

**Version
as at 28 October 2021**



Residential Tenancies Act 1986

Public Act	1986 No 120
Date of assent	17 December 1986
Commencement	see section 1(2)

Contents

	Page
Title	10
1 Short Title and commencement	10
2 Interpretation	10
2A Transitional, savings, and related provisions	21

Part 1 Application of Act

3 Act to bind the Crown	21
4 Act generally to apply to all residential tenancies	21
5 Act excluded in certain cases	21
5A Certain excluded long fixed-term tenancies remain subject to repealed sections of Property Law Act 1952	25
5B Exempt student accommodation	26
6 Long fixed-term tenancies <i>[Repealed]</i>	27
7 Tenancies for short fixed terms	27
8 Parties to excluded tenancies may agree that Act shall apply	28
9 Existing tenancies	28
10 Onus of proof	29

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Housing and Urban Development.

11	Act generally to apply despite contrary provisions	29
Part 2		
Tenancy agreements		
<i>Preliminary matters</i>		
12	Discrimination to be unlawful act	30
12A	Choice of procedures	31
13	Tenancy agreement must be in writing and signed	31
13A	Contents of tenancy agreement	31
13AB	Address for service	35
13B	Variations and renewals of tenancy agreements	36
13C	Tenancy agreements not unenforceable on grounds not in writing	36
13D	Exceptions to requirements relating to tenancy agreements	36
14	Minors	36
15	Notification of successor to landlord or tenant	37
16	Change of name or address	38
16A	Landlord must have agent if out of New Zealand for longer than 21 consecutive days	39
16B	Body corporate rules part of tenancy agreement	39
<i>Key money, bonds, and rents</i>		
17	Requiring key money prohibited	40
17A	Requiring letting fee prohibited	41
18	Bonds to be no more than 4 weeks' rent	41
18A	Landlord must not require security other than permitted bond	42
19	Duties of landlord on receipt of bond	42
20	Duties of chief executive in relation to bonds	43
21	Tenant may pay bond direct to chief executive with landlord's consent	43
21A	Notification of changes of address to chief executive	44
22	Agreed applications to chief executive for payment of bond	44
22A	Applications to chief executive for payment of bond without agreement of other party	45
22B	Applications to, and orders by, Tribunal	45
22C	Payments of bond to be made out of Residential Tenancies Trust Account	46
22D	Chief executive may take steps to refund bonds	46
22E	MSD may disclose address information for bond refund purposes	46
22F	Landlord must state amount of rent when advertising residential premises	47
22G	Landlord must not invite or encourage bids for rent	48
23	Rent in advance	48
24	Rent increases	49
24A	Expiry of temporary rent reduction	50
25	Market rent	51

26	Duration of order determining market rent	52
27	Rent in excess of market rent irrecoverable	52
28	Increase of rent by agreement or order in case of substantial improvements, improved facilities, or variation of terms	53
28A	Increase of rent by order in case of unforeseen expenses	53
28B	Effect of rent increases under section 28 or 28A	53
29	Receipts for rent	54
30	Landlord to keep records	55
31	Apportionment of rent	55
32	Accelerated rent or damages prohibited	55
33	Tenant's goods not to be seized	56
34	Transitional provision relating to bonds <i>[Repealed]</i>	56
35	Transitional provisions relating to fair rents and equitable rents <i>[Repealed]</i>	57

Rights and obligations of parties

36	Legal impediments to occupation	57
37	Vacant possession	57
38	Quiet enjoyment	57
39	Responsibility for outgoings	57
40	Tenant's responsibilities	58
41	Tenant's responsibility for actions of others	60
42	Tenant's fixtures, etc	60
42A	Consent for tenant's fixtures, etc	61
42B	Minor changes	62
43	Disposition of landlord's interest	62
43A	Effect of provision prohibiting assignment by tenant	63
43B	Assignment of tenancy by tenant	63
43C	Effect of assignment by tenant	64
44	Subletting or parting with possession by tenant	64
44A	Recovery of expenses incurred by landlord	65
45	Landlord's responsibilities	66
45A	Protection from liability for landlord who complies with contaminant regulations	69
45B	Landlord must permit and facilitate installation of fibre connection in certain circumstances	70
46	Locks	71
47	Landlord to give notice to tenant if premises put on market	71
48	Landlord's right of entry	72
49	Mitigation of damage or loss	75

Responsibility for damage

49A	General principle	75
49B	When tenant liable	76

49C	Landlord, not insurer, to benefit from tenant liability for careless damage	78
49D	Unlawful acts related to liability	78
49E	Meaning of premises	78
	<i>Termination of tenancies and recovery of possession</i>	
50	Circumstances in which tenancies are terminated	78
50A	Termination following death of sole tenant	80
51	Termination by notice	80
52	Provision for shorter notice may be made with consent of Tribunal	83
53	Special provisions for notice terminating service tenancies	83
53A	Special provisions for notice terminating certain student tenancies	85
53B	Special provisions for notice terminating social housing tenancies	85
54	Tribunal may declare retaliatory notice of no effect	86
55	Termination on non-payment of rent, damage, or assault	87
55AA	Termination by notice for physical assault by tenant	88
55A	Termination for anti-social behaviour	89
55B	Termination where it would be unreasonable to require landlord to continue with tenancy	91
56	Termination for non-payment of rent and other breaches	91
56A	Termination where premises are unlawful residential premises	92
56B	Withdrawal from tenancy following family violence	92
56C	Service of notices of withdrawal and accompanying evidence	94
56D	Termination where it would be unreasonable to require remaining tenant to continue with tenancy	94
56E	Disclosure of notice of withdrawal or accompanying evidence	95
57	Effect on subtenancy of termination of head tenancy	95
58	Mortgagee or other person becoming entitled to possession	96
59	Destruction of premises	97
59A	Termination where breach renders premises uninhabitable	97
59B	Termination where regulations prescribe testing methods and maximum inhabitable level of contaminant	98
60	Tenant remaining in possession after termination of tenancy	99
60AA	Landlord acting to terminate tenancy without grounds	99
60A	Fixed-term tenancy becomes periodic unless contrary notice given	100
60B	Tenant must exercise right to renew or extend tenancy not later than 28 days before expiry	101
60C	Notices and orders continue to apply to renewed or extended tenancies	101
61	Abandonment of premises	102
62	Goods left on premises on termination of tenancy	102
62A	Disposal of abandoned goods following assessment of market value	103
62B	Disposal of abandoned goods in accordance with Tribunal order	104
62C	Application of proceeds of sale and recovery of amount owing	104

62D	Tenant may claim proceeds of sale	105
62E	Responsibility of tenant unaffected	105
62F	Protection from liability	105
63	Entry without order of Tribunal prohibited	106
64	Possession orders	106
65	Eviction of squatters	107
66	Reduction or termination of fixed-term tenancy	107

Part 2A

Boarding house tenancies

Application

66A	Application of Part	108
66B	Interpretation for this Part	109

Boarding house tenancy agreements

66C	Content of boarding house tenancy agreements	110
66D	Bond of 1 week's rent or less	111
66E	Outgoings	111
66F	Tenancy not assignable by tenant	112

Rights and obligations of landlords and tenants

66G	Quiet enjoyment	112
66H	Landlord's obligations at start of tenancy	112
66I	Landlord's ongoing obligations	113
66IA	Protection from liability for landlord who complies with contaminant regulations	115
66J	Other obligations of landlord	115
66K	Obligations of tenant	117
66L	Tenant's liability for damage caused by others	118
66M	Tenant's obligations at end of tenancy	118
66N	Mitigation of damage or loss	119

House rules

66O	Landlord may make house rules	119
66P	What tenant may do if he or she objects to house rules	119

Landlord's right of entry

66Q	Landlord has right to enter premises at any time	120
66R	Landlord's right to enter boarding room is limited	120
66S	Notice of entry	121
66T	Consequence of abuse, or refusal, of right of entry	123

Termination

66U	Termination of tenancy by landlord	123
66V	When tenant may terminate tenancy	124
66W	Termination of tenancy on death of sole tenant	125

Abandonment

66X	Abandonment by tenant	125
66Y	Possession orders	125

Part 3
The Tenancy Tribunal

Constitution and administration

67	Constitution of Tribunal	126
67A	Appointment of temporary acting Principal Tenancy Adjudicator, Deputy Principal Tenancy Adjudicator, or Tenancy Adjudicator	128
68	Term of office of Tenancy Adjudicators	128
69	Remuneration of Tenancy Adjudicators	129
70	Tenancy Adjudicators to be protected	130
71	Conduct of Tribunal and stationing of Tenancy Adjudicators	130
71A	Delegation by Principal Tenancy Adjudicator	131
72	Registrars	131
73	Seal of Tribunal	132
74	Records of Tribunal	132
75	Offices and Tenancy Officers <i>[Repealed]</i>	133
76	Tenancy Mediators	133

Jurisdiction

77	Jurisdiction of Tribunal	135
78	Orders of Tribunal	140
78A	Orders of Tribunal relating to unlawful residential premises	145
79	Jurisdiction to make interim orders	146
80	Orders of Tribunal to be final	146
81	Exclusion of Tribunal's jurisdiction prohibited	146
82	Exclusion of other jurisdictions	147
83	Transfer of proceedings to District Court	147
83A	Referral of complaints to Health and Disability Commissioner	148
84	Jurisdiction of Tribunal generally exercisable by any Tenancy Adjudicator	148
85	Manner in which jurisdiction is to be exercised	149

Procedure

86	Filing of applications	149
87	Duties of chief executive on receipt of application	150
88	Functions of Tenancy Mediators	151
89	Statements made in mediation to be subject to privilege	153
90	Tenancy Mediator to observe confidentiality	154
91	Notice of hearing by Tribunal	154
91AA	Process for determining abandonment applications within 10 working days without hearing	155
91A	Service on tenants following application	156

91B	Substituted service, etc	157
92	Non-attendance at hearing after due notice	157
92A	Tribunal may strike out proceeding	158
93	Right of audience	158
94	Minors and persons under disability	159
95	Proceedings usually to be in public	160
95A	Suppression orders	161
96	Further provisions relating to procedure generally	162
97	Evidence	163
98	Witness summons	163
98A	Other witness expenses	164
99	Tribunal may require inquiry and report by Tenancy Mediator or suitable person	165
100	Tenancy Mediator or Tribunal may require valuer's report in certain proceedings	165
101	Protection of persons appearing, etc	166
102	Costs	166
103	Reference of questions of law to High Court	167
104	Decision of Tribunal	167
105	Rehearings	168
<i>Enforcement and offences</i>		
106	Enforcement of possession orders	168
107	Enforcement of orders other than possession orders and work orders	168
108	Enforcement of work orders	169
109	Unlawful acts	171
109A	Tribunal may restrain further commissions of unlawful acts	173
109B	Tribunal may make pecuniary penalty orders	174
109C	Maximum amount of pecuniary penalty	174
109D	Considerations for Tribunal in determining pecuniary penalty	174
109E	Only 1 pecuniary penalty order may be made for same conduct	175
110	Failing to answer witness summons	175
111	Giving false evidence	175
111A	Offence of breaching suppression order	175
112	Contempt	176
<i>Contact information for enforcement purposes</i>		
112A	Interpretation	177
112B	Application for contact information	177
112C	Application referred to specified agency	178
112D	Response to applicant	178
112E	Specified information sent to District Court	179
112F	Non-disclosure of contact information	179

Miscellaneous provisions

113	Chief executive to provide assistance	180
114	Powers of entry of Tenancy Mediators	180
115	Principal Tenancy Adjudicator may issue practice directions	181
115A	Online publication of information about procedures, time frames, and progress of decisions	181
115B	Online publication of final written decisions	182
116	Rules of procedure	182

Appeals

117	Appeal to District Court	184
118	Powers of District Court Judge on appeal	185
119	Appeal on questions of law to High Court	185
120	Further appeal to Court of Appeal	186

Part 4**Administration***Functions and powers of chief executive*

121	Chief executive responsible for administration of Act	186
122	Director-General may delegate powers <i>[Repealed]</i>	187
123	General functions and powers of chief executive	187
123A	Documents to be retained by landlord and produced to chief executive if required	188
123B	Documents to be produced by tenant to chief executive if required	190
123C	Chief executive's powers in relation to produced documents	190
123CA	Programmes of inspections to monitor and assess compliance with healthy homes standards	190
123D	Power of entry to inspect premises	191
123E	Tribunal may authorise inspection	192
124	Chief executive may take or defend proceedings on behalf of any party <i>[Repealed]</i>	193
124A	Chief executive may take proceedings in place of tenant or landlord	193
124B	Supplementary provision to section 124A	194
125	Immunities	195
126	Annual report	196

Infringement offences

126A	Interpretation	196
126B	Proceedings for infringement offences	196
126C	When infringement notice may be issued	197
126D	Infringement notice may be revoked	197
126E	What infringement notice must contain	197
126F	How infringement notice may be served	198
126G	Payment of infringement fees	198

