broadened scope of the chapter.

Chapter 9 Information about tenants

Part 1 Preliminary

Clause 79 amends section 457 *Definitions for ch 9* to update and modernise the definition of 'personal information' for the purpose of the chapter.

'Personal information' is defined as:

(a) information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not, and whether the information or opinion is recorded in a material form or not, and;
(b) photos or images of the individual's personal possessions or standard of living.

Sub provision (a) of the definition has been updated to be consistent with modern legislation, including the *Privacy Act 1988* (Cwlth). Sub provision (b) includes that personal information can include photographs or images of a tenant's or resident's personal possessions or standard in recognition that such photographs or images are often kept by lessors and agents in the process of managing tenancies or for preparing the premises for sale or reletting, and such

photographs could reveal highly personal information about that person, including their home address, and as such there is a compelling justification for the secure storage and disposal of the photographs.

Clause 80 inserts new chapter 9, part 2.

Part 2 Protection of personal information

New section 457C *Definitions for part* defines 'applicant' for the purpose of the part as:

(a) a person who applies to a lessor or lessor's agent to enter into a residential tenancy agreement, or;

(b) a person who applies to a provider or provider's agent to enter into a rooming accommodation agreement.

New section 457D *Requirements about collecting personal information* provides that a person collecting personal information about a person in relation to a residential tenancy agreement or rooming accommodation agreement may collect the information only for the purposes of assessing the suitability of an applicant as a tenant or resident for the agreement, or if the information relates to the management of the premises or rental premises. Non-compliance with this provision is an offence, with a maximum penalty of 20 penalty units.

New subsection 457D(3) clarifies that photographs taken of the rental property during inspection are information relating to the management of the premises or rental premises.

New section 457E *Requirements about collected information* sets out the obligations of a lessor, provider or agent when dealing with personal information collected under section 457D. A lessor, provider, or agent must ensure that information collected under section 457D is stored in a secure way and accessed only for the purposes of assessing the suitability of an applicant as a tenant or resident for the agreement, or for the purposes of management of the premises or rental premises. Any information collected must be destroyed in a secure way for :

- an applicant who does not become a tenant or resident, within three months after the application was made, or;
- a tenant or resident, within three years after the end of the residential tenancy agreement or rooming accommodation agreement.

Non-compliance with the requirement to safely destroy information under section 457E is an offence, with a maximum penalty of 20 penalty units.

Clause 81 amends section 458 *Non-application to internal databases* to provide that chapter 9, part 3 does not apply to internal databases kept by an entity that are only used by that entity, or a social housing database. This change is necessitated by the broader scope of amended chapter 9, to ensure that the new provisions relating to the collection, use, and disposal if personal information apply to internal databases.

Clause 82 amends section 458B *Notice of listing if database used* to replace a reference in the section from 'chapter 9' to 'part 3'. This change is necessitated by the restructuring of chapter 9.

Clause 83 amends section 463 *Offence of contravening tribunal order* to replace a reference in the section from 'chapter 9' to 'part 3'. This change is necessitated by the restructuring of chapter 9.

Clause 84 amends section 527 *Confidentiality* to allow the RTA to share 'confidential information' with the OFT to allow the RTA to collaborate with government agencies such as the Office of Fair Trading on enforcement matters, conduct joint investigations and improve justice outcomes; , as well as the Department of Housing, Local Government and Planning and Public Works, to enable the RTA and department to effectively administer and share information about bond loans.

Subsection 527(2) has been amended to provide that the chief executive officer, board member, employee or authorised person of the RTA must not make a record of, disclose, or allow access to confidential information acquired in the course of administering the RTRA Act, other than:

(a) for a purpose of this Act; or
(b) for the administration or enforcement of this Act; or
(c) with the consent of the person to whom the information relates; or
(d) as required by a Court, tribunal or authority or person having lawful authority to require the production of documents or the answering of questions; or
(e) if the information is required to support the administration of the *Property Occupations Act 2014* or *Agents Financial Administration Act 2014*; or
(f) if the information is required for the administering, receiving, holding or paying rental bonds;
(g) as required or authorised under a law; or
(h) if the person reasonably considers it is necessary to prevent a serious risk to public safety.

Subsection 527(3) has been redrafted to have a structure that is more consistent with the rest of the RTRA Act, and to update the definition of 'confidential information' for the purpose of the section by changing the wording 'information about a person's affairs' to 'information that could identify an individual'.