<i>Improvement notices</i>		
126H	Power to issue improvement notices	199
126I	Content of improvement notices	199
126J	Compliance with improvement notice	200
126K	Extension of time for compliance with improvement notices	200
126L	Chief executive may withdraw improvement notice	200
126M	Objection to improvement notice	200
<i>Enforceable undertakings</i>		
126N	Chief executive may accept enforceable undertakings	201
126O	When enforceable undertaking is enforceable	201
126P	Compliance with enforceable undertaking	201
126Q	Withdrawal or variation of enforceable undertaking	202
126R	Proceedings for alleged contravention	202
<i>Residential Tenancies Trust Account</i>		
127	Residential Tenancies Trust Account	202
128	Auditor-General to be auditor of Residential Tenancies Trust Account	204
129	Part B of the Fund <i>[Repealed]</i>	204
130	Corporation may make money available <i>[Repealed]</i>	204
131	Corporation may borrow <i>[Repealed]</i>	204
132	No execution	205
Part 5		
Miscellaneous provisions		
133	Tribunal or chief executive may require terms of tenancy agreements	205
134	Waiver by landlord of breach by tenant	206
134A	Method of payment	206
135	Recovery of money paid by mistake	206
136	Service of documents	206
136A	Calculation of periods	209
137	Prohibited transactions	210
137A	Only 1 penalty type for same conduct	210
138	Time for filing charging document	211
138A	Regulations in respect of smoke alarms	211
138B	Healthy homes standards	212
138C	Regulations in respect of contaminants and contaminated premises	213
138D	Powers to make regulations under sections 138A to 138C not limited by other enactments, etc	215
138E	Regulations relating to termination of tenancy for physical assault by tenant	216
138F	Regulations relating to withdrawal from tenancy following family violence	216

139	Regulations relating to accommodation brokers	218
139A	Regulations relating to infringement offences	219
140	Regulations relating to other matters	219
141	Schedule 1 may be amended by Order in Council <i>[Repealed]</i>	221
142	Non-application of Part 4 of Property Law Act 2007	221
143	Housing Corporation Act 1974 amended <i>[Repealed]</i>	221
144	Repeals, revocations, and amendments	221
145	Provisions relating to outbreak of COVID-19	222
	Schedule 1AA	223
	Transitional, savings, and related provisions	
	Schedule 1	233
	Clauses for rent increases in fixed-term tenancy agreements	
	Schedule 1A	234
	Amounts for unlawful acts	
	Schedule 1B	237
	Fines and fees for infringement offences	
	Schedule 2	240
	Enactments repealed	
	Schedule 3	241
	Regulations revoked	
	Schedule 4	242
	Enactments amended	
	Schedule 5	243
	Provisions relating to outbreak of COVID-19	

An Act to reform and restate the law relating to residential tenancies, to define the rights and obligations of landlords and tenants of residential properties, to establish a tribunal to determine expeditiously disputes arising between such landlords and tenants, to establish a fund in which bonds payable by such tenants are to be held, and to repeal the Tenancy Act 1955 and the Rent Appeal Act 1973 and their amendments

1 Short Title and commencement

- (1) This Act may be cited as the Residential Tenancies Act 1986.
- (2) This Act shall come into force on 1 February 1987.

2 Interpretation

- (1) In this Act, unless the context otherwise requires,—

accommodation broker means a person who, in the ordinary course of business, otherwise than as a solicitor or a letting agent acting on behalf of clients, informs other persons for fee or reward—

- (a) of residential premises that are or may be available for letting; or
- (b) of the names, addresses, or telephone numbers of persons who are or may be the proprietors or occupiers of residential premises that are or may be available for letting; or
- (c) of the names, addresses, or telephone numbers of persons who wish or may wish to become tenants of residential premises

address for service has the meaning given to it by section 13AB

adult means a person who has attained the age of 18 years, or who is under that age but is or has been married or in a civil union

agent, in relation to any person who is a landlord or a tenant, means an agent of that person in that person's capacity as landlord or tenant; and includes an employee of that person in that person's capacity as landlord or tenant

application, in relation to the Tribunal, includes—

- (a) an application made jointly by the landlord and the tenant of any premises; and
- (b) any complaint by the landlord against the tenant or by the tenant against the landlord; and
- (c) any claim by the landlord against the tenant or by the tenant against the landlord;
- (d) any complaint by the chief executive alleging a breach of this Act;
- (e) any other application that may be made to the Tribunal by virtue of any of the provisions of this Act or of any regulations made under this Act

approved form, in relation to any application or other matter, means a form approved and made available by the chief executive for the purposes of that application or matter

assignment means a transfer to a person of all of the rights that a tenant has under a tenancy agreement

associated person, in relation to a person (A), means a person (B) who is associated with A within the meaning given to that term in subsection (2A)

boarding house, boarding house tenancy, boarding house tenancy agreement, and boarding room have the meanings given to them in section 66B

bond means any sum of money payable or paid under a tenancy agreement as security for the observance and performance of the tenant's obligations under the agreement and this Act; but does not include any sum payable or paid by way of rent

chief executive means the chief executive of the department

commercial premises means premises that are not residential premises

contact address,—

- (a) in relation to a landlord, means an address or addresses (which may include telephone numbers) where the landlord or the landlord's agent is reasonably contactable by the tenant; and in addition
- (b) in relation to a landlord that is a company, includes (if the information is different from that given under paragraph (a))—
 - (i) the full name of the officer responsible to the company for the administration of the tenancy; and
 - (ii) an address or addresses (which may include telephone numbers) where that officer or the landlord's agent is reasonably contactable by the tenant; and
 - (iii) the address of the company's registered office

contaminant means any of the following:

- (a) methamphetamine;
- (b) any substance prescribed, or within a class of substance prescribed, as being a contaminant for the purposes of this Act

contaminated, in relation to premises, means that a contaminant is present in any part of the premises at a level above any relevant prescribed maximum acceptable level

department means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Deputy Principal Tenancy Adjudicator means the Deputy Principal Tenancy Adjudicator appointed under section 67(2A)

dispute, in relation to a matter before, or to be brought before, the Tribunal, includes any claim, difference, question, or other matter, whether it requires a decision as between the parties or a declaration

ethical belief means the absence of a religious belief whether in respect of a particular religion or religions or all religions

facilities, in relation to a tenancy agreement (other than a boarding house tenancy agreement), includes all facilities provided by the landlord for the non-exclusive use and enjoyment of the tenant, otherwise than as part of the premises that are the subject of the agreement, such as the following:

- (a) any land or buildings intended for use for storage space or for the parking of motor vehicles;
- (b) laundry facilities;
- (c) cooking facilities;
- (d) lifts and stairways;

- (e) rubbish storage and rubbish disposal facilities:
- (f) toilet and washing facilities:
- (g) appliances for heating or cooling premises:
- (h) communication facilities:
- (i) recreational areas:
- (j) lawns, gardens, and outhouses

fixed-term tenancy means a tenancy for a fixed term; but, except as provided in section 58(1), does not include such a tenancy that is terminable by notice

the Fund means the Residential Tenancies Fund established by section 127

goods means goods, baggage, and chattels of any description; and includes animals and plants; and also includes money, documents, and all other things of value

guarantor, in relation to a tenancy, means a person who guarantees the performance of the tenant's obligations, or who indemnifies the landlord against loss that he or she may incur in respect of the tenancy, or who assumes liability for the performance of the obligations of the tenant, and **guarantee** has a corresponding meaning

healthy homes standards means the standards provided for in regulations under section 138B(1)

infringement fee has the meaning given to it by section 126A

infringement offence has the meaning given to it by section 126A

key money means any sum of money demanded by way of fine, premium, foregift, reimbursement of expenses, administration charges, or otherwise as consideration for the grant, continuance, extension, variation, or renewal of a tenancy agreement, or for consent to the surrender or disposition of the tenant's interest under a tenancy agreement or to a subletting by the tenant; but does not include any sum payable or paid by way of rent or bond

landlord, in relation to any residential premises that are the subject of a tenancy agreement, means the grantor of a tenancy of the premises under the agreement; and, where appropriate, includes—

- (a) a prospective landlord; and
- (b) a former landlord; and
- (c) a lawful successor in title of a landlord to the premises; and
- (d) the personal representative of a deceased landlord; and
- (e) an agent of a landlord

letting agent, in relation to a tenancy, means a person who, in the ordinary course of business, acts, or who holds himself or herself out to the public as ready to act, for reward as an agent in respect of the grant or assignment of tenancies, whether or not that person carries on any other business

letting fee—

- (a) means any fee or charge (however described) in respect of services rendered by the letting agent or any other person that relate to—
 - (i) the grant, continuance, extension, variation, or renewal of any tenancy agreement; or
 - (ii) the assignment of a tenant's interest under any tenancy agreement; or
 - (iii) the subletting of the whole or any part of the premises by a tenant; but
- (b) does not include any expenses recoverable under section 44(5)

member of the landlord's or owner's family, in relation to a landlord or an owner, means—

- (a) any person who is or has been related to the landlord or owner—
 - (i) by blood; or
 - (ii) by or through marriage, a civil union, or a de facto relationship; or
 - (iii) by adoption:
- (b) any other person who is a member of the landlord's or owner's whānau or other culturally recognised family group:
- (c) any child who is being, or is to be, cared for on a continuous basis by—
 - (i) the landlord or owner; or
 - (ii) the landlord's or owner's spouse, civil union partner, or de facto partner

methamphetamine means the Class A controlled drug methamphetamine specified or described in Schedule 1 of the Misuse of Drugs Act 1975

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

minor means any person who is not an adult

minor change has the meaning given to it by section 42B(2)

officer of the Tribunal means an officer of the department or the Ministry of Justice who is for the time being acting in the service of the Tribunal; and includes a Tenancy Mediator

order, in relation to the Tribunal, means any order, decision, determination, consent, approval, or ruling given or made by the Tribunal; and includes an order by the Tribunal dismissing an application

periodic tenancy means a residential tenancy other than a fixed-term tenancy

possession order means an order made by the Tribunal under section 64, 65, or 66Y granting possession of any premises to any person named in the order

premises includes (other than in relation to a boarding house tenancy, in which case the definition in section 66B applies)—

- (a) any part of any premises; and
- (b) any land and appurtenances, other than facilities; and
- (c) any mobile home, caravan, or other means of shelter placed or erected upon any land and intended for occupation on that land

prescribed means prescribed by this Act or by regulations made under this Act

Principal Tenancy Adjudicator means the Principal Tenancy Adjudicator appointed under section 67(2)(a)

prospective landlord means a person who has offered to grant a tenancy to any other person, or who has entered into negotiations with any other person for the granting of a tenancy to that other person

prospective tenant means a person to whom any other person has offered to grant a tenancy, or with whom any other person has entered into negotiations for the granting of a tenancy to that person

Registrar, in relation to the Tribunal, means a person who holds that position under section 72(1) or who is designated under section 72(2)

rent means any money, goods, services, or other valuable consideration in the nature of rent to be paid or supplied under a tenancy agreement by the tenant; but does not include any sum of money payable or paid by way of bond

residential premises means any premises used or intended for occupation by any person as a place of residence, whether or not the occupation or intended occupation for residential purposes is or would be unlawful

section 78A work order means a work order made against the landlord in relation to a matter in which section 78A applies

service tenancy means a tenancy granted under a term of, or otherwise as an incident of, a contract of service or a contract for services between the landlord as employer and the tenant as employee or contractor, whether or not a separate tenancy agreement is concluded in writing between the parties, and whether or not any rent is payable for the tenancy; and includes—

- (a) any tenancy of that kind granted under or in accordance with any enactment; and
- (b) any tenancy of that kind granted by a company to an employee or contractor of an associated company (within the meaning of subsection (2)); and
- (c) any tenancy granted by the Armed Forces to any person subject to the Armed Forces Discipline Act 1971

tenancy, in relation to any residential premises, means the right to occupy the premises (whether exclusively or otherwise) in consideration for rent; and

includes any tenancy of residential premises implied or created by any enactment; and, where appropriate, also includes a former tenancy

tenancy agreement, in relation to any residential premises, means any express or implied agreement under which any person, for rent, grants or agrees to grant to any other person a tenancy of the premises; and, where appropriate, includes a former tenancy agreement and any variation of a tenancy agreement

Tenancy Mediator means a Tenancy Mediator appointed under section 76

tenant, in relation to any residential premises that are the subject of a tenancy agreement, means the grantee of a tenancy of the premises under the agreement; and, where appropriate, includes—

- (a) a prospective tenant; and
- (b) a former tenant; and
- (c) a lawful successor in title of a tenant to the premises; and
- (d) the personal representative of a deceased tenant; and
- (e) an agent of a tenant