Clause 85 inserts new chapter 14, part 8, division 3.

Division 3 Provisions commencing by proclamation

New section 582 *Existing applications for residential tenancies and rooming accommodation* provides that new sections 57B to 57D do not apply to an application for a residential tenancy agreement made but not decided before commencement; and new sections 76C to 76E do not apply to an application for a rooming accommodation agreement made but not decided before commencement.

New section 583 *Application of amendments about payment of rent – existing residential tenancy agreements* provides that new sections 83 and 84B do not apply in relation to a residential tenancy agreement entered into before commencement of these provisions. However new section 84B will apply to a residential tenancy agreement entered into before commencement if the lessor, agent or tenant proposes to change the way rent is paid under the agreement.

New section 584 *Application of changes about payment of rent – existing rooming accommodation agreements* provides that new sections 98 and 99B do not apply in relation to a rooming accommodation agreement entered into before commencement of these provisions. However, new section 99B will apply to a rooming accommodation agreement entered into before commencement if the provider, agent or resident proposes to change the way rent is paid under the agreement.

New section 585 *Evidence supporting claim on rental bond not required for certain rental bonds* provides that new section 136AA does not apply to claims or dispute resolution requests on bonds during the transition period if the rental bond was paid to the RTA before commencement of the provision.

The transition period is defined as the period starting on commencement and ending 12 months after commencement.

New section 586 *Existing residential tenancy agreements including term about reletting costs* provides that if a residential tenancy agreement entered into before commencement of the provision contained a term requiring a tenant to pay the lessor reasonable costs incurred in reletting the premises and that term complied with former section 357A, the term is taken to comply with new section 357A.

New section 587 *Existing rooming accommodation agreements including term about reletting costs* provides that if a rooming accommodation agreement entered into before commencement of the provision contained a term requiring a resident to pay the provider reasonable costs incurred in reletting the rental premises and that term complied with former section 396A(1), the term is taken to comply with new section 396A(1).

New section 588 *Transitional regulation making power* provides that regulation may prescribe transitional or savings provisions about any matter necessary to achieve the transition from the operation of this Act as in force before its amendment by the amending Act to the operation of this Act as in force from the commencement, and for which this Act does not make provision or sufficient provision.

Subsection 588(2) provides that a transitional regulation may have retrospective operation to a day not earlier than the day section 588 commences.

Subsection 588(4) provides that section 588 and transitional regulations made under the section expire 2 years after section 588 commences.

Clause 86 amends schedule 1 *Notice periods* to remove the notice period for a notice to leave for unremedied breach for short tenancies (moveable dwelling). This amendment is necessary to correct a minor drafting error, as section 280 *Notice to remedy tenant's breach* does not apply to short tenancies (moveable dwelling).

Clause 87 amends schedule 2 *Dictionary* to provide relevant definitions for the amendments.

Applicant, for the purpose of chapter 9, part 2 is defined by reference to section 457C
Body corporate law is defined as either the *Body Corporate and Community Management Act 1997* or the *Building Units and Group Titles Act 1980.*

Body corporate scheme is defined as a community titles scheme or a plan under the *Building Units and Group Titles Act 1980.*
Community titles scheme is defined by reference to the *Body Corporate and Community Management Act 1997.*
Real estate agent is defined by reference to section 16 of the *Property Occupations Act 2014*.
Reletting costs are defined by reference to section 357A(3) for residential tenancy agreements and 396A(3) for rooming accommodation agreements.

The amendments also replace multiple instances of "section 457" used in schedule 2 with "section 457F", which is necessitated by the restructuring of chapter 9.

Part 3 Other legislation

Division 1 Amendment of Body Corporate and Community Management Act 1997

Clause **88** provides that division 1 of part 3 amends the *Body Corporate and Community Management Act 1997* (BCCM Act).

Clause **89** amends section 77 (Definitions for part) to provides definitions of the terms ***lease***, ***leasehold interest***, and ***lessee*** for chapter 2, part 9 of the BCCM Act. A lease includes a residential tenancy agreement or a rooming accommodation agreement under the *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act), or a lease under the *Retail Shop Leases Act 1994* (Retail Shop Leases Act). A leasehold interest includes a resident's interest in a rooming accommodation agreement under the RTRA Act. A lessee includes a resident in rooming accommodation under the RTRA Act.