Tribunal means the Tenancy Tribunal constituted by section 67

unlawful act means anything declared by any of the provisions of this Act to be an unlawful act

unlawful residential premises has the meaning given to it by section 78A(2)

witness summons means a summons issued under section 98 requiring the person named in the summons to attend at a specified time and place and to give evidence or to produce any document or thing

work order—

- (a) means an order by the Tribunal to carry out any repairs to any premises or to any chattels, or to rectify any deficiency in the performance of any services, by doing such work or attending to such matters (including the replacement of chattels) as may be specified in the order; and
- (b) includes (without limiting paragraph (a)) an order by the Tribunal requiring—
 - (i) a party to carry out any work, or to attend to any matters, as specified in the order for the purpose of complying with any requirement in respect of smoke alarms imposed on the party by regulations made under section 138A; or
 - (ii) the landlord to carry out any work, or to attend to any matters, as specified in the order for the purpose of complying with the healthy homes standards; and
- (c) if section 78A applies, *see also* section 78A(4)(b)

working day means any day other than—

- (a) a Saturday, a Sunday, Waitangi Day, Anzac Day, the Sovereign's birthday, and Labour Day; and
 - (b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
 - (c) the day observed in the appropriate area as the anniversary of the province of which the area forms part; and
 - (d) a day in the period commencing with Good Friday and expiring with the Tuesday after Easter; and
 - (e) a day in the period commencing with 24 December and expiring with 3 January.
- (2) For the purposes of paragraph (b) of the definition of the term service tenancy in subsection (1), 2 companies are associated if one is the wholly or partly owned subsidiary of the other.
- (2A) For the purposes of this Act, one person (A) is **associated** with another person (B),—
- (a) in the case where both A and B are individuals, if A is the spouse, civil union partner, or de facto partner of B;
 - (b) in the case where B is a company, if A is a director or an officer of B, or is associated (within the meaning of paragraph (a)) with a director or an officer of B, or is directly or indirectly able to exercise control over the affairs of B;
 - (c) in the case where A is a company, if B is a director or an officer of A, or is associated (within the meaning of paragraph (a)) with a director or an officer of A, or is directly or indirectly able to exercise control over the affairs of A;
 - (d) in the case where both A and B are companies,—
 - (i) if A is a holding company or subsidiary of B within the meaning of section 5 of the Companies Act 1993; or
 - (ii) if A owns or controls shares that in aggregate carry the right to exercise or control the exercise of 20% or more of the voting power at meetings of B; or
 - (iii) if B owns or controls shares that in aggregate carry the right to exercise or control the exercise of 20% or more of the voting power at meetings of A; or
 - (iv) if A and B have the same holding company within the meaning of section 5 of the Companies Act 1993; or
 - (v) if a third person owns or controls shares in each of them that carry the right to exercise or control the exercise of 20% or more of the voting power at meetings of each of them.

- (2B) For the purposes of any provision of this Act that applies to landlords that have 6 or more tenancies, a person who is a landlord (A) of 1 or more tenancies must also be treated as if they were the landlord of any tenancy for which an associated person of A is a landlord.
- (2C) For the purposes of determining, under subsection (2B), how many tenancies a landlord has or how many tenancies an associated person of the landlord has, any tenancies related to a residential premises described in subsection (2D) must be treated as if they were 1 tenancy.
- (2D) Subsection (2C) applies to a residential premises that would be a boarding house (within the meaning of section 66B) except that the premises are occupied, or intended to be occupied, by fewer than 6 tenants at any one time.

Example

A, a landlord, has 4 tenancies. Two of the tenancies relate to a house in which the tenants have exclusive rights to occupy their respective sleeping quarters while sharing some facilities (that is, the premises would be a boarding house except that the premises are not occupied, or intended by the landlord to be occupied, by at least 6 tenants). Under subsection (2C), those 2 tenancies must be treated as 1 tenancy. As a result, A is treated as having 3 tenancies.

A's spouse, B, is also a landlord and has 4 tenancies. Under subsection (2B), because B is an associated person of A, A must be treated as if A were also the landlord of B's 4 tenancies.

As a consequence, A is treated as having 7 tenancies for the purposes of any provision of this Act that applies to landlords that have 6 or more tenancies.

If A commits an infringement offence in relation to one of A's tenancies, A is liable to the fine or the infringement fee that applies to landlords who have 6 or more tenancies.

-
- (3) For the purposes of this Act, where any premises that are subject to a legal or an equitable lease are used for both commercial and residential purposes, the premises shall be deemed to be residential premises unless it is proved that the premises were let principally for purposes other than residential purposes.

Compare: 1952 No 51 s 104A; 1955 No 50 s 2; 1973 No 26 s 2; 1975 No 36 s 4; Residential Tenancies Act 1978–1981 s 5 (SA)

Section 2(1) **accommodation broker**: amended, on 1 October 2010, by section 4(5) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **address for service**: replaced, on 1 October 2010, by section 4(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **adult**: amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 2(1) **application** paragraph (d): amended, on 18 August 1992, by section 2(1) of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 2(1) **approved form**: inserted, on 1 October 2010, by section 4(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **assignment**: inserted, on 1 October 2010, by section 4(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **associated person**: inserted, on 11 February 2021, by section 4(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 2(1) **bailliff**: repealed, on 1 October 2010, by section 4(4) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **boarding house, boarding house tenancy, boarding house tenancy agreement, and boarding room**: inserted, on 1 October 2010, by section 4(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **chief executive**: replaced, on 1 October 2010, by section 4(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **contact address**: inserted, on 1 May 1996, by section 2(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 2(1) **contaminant**: inserted, on 27 August 2019, by section 26(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 2(1) **contaminated**: inserted, on 30 January 2021, by section 26(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 2(1) **corporation**: repealed, on 18 August 1992, by section 2(3) of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 2(1) **department**: inserted, on 1 October 2010, by section 4(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **Deputy Principal Tenancy Adjudicator**: amended, on 1 May 1996, by section 2(3) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 2(1) **Director-General**: repealed, on 18 August 1992, by section 2(3) of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 2(1) **dispute**: inserted, on 1 October 2010, by section 4(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **ethnic or national origins**: repealed, on 1 October 2010, by section 4(4) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **facilities**: amended, on 1 October 2010, by section 4(6) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **fixed-term tenancy**: amended, on 11 February 2021, by section 4(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 2(1) **fixed-term tenancy**: amended, on 1 October 2010, by section 4(7) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **guarantor**: inserted, on 1 October 2010, by section 4(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **healthy homes standards**: inserted, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 2(1) **income-related rent tenancy**: repealed, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 2(1) **infringement fee**: inserted, on 11 February 2021, by section 4(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 2(1) **infringement offence**: inserted, on 11 February 2021, by section 4(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 2(1) **key money**: amended, on 1 May 1996, by section 2(4) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 2(1) **letting agent**: inserted, on 1 October 2010, by section 4(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **letting fee**: inserted, on 12 December 2018, by section 4 of the Residential Tenancies (Prohibiting Letting Fees) Amendment Act 2018 (2018 No 44).

Section 2(1) **member of the landlord's family**: repealed, on 1 October 2010, by section 4(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **member of the landlord's or owner's family**: replaced, on 11 February 2021, by section 4(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 2(1) **methamphetamine**: inserted, on 27 August 2019, by section 26(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 2(1) **Minister**: replaced, on 1 October 2010, by section 4(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **Ministry**: repealed, on 1 October 2010, by section 4(4) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **minor change**: inserted, on 11 February 2021, by section 4(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 2(1) **New Zealand Standard**: repealed, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 2(1) **officer of the Tribunal**: replaced, on 1 October 2010, by section 4(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **possession order**: amended, on 1 October 2010, by section 4(8) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **premises**: amended, on 1 October 2010, by section 4(9) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **protected tenancy**: repealed, on 1 May 1996, by section 2(5) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 2(1) **Registrar**: replaced, on 12 December 2012, by section 4 of the Residential Tenancies Amendment Act 2012 (2012 No 113).

Section 2(1) **residential premises**: replaced, on 27 August 2019, by section 4(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 2(1) **section 78A work order**: inserted, on 27 August 2019, by section 4(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 2(1) **service tenancy**: replaced, on 1 October 2010, by section 4(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **Tenancy Mediator**: amended, on 1 May 1996, by section 2(6) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 2(1) **Tenancy Officer**: repealed, on 1 October 2010, by section 4(4) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 2(1) **unlawful residential premises**: inserted, on 27 August 2019, by section 4(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 2(1) **work order**: replaced, on 1 July 2016, by section 4(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 2(1) **work order** paragraph (b): replaced, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 2(1) **work order** paragraph (b): amended, on 27 August 2019, by section 4(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 2(1) **work order** paragraph (c): inserted, on 27 August 2019, by section 4(4) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 2(1) **working day** paragraph (a): replaced, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 2(1) **working day** paragraph (b): replaced, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 2(2A): inserted, on 11 February 2021, by section 4(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 2(2B): inserted, on 11 February 2021, by section 4(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 2(2C): inserted, on 11 February 2021, by section 4(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 2(2D): inserted, on 11 February 2021, by section 4(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Section 2A: inserted, on 3 June 2016, by section 5 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Part 1

Application of Act

3 Act to bind the Crown

This Act shall bind the Crown.

Compare: 1951 No 51 s 104B; 1955 No 50 s 5; 1973 No 26 s 3; 1975 No 36 s 4

4 Act generally to apply to all residential tenancies

This Act applies to every tenancy for residential purposes except as specifically provided.

Section 4: replaced, on 1 October 2010, by section 5 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

5 Act excluded in certain cases

(1) This Act shall not apply in the following cases:

- (a) where the premises are commercial premises:
- (b) where the whole or a substantial part of the tenant's income is derived from the use of the premises for agricultural, pastoral, horticultural, or other similar purposes:
- (ba) where the premises are let for a fixed-term tenancy of at least 5 years, the tenancy was granted before the commencement, on 1 January 2008, of the Property Law Act 2007, and the tenancy agreement expressly provides that this Act shall not apply:
- (c) where the premises constitute part of a Corrections prison or Police jail:
- (d) where the premises constitute part of any hospital, home, or other institution for the care of sick, disabled, or aged persons:

- (e) where the premises constitute part of Police barracks, or Police cells and lock-ups:
- (f) where the premises constitute any barracks conducted by the Armed Forces for the accommodation of persons subject to the Armed Forces Discipline Act 1971:
- (g) where the premises constitute any barracks or hostel conducted by an employer for the accommodation of employees of that employer or (where the employer is a company) for the accommodation of employees of any associated company (within the meaning of section 2(2)):
- (h) where the premises are used to provide accommodation to students—
 - (i) at a school hostel (being a hostel within the meaning of section 10(1) of the Education and Training Act 2020); or
 - (ii) in accordance with the requirements of section 5B:
- (i) where the premises constitute part of a building occupied by a club and used by the club for the provision of temporary or transient accommodation to members of the club:
- (j) where the premises constitute part of any hotel in respect of which an on-licence is in force under the Sale and Supply of Alcohol Act 2012:
- (k) where the premises—
 - (i) are intended to provide temporary or transient accommodation (such as that provided by hotels and motels), being accommodation that is ordinarily provided for periods of less than 28 days at a time; and
 - (ii) are subject to an agreement that has been entered into for the purpose of providing temporary or transient accommodation that continues to be provided under the agreement:
- (l) where the tenant occupies the premises under an occupation right agreement within the meaning of the Retirement Villages Act 2003:
- (m) where the premises are let for the tenant's holiday purposes:
- (n) where the premises, not being a boarding house, continue to be used, during the tenancy, principally as a place of residence by the landlord or the owner of the premises or by any member of the landlord's or owner's family:
- (o) where the tenant is the purchaser of the premises under an agreement for sale and purchase with the landlord as vendor, not being an agreement that is revocable at will by the vendor:
- (p) where any of the tenants is also the landlord or one of the landlords by virtue of an arrangement of a kind commonly known as a cross-lease or lease-back arrangement:

- (q) where the tenant's interest in the premises is a stratum estate in leasehold under the Unit Titles Act 2010:
- (r) where the tenancy arises wholly from or depends wholly upon the ownership by the tenant of any shares in a company that owns the premises:
- (s) where the tenancy agreement—
 - (i) is genuinely entered into to enable a tenant (the **sublandlord**) to sublet the premises to provide accommodation for—
 - (A) other people for commercial gain; or
 - (B) the sublandlord's employees; or
 - (C) persons on low incomes; or
 - (D) persons with special housing needs; or
 - (E) persons whose disabilities mean that they need support or supervision in their housing; and
 - (ii) is not entered into to provide accommodation for the sublandlord or to evade this Act or any of its provisions; and
 - (iii) expressly provides that the sublandlord will not personally occupy the premises:
- (t) where the premises comprise bare land (with or without facilities) on which the tenant has the right under the tenancy agreement to place or erect a mobile home, caravan, or other means of shelter:
- (ta) where the tenant occupies, under a tenancy agreement, a cabin, caravan, vehicle, tent, or other building or structure that—
 - (i) is located in a camping-ground subject to regulations under the Health Act 1956; and
 - (ii) is intended for human habitation for periods not exceeding 50 days in any continuous term of occupancy:
- (tb) where temporary or transient accommodation is provided in a relocatable home under a tenancy agreement that has been entered into for the purpose of providing accommodation of that kind and that continues to be provided under the agreement:
- (u) if the tenancy has been entered into by a leasing authority under section 7(1)(e), (f), (g), or (h) of the Public Bodies Leases Act 1969:
- (v) if the Māori Trustee has leased a Māori reserve or township land under section 26 of the Maori Reserved Land Act 1955:
- (w) if the lease provides for a perpetual right of renewal:
- (x) if the lease is of land on which a dwellinghouse is erected and the lessee is entitled (whether beneficially or as trustee), on or before the termination of the tenancy, to remove the dwellinghouse or to receive compensation in respect of it:

- (y) if the premises are used to provide emergency or transitional accommodation and—
 - (i) the provision of the accommodation is funded wholly or partly by—
 - (A) emergency housing assistance paid to or for the credit of a person under the Special Needs Grants Programme; or
 - (B) any other payment made by a government department for the provision of emergency or transitional accommodation to people in need of housing; or
 - (ii) the provider of the accommodation is a person, or class of person, prescribed by regulations for the purposes of this paragraph.
- (2) *[Repealed]*
- (3) In subsection (1)(tb), **relocatable home** means a structure (other than a tent) that—
 - (a) is located in a camping-ground subject to regulations under the Health Act 1956; and
 - (b) is designed to be relocatable; and
 - (c) comprises a group of rooms occupied or intended to be occupied either permanently or temporarily as the living quarters of a single housekeeping unit (whether consisting of 1 or more persons), which is completely self-contained in respect of domestic equipment and facilities.
- (4) In subsection (1)(y), **Special Needs Grants Programme** means the Special Needs Grants Programme approved and established under section 124(1)(d) of the Social Security Act 1964 (and continued under clause 21 of Schedule 1 of the Social Security Act 2018).

Compare: Residential Tenancies Act 1978–1981 s 7 (SA)

Section 5(1)(b): replaced, on 1 May 1996, by section 3(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 5(1)(ba): inserted, on 1 December 1996 (not applying to any tenancy that commenced before that date), by section 3(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 5(1)(ba): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 5(1)(c): amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 5(1)(h): replaced, on 1 October 2010, by section 6(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 5(1)(h)(i): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 5(1)(j): replaced, on 1 April 1990, by section 230(1) of the Sale of Liquor Act 1989 (1989 No 63).

Section 5(1)(j): amended, on 18 December 2013, by section 417(1) of the Sale and Supply of Alcohol Act 2012 (2012 No 120).

Section 5(1)(k): replaced, on 1 October 2010, by section 6(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 5(1)(l): replaced, on 1 October 2010, by section 6(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 5(1)(n): replaced, on 1 October 2010, by section 6(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 5(1)(q): amended, on 20 June 2011, by section 233(1) of the Unit Titles Act 2010 (2010 No 22).

Section 5(1)(s): replaced, on 1 October 2010, by section 6(4) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 5(1)(s)(i): replaced, on 11 February 2021, by section 5(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 5(1)(t): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 5(1)(ta): inserted, on 1 October 2010, by section 6(5) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 5(1)(tb): inserted, on 1 October 2010, by section 6(5) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 5(1)(u): inserted, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 5(1)(v): inserted, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 5(1)(w): inserted, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 5(1)(x): inserted, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 5(1)(y): inserted, on 12 August 2020, by section 5(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 5(2): repealed, on 11 February 2021, by section 5(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 5(3): inserted, on 1 October 2010, by section 6(6) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 5(4): inserted, on 12 August 2020, by section 5(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

5A Certain excluded long fixed-term tenancies remain subject to repealed sections of Property Law Act 1952

- (1) This section applies to a fixed-term tenancy of at least 5 years, and to which this Act does not apply because the tenancy—
 - (a) commenced before 1 December 1996 and is one to which section 6 of this Act, as repealed by section 4(1) of the Residential Tenancies Amendment Act 1996, continues to apply in accordance with section 4(2) of that Amendment Act; or
 - (b) commenced on or after 1 December 1996 and before 1 January 2008 (which is the date on which the Property Law Act 2007 came into force) and is one to which section 5(ba) applies.
- (2) The tenancy—

- (a) remains subject to sections 104A, 104B, 107B, and 116A to 116M (except section 116B(2)) of the Property Law Act 1952 (the **specified sections of the 1952 Act**), so far as those sections were applicable to the tenancy immediately before the commencement, on 1 January 2008, of the Property Law Act 2007, and as if those sections had not been repealed by that Act; and
- (b) is subject to subsections (3) to (6).
- (3) No covenant or agreement, whether entered into before or after the commencement, on 19 September 1975, of the Property Law Amendment Act 1975 has, from that commencement, any force or effect to deprive the lessor or lessee of any dwellinghouse of any right, power, privilege, or other benefit provided for in any of the specified sections of the 1952 Act.
- (4) Subsection (3) does not apply in respect of any lease of a dwellinghouse if the rent thereby reserved does not exceed 50% of the equitable rent of the dwellinghouse.
- (5) Subsection (6) applies to a person who makes an assertion, for the purposes of subsection (4), that the rent reserved by the lease of a dwellinghouse does not exceed 50% of the equitable rent of that dwellinghouse.
- (6) It is for the person to prove the assertion by showing that the rent does not exceed 50% of the equitable rent of the dwellinghouse within the preceding period of 12 months as determined by the District Court—
 - (a) on an application for the purpose by the person; and
 - (b) applying section 8 of the Rent Appeal Act 1973.

Section 5A: inserted, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 5A(6): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

5B Exempt student accommodation

- (1) For the purposes of section 5(1)(h)(ii), this Act does not apply to premises if—
 - (a) the premises are used to provide accommodation exclusively for students of 1 or more tertiary education providers; and
 - (b) the premises are owned or operated by a person (an **accommodation provider**) who is—
 - (i) a tertiary education provider; or
 - (ii) a person who has entered into a written agreement of the kind described in subsection (5) with each tertiary education provider whose students are accommodated at the premises; and
 - (c) the accommodation provider complies with subsections (2) to (4).

- (2) The accommodation provider must provide services to the students accommodated in the premises that are over and above the services that a landlord must provide under Part 2 or 2A.
- (3) The accommodation provider must have in place house rules that aim to create an environment that fosters personal development and encourages a sense of community and association with fellow students.
- (4) The accommodation provider must take all reasonable steps to ensure that prospective and current student tenants are made aware of, and have access to copies of, the house rules.
- (5) An agreement referred to in subsection (1)(b) is one that sets out—
 - (a) the rights and obligations of the accommodation provider and the tertiary education provider; and
 - (b) a dispute resolution process by which disputes between the accommodation provider and the tertiary education provider may be resolved.
- (6) In this section, **tertiary education provider** has the same meaning as in section 10(1) of the Education and Training Act 2020.

Section 5B: inserted, on 1 October 2010, by section 7 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 5B(6): replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

6 Long fixed-term tenancies

[Repealed]

Section 6: repealed, on 1 December 1996, by section 4(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

7 Tenancies for short fixed terms

- (1) Subject to subsection (2), nothing in sections 25 to 28 and 51 shall apply to a tenancy for a fixed term of not more than 90 days (whether or not terminable by notice) if, before the commencement of the tenancy, the parties agree in writing that the tenancy will not be extended or renewed to give a total length of the term in excess of 90 days.
- (2) Where such a tenancy is extended or renewed, whether once or more than once, with the result that the total length of the term exceeds 90 days, on the expiry of that period of 90 days the tenancy shall become subject to sections 25 to 28 and 51 (as well as all the other provisions).
- (2A) The parties may not enter into a tenancy for a fixed term of not more than 90 days for the purpose of using that tenancy as a trial-period for ascertaining the desirability of extending or renewing the tenancy.
- (2B) The Tribunal may, on the application of a tenant or former tenant who is or who was a party to a tenancy for a fixed term of not more than 90 days, order

the extension or renewal of that tenancy on any terms that the Tribunal thinks just if the Tribunal is satisfied that—

- (a) the tenancy was granted in breach of subsection (2A); and
- (b) the proposed extension or renewal will not prejudice third parties who are not in any way involved in the breach.

(3) *[Repealed]*

Section 7 heading: replaced, on 11 February 2021, by section 6(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 7(1): amended, on 11 February 2021, by section 6(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 7(1): amended, on 1 October 2010, by section 8(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 7(2): amended, on 1 October 2010, by section 8(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 7(2A): inserted, on 1 October 2010, by section 8(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 7(2A): amended, on 11 February 2021, by section 6(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 7(2B): inserted, on 1 October 2010, by section 8(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 7(2B): amended, on 11 February 2021, by section 6(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 7(3): repealed, on 11 February 2021, by section 6(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

8 Parties to excluded tenancies may agree that Act shall apply

- (1) Nothing in any of sections 5 to 7 shall prevent the parties to a tenancy that would otherwise be excluded from this Act by virtue of any of the provisions of those sections, being a tenancy of any premises used or intended to be used for residential premises, from agreeing in writing that all or any of the provisions of this Act shall apply in respect of the tenancy, either without modification or with such modifications as they may so agree.
- (2) Without limiting subsection (1), any such agreement may confer upon the Tribunal, in respect of the tenancy, all or any of the jurisdiction conferred on the Tribunal by this Act in respect of tenancies to which this Act applies.

9 Existing tenancies

- (1) Subject to subsection (2) and to sections 5 to 7, in respect of every tenancy granted before the date of the commencement of this Act and still subsisting immediately before that date, this Act shall apply on and after that date.
- (2) Nothing in sections 12, 14, 23, 24, 30, 32, 39, 40, 44 to 46, 58, and 59 shall apply to—
 - (a) any fixed-term tenancy granted before the date of the commencement of this Act and still subsisting immediately before that date; or

- (b) any service tenancy granted before that date and still subsisting immediately before that date, unless and until the tenancy is renewed or the tenant's interest under the tenancy agreement is lawfully assigned.
- (3) Subject to sections 5 to 7, in respect of any tenancy granted before the date of the commencement of this Act and still subsisting immediately before that date, the following provisions shall apply:
 - (a) all the express or implied terms, provisions, covenants, and conditions of the tenancy agreement by which the tenancy was created shall continue to have the same force and effect as they had immediately before that date, except to the extent that they are inconsistent with any of the provisions of this Act (except, in the case of a fixed-term tenancy or a service tenancy, those provisions specified in subsection (2)) or are varied by agreement between the parties or by order made by the Tribunal under this Act:
 - (b) any proceedings instituted in relation to the tenancy before that date may be continued and completed as if this Act had not been passed:
 - (c) any notice issued before that date determining or forfeiting the tenancy shall have effect and may be enforced as if this Act had not been passed:
 - (d) any process or procedure commenced before that date whereby the rent payable for the tenancy could be varied may be continued and completed, and shall have effect to vary the rent, as if this Act had not been passed, but subject to any order made by the Tribunal under section 25:
 - (e) no person shall be liable in any civil or criminal proceedings by virtue of any of the provisions of this Act for anything lawfully done or lawfully omitted to be done before that date.

Compare: Residential Tenancies Act 1978–1981 s 7A (SA)

10 Onus of proof

Where, in any proceedings before the Tribunal, any party contends that this Act does not apply in respect of any tenancy of any residential premises, it shall be for that party to establish the facts upon which it is contended that this Act does not apply.

11 Act generally to apply despite contrary provisions

- (1) Any agreement or arrangement, or any provision of any agreement or arrangement, entered into in respect of a tenancy to which this Act applies, that is inconsistent with any of the provisions of this Act, or that purports to exclude, modify, or restrict the operation of any such provision, shall be of no effect unless—
 - (a) the inconsistency, exclusion, modification, or restriction is expressly permitted by this Act; or

- (b) the Tribunal is satisfied that, having regard to the nature of the tenancy, the provisions of the tenancy agreement, the interests of the parties, and all other relevant circumstances of the case, the inconsistency, exclusion, modification, or restriction should be permitted.
- (2) Subsection (1) shall not prevent a landlord from waiving voluntarily all or any of the rights and powers conferred on landlords by this Act, or from voluntarily incurring more or more extensive obligations than those that are imposed on landlords by this Act.
- (3) Any purported waiver by a tenant of any right or power conferred upon tenants by this Act shall be of no effect.

Compare: 1952 No 51 s 104C; 1955 No 50 s 51; 1973 No 26 s 28; 1975 No 36 s 4; Residential Tenancies Act 1978–81 s 89(1), (2) (SA)

Part 2

Tenancy agreements

Preliminary matters

12 Discrimination to be unlawful act

- (1) Each of the following is hereby declared to be an unlawful act:
 - (a) discrimination against any person in respect of the grant, continuance, extension, variation, termination, or renewal of a tenancy agreement in contravention of the Human Rights Act 1993; and
 - (b) the giving of an instruction or the stating of an intention in contravention of subsection (2).
- (2) A landlord shall not, in respect of the grant, continuance, extension, variation, termination, or renewal of a tenancy agreement,—
 - (a) instruct any person to discriminate against any other person in contravention of the Human Rights Act 1993; or
 - (b) state an intention (whether by advertisement or otherwise) to discriminate against any person in contravention of that Act.
- (3) Nothing in section 21(1)(k) of the Human Rights Act 1993 shall apply to the termination of a service tenancy on the ground that the tenant has ceased to be, or is about to cease to be, employed by the landlord or (where the landlord is a company) by an associated company (within the meaning of section 2(2)).
- (4) In this section **tenancy agreement** includes a prospective tenancy agreement, regardless of whether or not a tenancy is granted.