Clause **90** modifies what must be included in a termination plan under the BCCM Act. The clause inserts a new subsection in section 81B(1) (What is a *termination plan)* (initially (fa) and subsequently renumbered as (g)). The new subsection specifies that a termination plan must include the arrangements requiring the facilitator to, at least 2 months before the day of settlement for the contract (for the sale of the scheme), give written notice to each lessee of a lot included in the scheme or other scheme land. The notice must state: the day of settlement; if section 81V applies to the lease (due to the type of lease it is and the lease being in effect immediately before the settlement day), that the lessee's lease will terminate on the settlement day; and the day on which the owner of the lot is to provide vacant possession of the lot.

The clause also provides that the term ***lessor*** includes a provider under the RTRA Act. The clause also undertakes consequential renumbering of the section.

Clause **91** amends section 81N (Applications to court about termination plan) to expand the scope of applications a facilitator may make to the District Court for orders about a termination plan. In addition to the existing application for an order that each lot in the scheme be sold under the termination plan, the clause sets out that a facilitator can apply for an order to terminate a lease of a lot or other scheme land on a day not earlier than the day of settlement of the contract for the sale of the community titles scheme. The clause also provides that a facilitator can apply for an order to require an occupier or a lessee of a lot or other scheme land to vacate the lot or scheme land on the day stated in the application. This will ensure the

facilitator has sufficient capacity to seek orders necessary to implement a termination plan, including in relation to ongoing leases or occupation of lots.

Clause **92** amends section 81R (Court orders) to modify the matters the District Court must consider in making an order for an application in relation to a termination plan. The existing requirement that the economic and social effects of termination on a person with a leasehold interest in a lot or other scheme land created by a lease or sublease of 6 months or more be considered by the court is expanded to apply to all leasehold interests in a lot or other scheme land.

Clause **93** replaces section 81V (Particular leases). New section 81V (Termination of particular leases) changes the day particular leases (being a residential tenancy agreement or rooming accommodation agreement under the RTRA Act or a lease under the Retail Shop Leases Act that is in effect immediately before the day of settlement of the contract) terminate, from when the buyer of the scheme is given vacant possession of all lots included in the scheme, to the day of settlement for the contract for the sale of the scheme. This will ensure termination of a lease can occur if the lot is not vacated by a tenant. The clause also supports the new requirement that a termination plan include the arrangements for the facilitator to provide notices to lessees, by making the termination of a lease contingent on a notice as required under those arrangements having been given to each lessee.

Clause **94** inserts a new part 17 (Transitional provisions for Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024) in chapter 8 of the BCCM Act. New part 17 includes transitional provisions setting out matters relevant to the commencement of the amendments where a termination plan resolution has already been passed, or a person has applied for a court order in relation to a termination plan.

New section 457 (Definitions for part) provides that for a provision of the BCCM Act, the term ***new*** when used in part 17, means the provision as in force from the commencement of part 17.

New section 458 (Facilitator's functions under existing termination plans) requires notices to be provided to lessees about the potential termination of their leases, where a termination plan provided to owners following a termination plan resolution may not have included the arrangements under new section 81B(1)(g) regarding such notice requirements.

New section 458 applies if, before the commencement, a body corporate has passed a termination plan resolution and has given each lot owner a copy of the termination plan (under section 81J); and immediately before the commencement, the body corporate has not passed a termination resolution. In that situation, a facilitator must, at least 2 months before the day of settlement for the contract of sale of the community titles scheme, give a written notice to each lessee of a lot in the scheme or other scheme land.

The notice must state: the day of settlement; if the lease is a lease under section 81V(1)(b) (a residential tenancy agreement or rooming accommodation agreement under the RTRA Act or a lease under the Retail Shop Leases Act, that is in effect immediately before the day of settlement of the contract), that the lease will terminate on the settlement day under section 81V; and the day on which the owner of the lot is to provide vacant possession of the lot.

New section 458 also provides that new section 81V(2) (which serves to terminate the lease on the day of settlement for the contract for the sale of the community titles scheme) applies to

particular leases as if the notice given under section 458 were a notice mentioned in new section 81V(1)(a) (being a notice for which arrangements are required to be provided in the termination plan mentioned in section 81B(1)(g)). The particular leases are a lease of a lot or other scheme land that is in effect immediately before the day of settlement of the contract for the sale of the scheme, that is a residential tenancy agreement or rooming accommodation agreement under the RTRA Act or a lease under the Retail Shop Leases Act.

New section 459 (Proceedings for particular court orders) applies if, before the commencement, a person had applied under section 81N for a court order in relation to a termination plan and the court had not decided the application. The section states that new section 81R applies in relation to the matters the court must consider in deciding whether to make the order.