Section 12: replaced, on 1 May 1996, by section 5(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

12A Choice of procedures

- (1) Where the circumstances are such that any person would be entitled to make an application to the Tribunal and also a complaint under the Human Rights Act 1993, that person may take one, but not both, of the following steps:
 - (a) the person may invoke, in relation to those circumstances, the procedures under this Act:
 - (b) the person may make, in relation to those circumstances, a complaint under the Human Rights Act 1993.
- (2) For the purposes of subsection (1)(b), a person makes a complaint when proceedings in relation to that complaint are commenced by the complainant or the Commission.

Compare: 1991 No 22 s 39; 1993 No 82 s 145

Section 12A: inserted, on 1 May 1996, by section 5(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 12A(2): replaced, on 1 January 2002, by section 71(1) of the Human Rights Amendment Act 2001 (2001 No 96).

13 Tenancy agreement must be in writing and signed

- (1) The landlord must ensure that the tenancy agreement is in writing.
- (2) The landlord must, before the tenancy commences,—
 - (a) sign the tenancy agreement; and
 - (b) provide a copy of the tenancy agreement to the tenant (whether or not the tenant has signed it).
- (3) The tenant must sign the tenancy agreement.
- (4) A landlord who fails to comply with subsection (1) or (2)—
 - (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Section 13: replaced, on 11 February 2021, by section 7 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

13A Contents of tenancy agreement

- (1) Every tenancy agreement shall include the following minimum information:
 - (a) the full name and contact address of the landlord; and
 - (aa) the landlord's contact mobile telephone number (if any); and
 - (ab) the landlord's contact email address (if any); and
 - (b) the full name and contact address (where that is different from the address of the premises to which the agreement relates) of the tenant; and
 - (ba) the tenant's contact mobile telephone number (if any); and

- (bb) the tenant's contact email address (if any); and
 - (c) the address of the premises; and
 - (d) the date of the tenancy agreement; and
 - (e) the date of commencement of the tenancy (where that is different from the date of the tenancy agreement); and
 - (f) the landlord's address for service; and
 - (g) the tenant's address for service; and
 - (h) whether the tenant is under the age of 18; and
 - (i) the amount of any bond; and
 - (j) the rent payable; and
 - (k) the frequency of the rent payments; and
 - (l) the place or bank account number where the rent is to be paid; and
 - (m) *[Repealed]*
 - (n) *[Repealed]*
 - (o) a list of any chattels provided by the landlord; and
 - (p) if the tenancy is a fixed-term tenancy, the date on which the term will expire.
- (1AAA) A landlord who fails to ensure that the tenancy agreement includes the information specified in subsection (1)(a) to (ab), (c) to (f), and (i) to (p) commits an unlawful act.
- (1A) The landlord must include in the tenancy agreement a statement, made and signed by the landlord, that provides the following information to the tenant (subject to subsections (1B) and (1C)):
- (a) whether or not there is, as at the date of the tenancy agreement, any insulation installed in connection with any ceilings, floors, or walls that are at the premises:
 - (b) details of the location, type, and condition of all insulation that is, as at the date of the tenancy agreement, installed in connection with any ceilings, floors, or walls that are at the premises:
 - (c) *[Repealed]*
- (1B) Subsection (1C) applies if, despite making all reasonable efforts to do so, the landlord has not been able to obtain some or all of the information required by subsection (1A)(a) or (b) in respect of a particular location (for example, above a ceiling, under a floor, or in a wall).
- (1C) The landlord's statement under subsection (1A) does not have to provide the information that the landlord has not been able to obtain in respect of the particular location, so long as the statement instead—

- (a) describes the information that the landlord has not been able to obtain in respect of the particular location; and
 - (b) explains why the landlord has not been able to obtain that information; and
 - (c) confirms that the landlord has made all reasonable efforts to obtain that information.
- (1CA) The landlord must also include in the tenancy agreement a statement, made and signed by the landlord,—
 - (a) that, on and after the commencement of the tenancy, the landlord will comply with the healthy homes standards as required by section 45(1)(bb) or 66I(1)(bb) (as the case may be); and
 - (b) including the information (if any) prescribed by regulations under section 138B(5).
- (1CB) If there is a written variation or renewal of the tenancy agreement in accordance with section 13B(1), the landlord must include in the written variation or renewal a statement, made and signed by the landlord,—
 - (a) that, on and after the time when the variation or renewal takes effect, the landlord will comply with the healthy homes standards as required by section 45(1)(bb) or 66I(1)(bb) (as the case may be); and
 - (b) including the information (if any) prescribed by regulations under section 138B(5).
- (1D) The requirement that the landlord's statement under subsection (1A) or (1CA) be signed by the landlord is in addition to the requirement under section 13(1) that the landlord sign the tenancy agreement.
- (1DA) However, the landlord's statements under subsections (1A) and (1CA) can be combined, with the landlord signing once to confirm both statements (in addition to the landlord signing the tenancy agreement).
- (1DB) The requirement that the landlord's statement under subsection (1CB) be signed by the landlord is in addition to the requirement under section 13B(1) that the landlord sign the variation or renewal.
- (1E) The landlord's statement under subsection (1A), (1CA), or (1CB) does not affect the landlord's duties in respect of insulation or the healthy homes standards under section 45(1) or 66I(1) or otherwise.
- (1F) The landlord commits an unlawful act if—
 - (a) the landlord fails to comply with subsection (1A), (1CA), (1CB), (2), (3), or (4); or
 - (b) the landlord's statement under subsection (1A), (1CA), (1CB), (2), (3), or (4) includes anything that the landlord knows to be false or misleading.

- (1G) The landlord commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B if the landlord fails to comply with subsection (1A), (1CA), (1CB), or (2).
- (2) The landlord must include in the tenancy agreement the following information about insurance of the premises:
- (a) if the premises are not insured, a statement that they are not insured; and
 - (b) if the premises are insured, a statement—
 - (i) setting out, for each insurance policy that is relevant to the tenant's liability for destruction of or damage to the premises, the amount of each excess that is relevant (if any) to that liability; and
 - (ii) informing the tenant that a copy of the policy is available to the tenant on request (except that the statement need not inform the tenant of this if the landlord has already provided to the tenant a copy of the policy in accordance with section 45(2B) or 66J(5)).
- (3) If a tenant under a tenancy agreement that was entered into before subsection (2) comes into force requests the landlord to provide the information referred to in that subsection, the landlord must, within a reasonable time after receiving the request, provide the information in writing to the tenant.
- (4) If anything changes so that the information that was included in the tenancy agreement in accordance with subsection (2) or that was provided in accordance with subsection (3) or this subsection is no longer correct, the landlord must provide the correct information in writing to the tenant within a reasonable time after the landlord becomes aware of the change.

Section 13A: inserted, on 1 December 1996, by section 6(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 13A(1)(aa): inserted, on 1 July 2016, by section 6(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 13A(1)(ab): inserted, on 1 July 2016, by section 6(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 13A(1)(ba): inserted, on 1 July 2016, by section 6(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 13A(1)(bb): inserted, on 1 July 2016, by section 6(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 13A(1)(m): repealed, on 12 December 2018, by section 5 of the Residential Tenancies (Prohibiting Letting Fees) Amendment Act 2018 (2018 No 44).

Section 13A(1)(n): repealed, on 1 October 2010, by section 9(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 13A(1)(p): amended, on 11 February 2021, by section 8(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 13A(1AAA): inserted, on 11 February 2021, by section 8(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 13A(1A): inserted, on 1 July 2016, by section 6(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 13A(1A)(c): repealed, on 1 July 2019, by section 4(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 13A(1B): inserted, on 1 July 2016, by section 6(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 13A(1C): inserted, on 1 July 2016, by section 6(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 13A(1CA): inserted, on 1 July 2019, by section 4(2) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 13A(1CB): inserted, on 1 July 2019, by section 4(2) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 13A(1D): inserted, on 1 July 2016, by section 6(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 13A(1D): amended, on 1 July 2019, by section 4(3) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 13A(1DA): inserted, on 31 July 2019, by section 5(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 13A(1DB): inserted, as section 13A(1DA), on 1 July 2019, by section 4(4) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 13A(1DB) subsection number: replaced, on 31 July 2019, by section 5(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 13A(1E): replaced, on 1 July 2019, by section 4(5) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 13A(1F): inserted, on 1 July 2016, by section 6(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 13A(1F)(a): amended, on 27 August 2019, by section 5(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 13A(1F)(a): amended, on 1 July 2019, by section 4(6) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 13A(1F)(b): amended, on 27 August 2019, by section 5(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 13A(1F)(b): amended, on 1 July 2019, by section 4(6) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 13A(1G): inserted, on 11 February 2021, by section 8(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 13A(2): replaced, on 27 August 2019, by section 5(4) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 13A(3): inserted, on 27 August 2019, by section 5(4) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 13A(4): inserted, on 27 August 2019, by section 5(4) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

13AB Address for service

- (1) For the purposes of this Act, an **address for service** means an address given by the landlord or tenant under this Act as an address at which notices and other documents relating to the tenancy will be accepted by or on behalf of the landlord or tenant, as the case may be.
- (2) Whenever a party is required to give an address for service, the party—

- (a) must give an address of a physical place in New Zealand; and
- (b) may, in addition, specify a Post Office box number, email address, or facsimile number as one of the party's addresses for service.

Section 13AB: inserted, on 1 October 2010, by section 10(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

13B Variations and renewals of tenancy agreements

- (1) Every variation of a tenancy agreement, and every renewal of a tenancy agreement, shall be in writing and signed by both the landlord and the tenant.
- (2) The landlord shall, before the date on which the variation or renewal of the tenancy is to take effect, provide the tenant with a copy of the variation or renewal.

Section 13B: inserted, on 1 December 1996, by section 6(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

13C Tenancy agreements not unenforceable on grounds not in writing

Notwithstanding anything to the contrary in any other enactment, no tenancy agreement, or variation or renewal of a tenancy agreement, shall be unenforceable on the grounds that it is not in writing.

Section 13C: inserted, on 1 December 1996, by section 6(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

13D Exceptions to requirements relating to tenancy agreements

Sections 13 to 13B (and, in the case of a boarding house tenancy, section 66C) do not apply to any of the following:

- (a) a tenancy at will created on or immediately after the determination or expiry of a tenancy;
- (b) a tenancy agreement that was in force immediately before the date of commencement of this Act;
- (c) any variation of a tenancy agreement made by, or at the direction of, the Tribunal.

Section 13D: inserted, on 1 December 1996, by section 6(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 13D: amended, on 1 October 2010, by section 11 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

14 Minors

- (1) A person who has attained the age of 18 years or who is or has been married or in a civil union under that age shall have the same capacity in respect of tenancy agreements, and in respect of the settlement of disputes arising in relation to tenancy agreements, as persons of full age have.
- (2) Subject to subsection (3), where during a tenancy, the tenant attains the age of 18 years or marries or enters into a civil union for the first time under that age,

the tenancy agreement shall thereafter have the same force and effect as it would have had if the tenant had been of full age at the time when the tenant entered into the agreement.

- (3) In any case to which subsection (2) applies, the tenant may, within 10 working days after the date on which the tenant attains the age of 18 years or marries or enters into a civil union, apply to the Tribunal for an order relieving the tenant of all or any of the obligations imposed on the tenant by the agreement.
- (4) Subject to subsections (1) and (2), the Tribunal shall have and may exercise, in respect of tenancy agreements, all the jurisdiction and powers conferred on the High Court or the District Court by subpart 6 of Part 2 of the Contract and Commercial Law Act 2017.
- (5) Except where any proceedings are transferred to the District Court under section 83(2) or an appeal is brought under any of sections 117, 119, and 120, no court shall have jurisdiction under subpart 6 of Part 2 of the Contract and Commercial Law Act 2017 in respect of any tenancy agreement.

Section 14(1): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 14(2): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 14(3): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 14(4): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Section 14(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 14(5): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Section 14(5): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

15 Notification of successor to landlord or tenant

- (1) Where, during the term of any tenancy, the landlord's or tenant's interest passes to some other person, that other person shall, within 10 working days thereafter, cause the other party to the tenancy to be notified of—
 - (a) the full name and contact address of that person; and
 - (b) an address for service, being the address at which notices and other documents relating to the tenancy will be accepted by or on behalf of the person.
- (1A) For the purposes of subsection (1)(a), the following must be notified with the person's contact address:
 - (a) the person's contact mobile telephone number (if any);
 - (b) the person's contact email address (if any).

- (2) A landlord or tenant who fails to comply with this section commits an unlawful act.

(2) *[Repealed]*

- (3) A landlord who fails to comply with this section commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Section 15: replaced, on 1 December 1996, by section 7(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 15(1A): inserted, on 1 July 2016, by section 7 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 15(2): inserted, on 11 February 2021, by section 9 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 15(2): repealed, on 1 October 2010, by section 10(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 15(3): inserted, on 11 February 2021, by section 9 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

16 Change of name or address

- (1) Where the name and contact address, or address for service, of any person has been notified to the other party to the tenancy in accordance with this Act and that name or address subsequently changes (otherwise than in circumstances to which section 15 applies), the person shall, within 10 working days thereafter, cause notice of the new particulars to be given to the other party to the tenancy.