Clause **95** amends schedule 6 (Dictionary) of the BCCM Act to insert definitions for ***lease***, ***leasehold interest***, and ***lessee***.

Division 2 Amendment of Fair Trading Inspectors Act 2014

Clause 96 provides that this division amends the *Fair Trading Inspectors Act 2014* (FTI Act).

Clause 97 makes consequential amendments to section 6 (Modifying operation of Act for *Property Occupations Act 2014*), including inserting new subsection (4), which provides that in section 60 of the FTI Act, a reference to an offence against a primary Act is taken to include a reference to a contravention of the *Property Occupations Act 2014*, section 92B(1) or 151B(1).

In effect, this will give fair trading inspectors powers that will enable them to require from property agents, who have declared they have completed the annual CPD requirements, production of relevant documents and information.

Division 3 Amendment of Local Government Act 2009

Clause 98 provides that this division amends the *Local Government Act 2009*

Clause 99 amends the heading of section 208 to change the name of the local government superannuation scheme trustee from LGIAsuper Trustee to Brighter Super Trustee. Clause 99 also amends section 208(1) and (2) to replace ‘LGIAsuper’ with ‘Brighter Super’.

This reflects that LGIAsuper, the default fund provider for the scheme, is now trading as Brighter Super.

Clause 100 replaces the existing provisions at section 220A with a new section 220A to provide flexibility to permanent local government employees who are accumulation fund members to vary their individual rate of superannuation contribution to respond to financial pressures.

Section 220A(1) provides that a permanent employee of a local government or local government entity (each referred to as employers) must make a yearly contribution to the relevant fund .

Section 220A(2) provides that the amount of the yearly contribution is prescribed by the Local Government Regulation 2012.

Section 220A(3) provides that notwithstanding sections 220A(1) and (2), permanent employees who are not defined benefit members may change the amount of their yearly contribution to a particular rate of their salary. Section 220(4) provides that an employee's yearly contribution rate may be 0%, and that an employee is required to give their employer notice of the change. The purpose of the notice is to establish a record of the change in contribution rate and to inform employers to alter the amount they withhold to make contributions on an employee's behalf.

Section 220A(5) provides that employees do not need to make a superannuation contribution if in accordance with the employee's remuneration agreement the employer makes the contribution in addition to their employer contribution. If subsection (5) applies, section 220A(6) allows an employer to withhold the contribution from the employee's salary or any money the employee owes to the employer.

Section 220A(7) provides that if an applicable employee changes the amount of their contribution under subsection (3), the change is to take effect at the start of the next applicable pay period by which the employer can practicably implement the change.

Sections 220A(8) and (9) maintain the effect of existing provisions in the *Local Government Act 2009*.

Clause 101 makes consequential amendments to section 220B to reflect the insertion of new section 220A. The amendments to this section do not change any existing arrangements to concessional contributions cap agreements.

Clause 102 omits current section 221. New section 358 provides a transitional arrangement for local government employees with an existing agreement for exemption from payment of yearly superannuation contributions on the grounds of financial hardship to maintain their current rate of contribution.

Clause 103 inserts transitional provisions for the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024*.

New section 356 clarifies that the amendments to sections 208 and 217 only change the name of the board and superannuation scheme and do not establish a new board or superannuation scheme.

New section 356 also makes consequential amendments to provide that, if the context permits, references in an industrial instrument or other document to:

- the Queensland Local Government Superannuation Board under the Local Government Act 1993 (repealed) or the *Local Government Act 2009*, or LGIAsuper Trustee are to be taken to be references to Brighter Super Trustee; and
- the Local Government Superannuation Scheme under the Local Government Act 1993 (repealed) or the *Local Government Act 2009*, the LG super scheme, LGIAsuper, City Super, and the Brisbane City Council Superannuation Plan are taken to be references to Brighter Super.

New section 357 provides that the renaming of LGIAsuper and the LGIAsuper trustee does not affect existing members' membership or any entitlement the member accrued prior to the commencement of the amendments under the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024*.

New section 358 makes a transitional provision for permanent employees with an existing financial hardship exemption under repealed section 221. Upon commencement of the amendments, the employee is taken to have provided their employer a notice under new section 220A(4)(b) nominating their stated contribution rate as previously specified in accordance with their exemption agreement. The provisions do not prevent an employee from subsequently nominating a different contribution rate under new sections 220A.