- (1A) In subsection (1), **contact address** includes the following:

- (a) a person's contact mobile telephone number:
- (b) a person's contact email address.

- (2) A landlord or tenant who fails to comply with this section commits an unlawful act.

(2) *[Repealed]*

- (2A) A landlord who fails to comply with this section commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

- (3) The obligation in subsection (1) does not apply to a contact person whose name and contact details are contained in a boarding house tenancy agreement.

Section 16: replaced, on 1 December 1996, by section 7(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 16(1A): inserted, on 1 July 2016, by section 8 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 16(2): inserted, on 11 February 2021, by section 10 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 16(2): repealed, on 1 October 2010, by section 10(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 16(2A): inserted, on 11 February 2021, by section 10 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 16(3): inserted, on 1 October 2010, by section 12 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

16A Landlord must have agent if out of New Zealand for longer than 21 consecutive days

- (1) A landlord who is out of New Zealand for longer than 21 consecutive days must ensure that the landlord has an agent in New Zealand.
- (2) A landlord who does not already have an agent and who knows that he or she will be out of New Zealand for longer than 21 consecutive days must appoint an agent before he or she departs from New Zealand.
- (3) A landlord who does not already have an agent and who has been out of New Zealand for longer than 21 consecutive days must promptly appoint an agent.
- (4) A landlord who appoints an agent under this section must, immediately after appointing the agent,—
 - (a) notify the tenant of the agent's name, contact address, and address for service; and
 - (b) if a bond is held in respect of the tenancy, notify the chief executive in the approved form of those particulars.
- (4A) For the purposes of subsection (4)(a), the following must be notified with the agent's contact address:
 - (a) the agent's contact mobile telephone number (if any):
 - (b) the agent's contact email address (if any).
- (5) An agent appointed under this section has, as against the tenant, all the rights and obligations of the landlord.
- (6) A landlord who fails to comply with this section—
 - (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Section 16A: inserted, on 1 October 2010, by section 13 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 16A(4A): inserted, on 1 July 2016, by section 9 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 16A(6): replaced, on 11 February 2021, by section 11 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

16B Body corporate rules part of tenancy agreement

- (1) This section applies to residential premises that are held in a stratum estate under the Unit Titles Act 2010.
- (2) Body corporate operational rules made under the Unit Titles Act 2010 that affect a tenant of premises to which this section applies are taken to be terms of the tenancy agreement.

- (3) A tenancy agreement that creates or evidences the letting of premises to which this section applies must set out a statement of the rules referred to in subsection (2).
- (4) The landlord must promptly give the tenant written notice of any variation of the rules referred to in subsection (2).
- (5) As soon as the tenant is notified of a variation, the terms of the tenancy agreement are taken to be varied accordingly.
- (6) This section does not limit section 13A.

Section 16B: inserted, on 1 October 2010, by section 13 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Key money, bonds, and rents

17 Requiring key money prohibited

- (1) Subject to subsection (4), no person shall, without the prior consent of the Tribunal, require the payment of key money in respect of—
 - (a) the grant, continuance, extension, variation, or renewal of any tenancy agreement; or
 - (b) the assignment of a tenant's interest under any tenancy agreement; or
 - (c) the subletting of the whole or any part of the premises by a tenant.
- (2) Nothing in subsection (1) limits or affects section 44A (which entitles a landlord to recover reasonable expenses on consenting to the tenant's assigning, subletting, or parting with possession of the premises, or to termination of the tenancy by agreement).
- (3) The requiring of key money in contravention of subsection (1) is hereby declared to be an unlawful act.
- (3A) A landlord who contravenes subsection (1) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.
- (4) Subsection (1) shall not apply to any of the following:
 - (a) any sum required or received for an option to enter into a tenancy agreement if the sum does not exceed 1 week's rent payable under the agreement, and, upon the option being exercised, the sum is refunded or is applied toward the rent;
 - (b) any sum that the landlord is authorised by any other provision of this Act to require or receive;
 - (c) *[Repealed]*
 - (d) any payment of a prescribed class.

Compare: 1973 No 26 s 22; Residential Tenancies Act 1978–1981 s 30 (SA)

Section 17(2): replaced, on 11 February 2021, by section 12(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 17(3A): inserted, on 11 February 2021, by section 12(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 17(4)(c): repealed, on 12 December 2018, by section 6 of the Residential Tenancies (Prohibiting Letting Fees) Amendment Act 2018 (2018 No 44).

17A Requiring letting fee prohibited

- (1) No letting agent or other person may require a tenant to pay a letting fee.
- (2) Nothing in subsection (1) limits or affects section 44A (which entitles a landlord to recover reasonable expenses on consenting to the tenant's assigning, subletting, or parting with possession of the premises).
- (3) Any requirement to pay a letting fee in contravention of subsection (1) is an unlawful act.
- (4) A landlord who contravenes subsection (1) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Section 17A: inserted, on 12 December 2018, by section 7 of the Residential Tenancies (Prohibiting Letting Fees) Amendment Act 2018 (2018 No 44).

Section 17A(2): amended, on 11 February 2021, by section 13(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 17A(4): inserted, on 11 February 2021, by section 13(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

18 Bonds to be no more than 4 weeks' rent

- (1) A landlord shall not require payment by way of bond of an amount greater than 4 weeks' rent lawfully payable under the tenancy agreement.
- (2) On the lawful increase of the rent, the landlord may require payment by way of bond of a further sum not exceeding the amount by which the rent payable for 4 weeks has been increased.
- (3) On the decrease of the rent, the amount by which the total sum already paid by way of bond exceeds the rent payable for 4 weeks following the decrease shall, on application to the chief executive by the person who paid the bond, be refunded to the tenant.
- (4) A landlord who contravenes this section—
 - (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Compare: 1973 No 26 s 21; Residential Tenancies Act 1978–1981 s 32(1), (1A), (1B) (SA)

Section 18(3): amended, on 18 August 1992, by section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 18(4): replaced, on 11 February 2021, by section 14 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

18A Landlord must not require security other than permitted bond

- (1) A landlord may not require a tenant to provide the landlord with any form of security to secure any payment or performance arising out of, or in connection with, the tenancy.
- (2) A landlord who contravenes this section—
 - (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.
- (3) In this section, **security**—
 - (a) means—
 - (i) any interest in real or personal property; or
 - (ii) the power to exercise a right of the tenant, including the authority to cause an account to be debited (for example, without limitation, by reference to a card, such as the imprint of a credit card or a PIN number) or the means to obtain money from a third party; but
 - (b) does not include—
 - (i) a payment by way of bond that is permitted under section 18; or
 - (ii) any guarantee.

Section 18A: inserted, on 1 October 2010, by section 15 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 18A(2): replaced, on 11 February 2021, by section 15 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

19 Duties of landlord on receipt of bond

- (1) Where any person pays to the landlord, or to any other person on behalf of the landlord, any amount by way of bond (whether the amount is for the whole or part of the bond), the following provisions shall apply:
 - (a) the person who receives the payment shall forthwith give to the payer a written receipt, signed by that person, showing—
 - (i) the address of the premises to which the payment relates; and
 - (ii) the amount and nature of the payment; and
 - (iii) the date of the payment; and
 - (iv) the name of the payer (if known to the person who receives the payment):
 - (b) the landlord shall, within 23 working days after the payment is made, forward the amount received to the chief executive, together with a statement of particulars in the approved form signed by the landlord and the tenant.
- (1A) Subsection (1) does not apply if a bond of 1 week's rent or less is paid in respect of a boarding house tenancy. In that case, section 66D applies instead.

- (2) Failure to issue a receipt, or to forward any amount received, in accordance with this section is hereby declared to be an unlawful act.
- (3) A landlord who fails to comply with subsection (1) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Compare: Residential Tenancies Act 1978–1981 s 32(2) (SA)

Section 19(1): amended, on 1 October 2010, by section 16(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 19(1)(b): replaced, on 1 May 1996, by section 8(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 19(1)(b): amended, on 1 October 2010, by section 16(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 19(1A): inserted, on 1 October 2010, by section 16(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 19(3): inserted, on 11 February 2021, by section 16 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

20 Duties of chief executive in relation to bonds

Where a landlord forwards to the chief executive any amount paid by way of bond, the chief executive shall—

- (a) deposit the money into the Residential Tenancies Trust Account:
- (b) give to the landlord a written receipt showing—
 - (i) the address of the premises to which the payment relates; and
 - (ii) the name of the landlord; and
 - (iii) the name of the tenant; and
 - (iv) the amount and nature of the payment; and
 - (v) the date of the receipt by the chief executive of the payment:
- (c) give to the tenant a copy of the receipt issued in accordance with paragraph (b).

Section 20: replaced, on 18 August 1992, by section 4 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

21 Tenant may pay bond direct to chief executive with landlord's consent

- (1) Notwithstanding anything in section 19 or section 20, but subject to subsection (2), any amount payable by way of bond may, with the consent of the landlord, be paid direct to the chief executive.
- (2) Every such payment shall be accompanied by a statement of particulars in the approved form signed by the landlord and the tenant.
- (3) Where any amount payable by way of bond is paid direct to the chief executive, the chief executive shall—
 - (a) deposit the money into the Residential Tenancies Trust Account:
 - (b) give to the tenant a written receipt showing—

- (i) the address of the premises to which the payment relates; and
 - (ii) the name of the landlord; and
 - (iii) the name of the tenant; and
 - (iv) the amount and nature of the payment; and
 - (v) the date of the receipt by the chief executive of the payment:
- (c) give to the landlord a copy of the receipt issued in accordance with paragraph (b).

Section 21: replaced, on 18 August 1992, by section 4 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 21(2): replaced, on 1 May 1996, by section 9 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 21(2): amended, on 1 October 2010, by section 17 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

21A Notification of changes of address to chief executive

- (1) Where a bond is being held in the Residential Tenancies Trust Account in respect of a tenancy agreement and the landlord or tenant changes his or her name or contact address or address for service, the landlord or the tenant, as the case may be, shall, within 10 working days thereafter, cause notice of the new particulars to be sent to the chief executive.
- (2) Where a bond is being held in the Residential Tenancies Trust Account in respect of a tenancy agreement and the landlord's or the tenant's interest under the tenancy agreement passes to some other person, that other person shall, within 10 working days thereafter, cause notice of the new particulars to be sent to the chief executive.

Section 21A: inserted, on 1 May 1996, by section 10(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

22 Agreed applications to chief executive for payment of bond

- (1) This section applies if—
- (a) at any time a landlord or a tenant applies in the approved form for payment of a bond, or part of a bond; and
 - (b) the application is made—
 - (i) with the agreement of the other party; or
 - (ii) in favour of the other party.
- (2) The chief executive must pay the bond (or, as the case requires, part of the bond) in accordance with the terms of the application.

Section 22: replaced, on 1 October 2010, by section 18 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

22A Applications to chief executive for payment of bond without agreement of other party

- (1) This section applies to an application in the approved form for payment of a bond, or part of a bond, made by a party (**party A**) without the agreement of the other party (**party B**).
- (2) The application may be made at any time after the termination of the tenancy if party A is the tenant, but must be made within 2 months of the termination of the tenancy if party A is the landlord.
- (3) On receiving the application, the chief executive must notify party B of the application and invite party B to indicate, within 10 working days after being notified, whether or not party B wishes to contest the application.
- (4) An indication by party B must be in writing, unless the chief executive waives that requirement.
- (5) If party B indicates that he or she wishes to contest the application, the chief executive must tell the parties how to apply to the Tribunal for a determination of the dispute.
- (6) If party B does not respond to the invitation to indicate whether or not party B wishes to contest the application, the chief executive must—
 - (a) pay the bond (or, as the case requires, part of the bond) in accordance with the application; or
 - (b) decline to make a decision and tell the parties how to apply to the Tribunal for a determination.
- (7) If party B agrees to the application, the chief executive must pay the bond (or, as the case requires, part of the bond) in accordance with the application.

Section 22A: inserted, on 1 October 2010, by section 18 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

22B Applications to, and orders by, Tribunal

- (1) If there is a dispute between the parties as to the payment of a bond, either party may apply to the Tribunal for an order determining to whom the bond, or any part of it, is to be paid.
- (2) If the tenant applies to the Tribunal and the landlord seeks payment of the bond in whole or in part, the landlord must file an application with the Tribunal that sets out the landlord's counterclaim.
- (3) If, more than 2 months after the termination of a tenancy, the landlord seeks payment of a bond held in respect of that tenancy but does not have the agreement of the tenant, the landlord may apply to the Tribunal for an order determining to whom the bond, or any part of it, is to be paid.
- (4) If the chief executive is satisfied that a tenancy has terminated and no application for payment of a bond, or part of a bond, has been made within a reason-

able time, the chief executive may apply to the Tribunal for an order determining to whom the bond, or any part of it, is to be paid.