New section 359 provides that permanent Brisbane City Council employees, who are not defined benefit members, who immediately before commencement were 70 years or older are taken to have given their employer a notice under new section 220A(4)(b), nominating a superannuation contribution rate of 0%. This maintains the existing arrangement as provided for at section 303(2) of the Local Government Regulation 2012 (omitted by Schedule 1, Local Government Regulation 2012, Section 2). The provisions do not prevent an employee from subsequently nominating a different contribution rate under new section 220A.

Division 4 Amendment of Property Occupations Act 2014

Clause 104 provides that this division amends the *Property Occupations Act 2014*.

Clause 105 makes editorial changes to section 28 (Limited property agent licence) by omitting the note in subsection (2) and including similar information by inserting new subsection (3), which provides that the chief executive must publish the approved qualifications on the department's website.

Clause 106 makes an editorial amendment to section 45 (Eligibility for property agent licence) by omitting the word 'generally' from subsection (1)(b).

Clause 106 also amends section 45 (Eligibility for property agent licence) by omitting the note in subsection (1)(b) and including similar information by inserting new subsection (1A), which provides that the chief executive must publish the approved qualifications on the department's website. The clause also renumbers new subsection (1A) and existing subsections of this section.

Clause 107 makes an editorial amendment to section 46 (Eligibility for resident letting agent licence) by omitting the word 'generally' from subsection (1)(b).

Clause 107 also amends section 46 (Eligibility for resident letting agent licence) by omitting the note in subsection (1)(b) and including similar information by inserting new subsection (1A), which provides that the chief executive must publish the approved qualifications on the department's website. The clause also renumbers new subsection (1A) and existing subsections of this section.

Clause 108 amends section 58(2)(d) (Application for renewal), by inserting new paragraph (v), which provides that if section 92B(1) applies to the licensee—the application for renewal must

include a statement that the licensee has, for each CPD year ending within the term of the licensee's current licence, complied with the CPD requirements outlined in section 92B(1), or provide evidence that exceptional circumstances apply that prevented the applicant from complying.

Clause 109 amends section 59 (Chief executive may renew or refuse to renew licence), by inserting new paragraph (2A), which provides that if section 92B(1) applies to the licensee, the chief executive must, in deciding whether to renew or refuse to renew the licence, have regard to whether—

(a) the licensee has complied with the CPD requirements outlined in section 92B(1) for each CPD year ending within the term of the licensee's current licence; or
(b) the licensee has not complied with section 92B(1) for each CPD year ending within the term of the licensee's current licence but exceptional circumstances apply.

The clause also renumbers new subsection (2A) and existing subsection (3).

Clause 110 amends section 61(2)(e) (Application for restoration) by inserting new paragraph (vi), which provides that if section 92B(1) applied to the licensee in relation to the expired licence — a statement is required that the licensee complied with section 92B(1) for each CPD year ending within the term of the licensee's expired licence, or the licensee is to provide evidence that exceptional circumstances applied.

Clause 111 amends section 63 (Chief executive may restore or refuse to restore licence) by inserting new paragraph (2A), which provides that if section 92B(1) applied to the licensee in relation to the expired licence, the chief executive must, in deciding whether to restore or refuse to restore the licence, have regard to whether—

(1) the licensee complied with section 92B(1) for each CPD year ending within the term of the licensee's expired licence; or
(2) the licensee did not comply with section 92B(1) for each CPD year ending within the term of the licensee's expired licence but exceptional circumstances apply.

The clause also renumbers new subsection (2A) and existing subsections of this section.

Clause 112 inserts a new division under Part 3 – Division 1A Continuing professional development, which outlines the CPD requirements for licensees.

New section 92A (Definitions for division), provides two definitions for this division:

CPD requirements, for a licensee, means the continuing professional development requirements for the licensee approved by the chief executive under section 92D.

CPD year, for a licence, means—

(a) a period of 12 months ending on the day before an anniversary of the date the licence was first issued; or
(b) a period approved by the chief executive under section 92E.

New section 92B (Licensees to complete CPD requirements), subsection (1) provides that a licensee who is an individual must complete the CPD requirements for each CPD year for the licensee's licence.

Subsection (2) provides that the CPD requirements in subsection (1) do not apply to –

(a) a licensee for the first CPD year that the licensee holds their licence; or
(b) a licensee for a CPD year in which the licensee's licence is deactivated for the majority of the year; or
(c) a licensee in relation to a limited property agent licence issued to the licensee under section 28 of the PO Act; or
(d) a licensee who is an entity mentioned in part 2, division 9, subdivision 3 of the PO Act.