- (5) If the Tribunal makes an order concerning the payment of a bond, or part of a bond, the chief executive must make the payment in accordance with the terms of the order.

Section 22B: inserted, on 1 October 2010, by section 18 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

22C Payments of bond to be made out of Residential Tenancies Trust Account

The chief executive must make any payments of a bond under section 22, 22A, or 22B out of the Residential Tenancies Trust Account.

Section 22C: inserted, on 1 October 2010, by section 18 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

22D Chief executive may take steps to refund bonds

- (1) The chief executive may take any steps that the chief executive considers reasonable in the circumstances to refund a bond held by the chief executive if the chief executive believes on reasonable grounds that—
- (a) the tenancy to which the bond relates has terminated and no claim is made for the bond within 2 months of the termination; or
 - (b) an application for the refund of the bond has been approved but the bond money has not been collected within 2 months of the approval.
- (2) The steps that the chief executive takes under subsection (1) may include the publication of 1 or more of the following:
- (a) the name of the person to whom the bond is to be refunded if the circumstances described in subsection (1)(b) apply;
 - (b) the name of the tenant in whose name the bond is held;
 - (c) the amount, or approximate amount, of the bond;
 - (d) the location of the premises to which the bond relates.
- (3) To avoid doubt, this section applies to all bond money held by the chief executive, whenever it is received.

Section 22D: inserted, on 1 October 2010, by section 18 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

22E MSD may disclose address information for bond refund purposes

- (1) In this section, unless the context otherwise requires,—
- address information**, in relation to a person, means the last known address and (if available) the telephone number of the person
- MSD** means the department of State that, with the Prime Minister's authority, is for the time being responsible for the administration of the Social Security Act 2018.

- (2) The purpose of this section is to facilitate the disclosure of address information by MSD to the department to enable the chief executive to locate persons who are entitled to bonds to which section 22D(1) applies and that the chief executive continues to hold despite previous attempts to refund them.
- (3) If the chief executive is satisfied that reasonable steps have been taken, under section 22D, to refund a bond but that those steps have not been successful, the chief executive may, for the purposes of this section, request MSD, in accordance with arrangements made with the chief executive of MSD,—
 - (a) to ascertain whether MSD holds any address information about any person entitled to the bond who is named in the request; and
 - (b) if that is the case, to supply that information to the department.
- (4) On receipt of a request made under subsection (3), MSD may supply the information requested to any officer or employee of the department who is authorised to receive that information.

Section 22E: inserted, on 1 October 2010, by section 18 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 22E heading: amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 22E(1) **MSD**: inserted, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 22E(1) **Social Welfare**: repealed, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 22E(2): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 22E(3): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 22E(3)(a): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 22E(4): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

22F Landlord must state amount of rent when advertising residential premises

- (1) A landlord must not advertise or otherwise offer a tenancy of residential premises unless the amount of rent is stated in the advertisement or offer.
- (2) Subsection (1) does not apply in relation to—
 - (a) a service tenancy; or
 - (b) a tenancy described in section 53B(1)(a) (which relates to social housing tenancies).
- (3) A landlord who contravenes subsection (1)—
 - (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Section 22F: inserted, on 11 February 2021, by section 17 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

22G Landlord must not invite or encourage bids for rent

- (1) A landlord must not invite or encourage a prospective tenant or any other person to offer to pay an amount of rent for residential premises that exceeds the amount of rent stated as part of the advertisement or offer of the premises in accordance with section 22F(1).
- (2) Subsection (1) does not prohibit a prospective tenant or other person from offering to pay an amount that exceeds the stated amount of rent.
- (3) A landlord who contravenes subsection (1) commits an unlawful act.

Section 22G: inserted, on 11 February 2021, by section 17 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

23 Rent in advance

- (1) A landlord shall not require the payment of any rent—
 - (a) more than 2 weeks in advance; or
 - (b) before the expiry of the period for which rent has been paid already.
- (2) Where, in the case of a service tenancy or of any other tenancy where the landlord is the employer of the tenant,—
 - (a) the landlord, by agreement with the tenant or pursuant to or in accordance with any enactment, regularly deducts from the tenant's pay for a standard pay period the amount of rent payable by the tenant for any standard rental period; and
 - (b) no such regular deduction is such as to constitute a contravention of subsection (1); and
 - (c) because of a forthcoming holiday period or for any other special reason, the landlord pays the tenant for a period longer than the standard pay period,—

the landlord may, notwithstanding subsection (1), deduct from the amount so paid the amount of rent payable by the tenant for any period longer than the standard rental period so long as the proportion of pay so deducted on account of rent does not exceed the proportion of pay regularly deducted.

- (3) A landlord shall not require any payment of rent to be made by postdated cheque or other similar postdated order.
- (4) A landlord who contravenes this section—
 - (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Compare: 1973 No 26 s 21; Residential Tenancies Act 1978–1981 ss 31, 39 (SA)

Section 23(4): replaced, on 11 February 2021, by section 18 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

24 Rent increases

- (1) The rent payable in respect of any tenancy may be increased by the landlord provided all of the following conditions are complied with:
- (a) the landlord shall give the tenant notice in writing of the increase; and
 - (b) that notice shall specify the amount of the increased rent and the day upon which the increased rent shall become payable; and
 - (c) the day upon which the increased rent shall become payable shall be not less than 60 days (or, in the case of a boarding house tenancy, not less than 28 days) after the date on which that notice is given; and
 - (d) the rent must not be increased within 12 months after the date of the commencement of the tenancy; and
 - (e) the rent must not be increased within 12 months after the date on which the last increase took effect; and
 - (f) *[Repealed]*
 - (g) a landlord under a fixed-term tenancy—
 - (i) may not increase the rent during the term of the tenancy unless permitted by the provisions of the tenancy agreement to do so; and
 - (ii) may do so only in accordance with this section and any such provisions of the tenancy agreement; and
 - (h) where the Tribunal has made an order under section 25 and that order is still in force, the rent shall not be increased to an amount in excess of the amount specified in the order.
- (1A) The provisions referred to in subsection (1)(g) may take the form of the provisions set out in Schedule 1.
- (2) *[Repealed]*
- (3) A notice of an increase in rent lawfully given under this section shall, unless it is withdrawn by the landlord, have the effect of varying the tenancy agreement in accordance with the terms of the notice.
- (4) Where a landlord has given a notice to increase the rent and subsequently realises that, because of—
- (a) some error in calculating the day on which the increased rent is to become payable or in the manner in which that day is expressed in the notice; or
 - (b) some delay in serving the notice,—
- the day fixed in the notice for the increased rent to become payable is in contravention of subsection (1), the landlord may, with the agreement of the

tenant or (failing such agreement) with the consent of the Tribunal, give to the tenant a further notice varying the original notice so as to bring the terms of the original notice into accord with the provisions of that subsection.

- (5) Every notice given under subsection (4) shall be in writing, specifying the amount of the increased rent and the day upon which the increased rent shall become payable.
- (6) The Tribunal shall not give its consent under subsection (4) unless it is satisfied—
 - (a) that the error or the delay was inadvertent; and
 - (b) that the landlord has sought to correct the matter as soon as practicable; and
 - (c) that it would not be unfair to the tenant to allow the original notice to be varied in the manner proposed.

Section 24: replaced, on 1 May 1996, by section 12 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 24(1)(c): amended, on 1 October 2010, by section 19(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 24(1)(d): replaced, on 12 August 2020, by section 19(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 24(1)(e): replaced, on 12 August 2020, by section 19(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 24(1)(f): repealed, on 12 August 2020, by section 19(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 24(1)(g): replaced, on 1 October 2010, by section 19(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 24(1A): inserted, on 1 October 2010, by section 19(4) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 24(2): repealed, on 12 August 2020, by section 19(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

24A Expiry of temporary rent reduction

If the parties to a tenancy agree that, during a specified period or until the occurrence of a specified event, the tenant is entitled to pay a lower rent,—

- (a) the agreement is a variation of the tenancy agreement to which sections 13B and 13C apply; and
- (b) on the expiry of the period or the occurrence of the event, the rent payable before the variation is reinstated; and
- (c) that reinstatement does not constitute a rent increase.

Section 24A: inserted, on 1 October 2010, by section 20 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

25 Market rent

- (1) On an application made to it at any time by the tenant, the Tribunal may, in accordance with the succeeding provisions of this section, on being satisfied that the rent payable or to become payable for the tenancy exceeds the market rent by a substantial amount, make an order reducing the rent to an amount, to be specified in the order, that is in line with the market rent.
- (2) Notwithstanding anything in subsection (1), no application may be made under that subsection in respect of the rent payable under a fixed-term tenancy later than 3 months after—
 - (a) the date of the commencement of the tenancy or (in the case of a tenancy that was subsisting immediately before commencement of this Act) the date of the commencement of this Act; or
 - (b) the date of the last review of rent,—whichever is the later.
- (2A) Despite subsection (2), a tenant who is a party to a fixed term tenancy of premises held in a stratum estate under the Unit Titles Act 2010 may apply under subsection (1) within 3 months after the tenant is notified of a change or otherwise becomes aware of a change in the body corporate operational rules made under that Act, if that change affects the tenant.
- (3) For the purposes of this Act, the market rent for any tenancy shall be the rent that, without regard to the personal circumstances of the landlord or the tenant, a willing landlord might reasonably expect to receive and a willing tenant might reasonably expect to pay for the tenancy, taking into consideration the general level of rents (other than income-related rents within the meaning of section 2(1) of the Public and Community Housing Management Act 1992) for comparable tenancies of comparable premises in the locality or in similar localities and such other matters as the Tribunal considers relevant.
- (4) An order made under this section shall take effect on and from a date to be specified in the order, which may be the date of the order or any earlier or later date, but being no earlier than the date of the application for the order and no later than 30 days after the date of the order.

Compare: 1955 No 50 ss 20, 21; 1961 No 66 s 7; 1973 No 26 ss 6, 8; Residential Tenancies Act 1978–1981 s 36(1)–(3) (SA)

Section 25(2A): inserted, on 1 October 2010, by section 21 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 25(3): amended, on 1 October 2019, by section 33 of the Kāinga Ora–Homes and Communities Act 2019 (2019 No 50).

Section 25(3): amended, on 14 April 2014, by section 25 of the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97).

Section 25(3): amended, on 17 November 2000, by section 7(1) of the Housing Restructuring (Income-Related Rents) Amendment Act 2000 (2000 No 22).

26 Duration of order determining market rent

- (1) Subject to the succeeding provisions of this section, every order made by the Tribunal under section 25 shall continue in force—
 - (a) in the case of a periodic tenancy, for a period of 6 months or such shorter period as the Tribunal may specify in the order; or
 - (b) in the case of a fixed-term tenancy, for such period as the Tribunal may specify in the order.
- (2) The Tribunal may at any time, on the application of the landlord or the tenant, rehear any application made under section 25 if, in respect of any order made on that application, the Tribunal is satisfied that—
 - (a) the order was procured by fraud or other dishonest conduct; or
 - (b) the Tribunal, in making the order, took into account any misleading or irrelevant evidence; or
 - (c) new and material evidence is available; or
 - (d) by any error or omission, an injustice has been occasioned by the order.

Compare: 1955 No 50 s 22; 1973 No 26 s 9; Residential Tenancies Act 1978–1981 s 36(4), (5) (SA)

27 Rent in excess of market rent irrecoverable

- (1) Where the Tribunal makes an order under section 25, the landlord shall not, in respect of any period during which the order is in force, require the payment of any sum by way of rent in excess of the amount specified by the Tribunal in the order.
- (2) Requiring the payment of any amount by way of rent in contravention of subsection (1) is hereby declared to be an unlawful act.
- (3) No amount by way of rent in excess of the amount so specified in any such order shall be payable or recoverable in respect of any period during which the order is in force.
- (4) Where the Tribunal is satisfied that the landlord of any residential premises has received any amount by way of rent that, by virtue of subsection (3), was not lawfully payable, it shall order that the whole of that amount be refunded by the landlord to the tenant, except to the extent (if any) that the Tribunal considers, having regard to the special circumstances of the case, it would be unjust to require such a refund in full.
- (5) Where the Tribunal makes an order under subsection (4) for the refund of any amount to the tenant of any residential premises, the tenant shall be entitled, in addition to any other remedy that the tenant may have, to deduct the whole or any part of the amount to be refunded from any sum that may become payable by the tenant to the landlord under the tenancy agreement at any time within 1 year after the date of the order.

Compare: 1955 No 50 s 23; 1973 No 26 ss 10, 11; Residential Tenancies Act 1978–1981 s 36(6) (SA)

28 Increase of rent by agreement or order in case of substantial improvements, improved facilities, or variation of terms

- (1) The landlord and the tenant may agree to increase the rent if the landlord has, with the consent of the tenant,—
 - (a) made substantial improvements to the premises (not being general or necessary repairs) that increase the value of the premises and constitute a material benefit to the tenant;
 - (b) increased or improved the facilities or services (other than general or necessary repairs) provided for the tenant;
 - (c) agreed to a variation in the terms of the tenancy that benefits the tenant.
- (2) If the tenant does not agree to the increase proposed by the landlord, the landlord may apply to the Tribunal for an order increasing the rent.
- (3) The Tribunal may, on an application under subsection (2), make an order increasing the rent by any amount the Tribunal thinks fit, if the Tribunal is satisfied that (except for the absence of agreement on increasing the rent) subsection (1) applies to the tenancy.