Subsection (3) provides that, if a licensee holds more than 1 authority, the CPD requirements in subsection (1) apply to the licensee only —

(a) if the authority with the earliest date of original issue is a licence; and
(b) if the licensee holds more than 1 licence — in relation to the licence that has the earliest date of issue.

Subsection (4) provides the following sectional definitions:

authority means a licence or a registration certificate.

date of original issue, of an authority, means the date on which the authority was first issued (before any subsequent renewal or restoration of the authority).

New section 92C (Record of completed CPD requirements), subsection (1) provides that a licensee to whom section 92B(1) applies must keep a record of the CPD requirements completed by the licensee. A maximum penalty of 10 penalty units applies. Subsection (2) provides that the licensee must keep the record for 5 years after the end of the CPD year to which the record relates. A maximum penalty of 10 penalty units applies.

New section 92D (Chief executive to approve and publish CPD requirements), subsection (1) provides that the chief executive must approve CPD requirements for licensees. Subsection (2) provides that the chief executive must publish the CPD requirements on the department's website.

New section 92E (Chief executive may approve adjusted CPD year), subsection (1) provides that the chief executive may, on their own initiative or on application by a licensee, approve a period as a CPD year for the licensee's licence. Subsection (2) provides that the chief executive must give the licensee notice of the approved period and the day on which the period starts.

Clause 113 makes editorial changes to section 127 (Eligibility for registration as real estate salesperson), by omitting the note in subsection (1)(b) and including similar information by inserting a new subsection (1A), which provides that the chief executive must publish the approved qualifications on the department's website. The clause renumbers new subsection (1A) and existing subsection (2).

Clause 114 amends section 130(2)(c) (Application for renewal), by inserting new paragraph (iv), which provides that if section 151B(1) applies to the real estate salesperson—the application for renewal must include a statement that the person has, for each CPD year ending within the term of the person's current registration certificate, complied with section 151B(1), or provide evidence that exceptional circumstances apply that prevented the applicant from complying.

Clause 115 amends section 131 (Chief executive may renew or refuse to renew registration certificate), by inserting new subsection (2A), which provides that if section 151B(1) applies to the real estate salesperson, the chief executive must, in deciding whether to renew or refuse to renew the registration certificate, have regard to whether—

(1) the real estate salesperson has complied with section 151B(1) for each CPD year ending within the term of the salesperson's current registration certificate; or

(2) the real estate salesperson has not complied with section 151B(1) for each CPD year ending within the term of the salesperson's current registration certificate but exceptional circumstances apply.

The clause also renumbers new subsection (2A) and existing subsection (3).

Clause 116 amends section 133(2)(d) (Application for restoration), by inserting new paragraph (vi), which provides that if section 151B(1) applied to the person in relation to the expired registration certificate—a statement is required that the person complied with section 151B(1) for each CPD year ending within the term of the person's expired registration certificate, or evidence is to be provided that exceptional circumstances applied.

Clause 117 amends section 135 (Chief executive may restore or refuse to restore registration certificate), by inserting new subsection (2A), which provides that if section 151B(1) applied to the real estate salesperson in relation to the expired registration certificate, the chief executive must, in deciding whether to restore or refuse to restore the registration certificate, have regard to whether—

(1) the real estate salesperson complied with section 151B(1) for each CPD year ending within the term of the salesperson's expired registration certificate; or

(2) the real estate salesperson did not comply with section 151B(1) for each CPD year ending within the term of the salesperson's expired registration certificate but exceptional circumstances applied.

The clause also renumbers new subsection (2A) and existing subsections of this section.

Clause 118 inserts a new division under Part 5 – Division 11 Continuing professional development, which outlines the CPD requirements for real estate salespersons.

New section 151A (Definitions for division), provides two definitions for this division:

CPD requirements, for a real estate salesperson, means the continuing professional development requirements for the real estate salesperson approved by the chief executive under section 151D.

CPD year, for a registration certificate, means—

(1) a period of 12 months ending on the day before an anniversary of the date the registration certificate was first issued; or

(2) a period approved by the chief executive under section 151E.

New section 151B (Real estate salespersons to complete CPD requirements), subsection (1) provides that a real estate salesperson must complete the CPD requirements for each CPD year for the salesperson's registration certificate.

Subsection (2) provides that the CPD requirements in subsection (1) do not apply to a real estate salesperson for the first CPD year that the person holds their registration certificate.

Subsection (3) provides that if a real estate salesperson holds more than 1 authority, subsection (1) applies to the salesperson only if the authority with the earliest date of original issue is a registration certificate.

Subsection (4) provides two sectional definitions:

authority means a licence or a registration certificate.

date of original issue, of an authority, means the date on which the authority was first issued (before any subsequent renewal or restoration of the authority).

New section 151C (Record of completed CPD requirements), subsection (1) provides that a real estate salesperson to whom section 151B(1) applies must keep a record of the CPD requirements completed by the person. A maximum penalty of 10 penalty units applies. Subsection (2) provides that the real estate salesperson must keep the record for 5 years after the end of the CPD year to which the record relates. A maximum penalty of 10 penalty units applies.

New section 151D (Chief executive to approve and publish CPD requirements), subsection (1) provides that the chief executive must approve continuing professional development requirements for real estate salespersons. Subsection (2) provides that the chief executive must publish the CPD requirements on the department's website.

New section 151E (Chief executive may approve adjusted CPD year), subsection (1) provides that the chief executive may, on their own initiative or on application by a real estate salesperson, approve a period as a CPD year for the salesperson's registration certificate. Subsection (2) provides that the chief executive must give the salesperson notice of the approved period and the day on which the period starts.

Clause 119 inserts a new section 229B (Confidentiality) and a new section 229C (Exchange of Information).

New section 229B, in accordance with subsection (1), applies to a person who—

(a) is, or has been, a public service employee performing functions under or relating to the administration of the PO Act; and
(b) in that capacity, has acquired or has access to personal information about another person.

Subsection (2) provides that relevant persons must not disclose the information to anyone else or use the information other than under this new section. A maximum penalty of 35 penalty units applies.

Subsection (3) explains the ways a person may disclose or use the information. These include: to the extent the disclosure or use of information is necessary to perform a function under or relating to the administration of the PO Act; to the extent required or permitted under another law; or disclosure is with the consent of the person to whom the information relates.

Subsection (4) defines **disclose, information** and **personal information** in this new section:

disclose includes give access to.

information includes a document.

personal information means information about a person's affairs.

New section 229C (Exchange of information), subsection (1) provides that the chief executive may enter an ***information-sharing arrangement*** with a relevant agency for the purposes of sharing or exchanging information—

(a) held by the chief executive or the relevant agency; or
(b) to which the chief executive or the relevant agency has access.

Subsection (2) provides that an information-sharing arrangement may relate only to information that assists—

(a) the chief executive to perform the chief executive's functions under the PO Act; or
(b) the relevant agency to perform its functions.

Subsection (3) provides that under an information-sharing arrangement, the chief executive and the relevant agency are authorised to—

(a) ask for and receive information from the other party to the arrangement; and
(b) disclose information to the other party.

Subsection (4) provides that the chief executive may use criminal intelligence, given by the police commissioner under an information-sharing arrangement, only for monitoring compliance with the PO Act.

Subsection (5) provides that ***information*** does not include information given to the chief executive or a relevant agency, or to which the chief executive or a relevant agency has access, under the *Crime and Corruption Act 2001*.

Subsection (5) also defines ***relevant agency*** as the following—

(1) the police commissioner;
(2) the chief executive of a department;
(3) the Residential Tenancies Authority established under the *Residential Tenancies and Rooming Accommodation Act 2008*;
(4) a local government;
(5) a person prescribed by regulation.

Clause 120 amends the heading of Part 14 (Transitional provisions), by inserting – *for Act No. 22 of 2014.*

Clause 121 inserts a new Part 15, after Part 14, titled: Transitional provisions for *Property Occupations and Other Legislation Amendment Act 2024*

New section 273 (Application of s 92B to licensees holding existing licences), subsection (1) provides that subsection (2) applies to a licensee who holds a licence that is—

(a) for a term of 1 year or more; and

(b) in force on the commencement.

Subsection (2) provides that section 92B does not apply to the licensee until the start of the first CPD year for the licence after the commencement.

Subsection (3) provides that subsection (4) applies to a licensee who holds a licence that is—

(a) for a term of less than 1 year; and
(b) in force on the commencement.

Subsection (4) provides that section 92B applies to the licensee only—

(a) if the licence is renewed; and
(b) from the start of the next CPD year for the licence.

New section 274 (Application of s 151B to real estate salespersons holding existing registration certificates), subsection (1) provides that subsection (2) applies to a real estate salesperson who holds a registration certificate that is—

(1) for a term of 1 year or more; and
(2) in force on the commencement.

Subsection (2) provides that section 151B does not apply to the salesperson until the start of the first CPD year for the registration certificate after the commencement.

Subsection (3) provides that subsection (4) applies to a real estate salesperson who holds a registration certificate that is—

(a) for a term of less than 1 year; and
(b) in force on the commencement.

Subsection (4) provides that section 151B applies to the salesperson only—

(1) if the registration certificate is renewed; and
(2) from the start of the next CPD year for the registration certificate.

Clause **122** amends Schedule 2 (Dictionary) by inserting definitions for ***CPD requirements*** and ***CPD year*** that cross reference relevant provisions.

Division 5 Other amendments

Clause 123 provides that Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

Part 1 Amendments commencing on assent

Residential Tenancies and Rooming Accommodation Regulation 2009

Section 1 replaces section 29 of the regulation to remove the requirement to publish notice of goods left on premises in a circulating newsletter for goods left on premises after termination of a residential tenancy and provide for a new process for dealing with goods left on premises. These amendments provide that if goods are left on premises after termination of a residential tenancy the former lessor must make reasonable efforts to contact the owner of the goods to provide the owner with notice of the former lessor's intention to sell the goods by auction.

Examples of reasonable efforts include:

- attempting to contact the owner of the goods by telephone, including text message, email, or private message on a social media platform;
- attempting to contact an emergency contact listed on the owner of the goods tenancy agreement;
- publishing a notice in an online newspaper for the city or State in which the owner of the goods was or is residing.

If after making reasonable efforts the former lessor is unable to contact the owner of the goods, the former lessor may sell the goods by auction.

State Penalties Enforcement Regulation 2014

Section 1 amends the *State Penalties Enforcement Regulation 2014* to remove the following offences prescribed as penalty infringement notice offences:

- section 57(1)
- section 57(2)
- section 77(1)
- section 93(2)
- section 173(4)
- section 178(4)

Section 2 amends the *State Penalties Enforcement Regulation 2014* to prescribe the following offences as penalty infringement notice offences:

Section	Penalty amount for Individual	Penalty amount for Corporation
57(1)	5	25
57(2)	5	25
57(3)	5	25
76AA(1)	5	25
76AA(2)	5	25
76AA(3)	5	25
93(1)	2	10
93A(2)	4	20
105B(1)	2	10
105C(2)	4	20
173(3)	2	10
178(3)	2	10

Part 2 Amendments commencing on 1 July 2024

Local Government Act 2009

Section 1 amends sections 209 (heading and subsections (1) and (2)), 210, 211 (heading and subsection (1)), 216(2), 216A (definitions *chosen fund* paragraph (b), defined benefit member and *relevant fund* paragraph (a)(i)), 217 (heading and subsections (1), (2) and (3)(b)), 218, 219, 219A (heading and subsections (1) and (2)), 220(2) the heading of chapter 7, part 2, division 2 to replace 'LGIAsuper' with 'Brighter Super', and schedule 4 definition *trust deed*.

Section 2 amends section 217(4) to replace 'LGIAsuper Trustee' with 'Brighter Super Trustee' and to remove a reference to repealed section 220C.

Section 3 amends Schedule 4, definitions LGIAsuper and LGIAsuper Trustee– to replace 'LGIAsuper' with 'Brighter Super'.

Local Government Regulation 2012

Section 1 amends section 303(1) to make an administrative amendment to the wording to reflect the intent of new section 220A of the *Local Government Act 2009*.

Section 2 omits section 303(2) to reflect that the personal superannuation contributions of Brisbane City Council permanent employees do not automatically reduce to 0% upon turning 70 years old. The new section 359 provides a transitional arrangement for existing employees aged 70 years or older to maintain their current contribution rate at 0% until the employee nominates a different rate.

Superannuation (Public Employees Portability) Regulation 2019

Section 1 amends section 3(a) to amend the name of the local government superannuation scheme from LGIAsuper to Brighter Super.

Superannuation (State Public Sector) Act 1990

Section 1 amend section 34(2)(a) to amend the name of the local government superannuation scheme from LGIAsuper to Brighter Super.

Section 2 amends section 34(3) to amend the name of the local government superannuation scheme from LGIAsuper to Brighter Super.