Section 28: replaced, on 1 October 2010, by section 22 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

28A Increase of rent by order in case of unforeseen expenses

The Tribunal may, on application by the landlord, make an order increasing the rent by any amount the Tribunal thinks fit if the landlord—

- (a) has incurred expenses in respect of the premises; and
- (b) the nature or the amount of those expenses could not reasonably have been foreseen when the rent was last fixed.

Section 28A: inserted, on 1 October 2010, by section 22 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

28B Effect of rent increases under section 28 or 28A

- (1) An increase of rent agreed or ordered under section 28 or 28A does not affect the dates on which the rent may otherwise be reviewed or increased.
- (2) An increase of rent agreed or ordered under section 28 or 28A during the currency of any order made by the Tribunal under section 25—
 - (a) does not affect the expiry date of that order; and
 - (b) is to be treated as an amendment of that order.
- (3) Sections 28 and 28A override sections 24 and 26.

Section 28B: inserted, on 1 October 2010, by section 22 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

29 Receipts for rent

- (1) Subject to subsection (3), every person who receives any rent payable under or in respect of any tenancy agreement shall give or cause to be given to the person paying the rent a written receipt bearing—
 - (a) the address of the premises, or an appropriate code or reference to identify the premises to which the payment relates; and
 - (b) the amount and nature of the payment; and
 - (c) the date of the payment; and
 - (d) the name (if known) of the person who made the payment.
- (2) The receipt shall be given to the person paying the rent—
 - (a) forthwith, where payment is made in cash; or
 - (b) within 72 hours after payment, in any other case.
- (3) On the written request of the tenant, the landlord shall also give to the tenant a written statement of the period to which any payment of rent relates.
- (4) Nothing in subsection (1) shall apply—
 - (a) to any rent paid out of a bank account in the name of the tenant by automatic payment through the bank or by way of a non-negotiable personal cheque or other similar non-negotiable instrument drawn on that account; or
 - (b) to any rent paid by the tenant into any account nominated by the landlord and operated by the landlord exclusively in respect of the tenancy, or exclusively in respect of the tenancy and any other tenancies of the landlord; or
 - (c) to any rent paid by way of deduction from the tenant's pay, or from any benefit to which the tenant is entitled under the Social Security Act 2018, and paid into a bank account nominated by the landlord.
- (5) Failure to give a receipt or written statement in accordance with this section is hereby declared to be an unlawful act.
- (6) A landlord who fails to comply with this section commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Compare: 1973 No 26 s 23; Residential Tenancies Act 1978–1981 s 37 (SA)

Section 29(4)(b): replaced, on 1 May 1996, by section 13 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 29(4)(c): amended, on 26 November 2018, by section 459 of the Social Security Act 2018 (2018 No 32).

Section 29(6): inserted, on 11 February 2021, by section 20 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

30 Landlord to keep records

- (1) Every landlord under a tenancy to which this Act applies shall keep or cause to be kept proper business records showing—
- (a) all payments of rent paid by or on behalf of the tenant, sufficient to enable the landlord to comply within a reasonable time with any request made by the tenant under section 29(3); and
 - (b) any amount by way of bond paid by or on behalf of the tenant on or after 1 May 1996.
- (1A) The records must be kept for 7 tax years after the tax year to which they relate.
- (1B) In subsection (1A), **tax year** means—
- (a) the period of 9 months beginning with 1 July 2016 and ending with 31 March 2017; or
 - (b) a later period of 12 months beginning with 1 April and ending with 31 March.
- (2) A landlord who fails to comply with this section—
- (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Compare: Residential Tenancies Act 1978–1981 s 38 (SA)

Section 30(1): replaced, on 1 May 1996, by section 14 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 30(1A): inserted, on 1 July 2016, by section 10 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 30(1B): inserted, on 1 July 2016, by section 10 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 30(2): replaced, on 11 February 2021, by section 21 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

31 Apportionment of rent

- (1) The rent payable under a tenancy agreement shall accrue from day to day.
- (2) Upon termination of the tenancy, the rent shall be apportioned accordingly, and the appropriate amount shall be payable or recoverable forthwith.

Compare: Residential Tenancies Act 1978–1981 s 40 (SA)

32 Accelerated rent or damages prohibited

- (1) Any provision in a tenancy agreement to the effect that, on breach by the tenant of any term of the agreement or of any of the provisions of this Act or of any other enactment, the tenant shall be liable to pay—
- (a) the whole or any part of the rent remaining payable under the agreement; or
 - (b) rent of an increased amount; or

- (c) a sum specified in the agreement by way of damages or penalty,—
shall be of no effect.
- (2) Any provision in a tenancy agreement to the effect that, if the tenant does not breach any term of the agreement or any of the provisions of this Act or of any other enactment, the rent shall or may be reduced or the tenant shall or may be granted or paid a rebate, refund, or other benefit, shall be construed as entitling the tenant to that reduction, rebate, refund, or other benefit in any event.
- (3) This section does not preclude a provision in a tenancy agreement requiring one party (the **debtor**) to reimburse the other party (the **creditor**) for any reasonable expenses or commissions paid or incurred by the creditor in recovering, or attempting to recover, any overdue payment that the debtor owes to the creditor under an order of the Tribunal.

Compare: Residential Tenancies Act 1978–1981 s 59 (SA)

Section 32(3): inserted, on 1 October 2010, by section 23 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

33 Tenant's goods not to be seized

- (1) The landlord shall not be entitled to seize or dispose of any of the tenant's goods—
- (a) as security for or in payment of any amount owing by way of rent; or
- (b) for any other reason arising from the tenancy.
- (2) Seizing or disposing of any goods in contravention of subsection (1) is hereby declared to be an unlawful act.
- (3) Nothing in this section shall limit or affect the way in which any order of the Tribunal, or of any court on appeal from the Tribunal, may be enforced.
- (4) Nothing in this section applies to—
- (a) goods disposed of under any of sections 62 to 62C or in accordance with regulations made for the purposes of section 62(3A); or
- (b) foodstuffs and other perishable goods if the landlord has reasonable cause to believe that the premises have been abandoned by the tenant.

Section 33: replaced, on 1 May 1996, by section 15 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 33(4)(a): amended, on 30 January 2021, by section 27 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 33(4)(a): amended, on 1 October 2010, by section 24 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

34 Transitional provision relating to bonds

[Repealed]

Section 34: repealed, on 1 May 1996, by section 16 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

35 Transitional provisions relating to fair rents and equitable rents

[Repealed]

Section 35: repealed, on 1 May 1996, by section 16 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Rights and obligations of parties

36 Legal impediments to occupation

The landlord shall take all reasonable steps to ensure that, at the commencement of the tenancy, there is no legal impediment to the occupation of the premises for residential purposes.

Compare: Residential Tenancies Act 1978–1981 s 45 (SA)

37 Vacant possession

- (1) The tenant shall have vacant possession of the premises on the date on which, in accordance with the tenancy agreement, the tenant is entitled to enter into occupation of the premises.
- (2) In this section **premises** does not include facilities.

Compare: Residential Tenancies Act 1978–1981 s 44 (SA)

38 Quiet enjoyment

- (1) The tenant shall be entitled to have quiet enjoyment of the premises without interruption by the landlord or any person claiming by, through, or under the landlord or having superior title to that of the landlord.
- (2) The landlord shall not cause or permit any interference with the reasonable peace, comfort, or privacy of the tenant in the use of the premises by the tenant.
- (3) Contravention of subsection (2) in circumstances that amount to harassment of the tenant is hereby declared to be an unlawful act.
- (3A) Without limiting the generality of subsection (3), the landlord commits an unlawful act under that subsection if the landlord enters the premises purportedly under section 48(2B) without any reasonable cause to believe that the tenant has abandoned the premises.
- (4) In this section **premises** includes facilities.

Compare: Residential Tenancies Act 1978–1981 s 47 (SA)

Section 38(3A): inserted, on 1 July 2016, by section 11 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

39 Responsibility for outgoings

- (1) The landlord is responsible for all outgoings in respect of the premises that—
 - (a) are incurred whether or not the premises are occupied; and
 - (b) are incurred for common facilities.

- (2) Without limiting the generality of subsection (1), the landlord is responsible for the cost of—
- (a) the general rate (within the meaning of section 13 of the Local Government (Rating) Act 2002) payable in respect of the premises; and
 - (b) insurance premiums payable in respect of the premises; and
 - (c) any body corporate levies payable in respect of the premises.
- (3) The tenant is responsible for all outgoings in respect of the premises that are exclusively attributable to the tenant's occupation of the premises or to the tenant's use of the facilities.
- (4) Without limiting the generality of subsection (3), the tenant is responsible for the following charges, incurred during the tenancy, in respect of the premises:
- (a) electricity and gas;
 - (b) telephone and Internet;
 - (c) supply of water if the water supplier charges for water provided to the premises on the basis of consumption.
- (5) In this section, **premises** includes facilities that are exclusively for the use of the tenant.

Section 39: replaced, on 1 October 2010, by section 25 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

40 Tenant's responsibilities

- (1) The tenant shall—
- (a) pay the rent as and when it is due and payable under the tenancy agreement; and
 - (b) ensure that the premises are occupied principally for residential purposes; and
 - (c) keep the premises reasonably clean and reasonably tidy; and
 - (ca) comply with all requirements in respect of smoke alarms imposed on the tenant by regulations made under section 138A; and
 - (d) notify the landlord, as soon as possible after discovery, of any damage to the premises, or of the need for any repairs; and
 - (e) on the termination of the tenancy,—
 - (i) quit the premises; and
 - (ii) remove all his or her goods from the premises; and
 - (iii) leave the premises in a reasonably clean and reasonably tidy condition, and remove or arrange for the removal from the premises of all rubbish; and

- (iv) return to the landlord all keys, and security or pass cards or other such devices, provided by the landlord for the use of the tenant; and
 - (v) leave in or at the premises all other chattels provided by the landlord for the use of the tenant.
- (2) The tenant shall not—
 - (a) intentionally or carelessly damage, or permit any other person to damage, the premises; or
 - (ab) cause or permit any interference with, or render inoperative, any means of escape from fire within the meaning of the Building Act 2004; or
 - (b) use the premises, or permit the premises to be used, for any unlawful purpose; or
 - (c) cause or permit any interference with the reasonable peace, comfort, or privacy of any of the landlord's other tenants in the use of the premises occupied by those other tenants, or with the reasonable peace, comfort, or privacy of any other person residing in the neighbourhood.
- (3) Where the tenancy agreement specifies a maximum number of persons that may ordinarily reside in the premises during the tenancy, the tenant shall ensure that no more than that number ordinarily reside in the premises at any time during the tenancy.
- (3A) The following are declared to be unlawful acts:
 - (a) a failure, without reasonable excuse, to quit the premises in contravention of subsection (1)(e)(i):
 - (b) a contravention of subsection (2)(ab):
 - (c) a contravention of subsection (2)(b):
 - (d) a contravention of subsection (2)(c) in circumstances that amount to harassment of a tenant or a neighbour of the tenant:
 - (e) a contravention, without reasonable excuse, of subsection (3).
- (3B) See sections 49A and 49B in relation to the tenant's liability for a contravention of subsection (2)(a).
- (4) *[Repealed]*
- (5) In this section, unless the context otherwise requires, **premises** includes facilities.

Compare: 1952 No 51 s 116D; 1975 No 36 s 10; Residential Tenancies Act 1978–1981 ss 42, 43 (SA)

Section 40(1)(ca): inserted, on 1 July 2016, by section 12 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 40(1)(e)(iv): inserted, on 1 May 1996, by section 18 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 40(1)(e)(v): inserted, on 1 May 1996, by section 18 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 40(2)(ab): inserted, on 1 October 2010, by section 26(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 40(3): amended, on 1 October 2010, by section 26(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 40(3A): inserted, on 1 October 2010, by section 26(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 40(3B): inserted, on 27 August 2019, by section 6(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 40(4): repealed, on 27 August 2019, by section 6(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

41 Tenant's responsibility for actions of others

- (1) The tenant shall be responsible for anything done or omitted to be done by any person (other than the landlord or any person acting on the landlord's behalf or with the landlord's authority) who is in the premises with the tenant's permission if the act or omission would have constituted a breach of the tenancy agreement had it been the act or omission of the tenant.
- (2) Where any person (other than the landlord or any person acting on the landlord's behalf or with the landlord's authority) intentionally or carelessly damages the premises while the tenant is in the premises, it shall be presumed that the tenant permitted that person to be in the premises unless the tenant proves that he or she took all reasonable steps to prevent that person from entering the premises or (as the case may require) to eject that person from the premises.

Compare: 1952 No 51 s 116E(6); 1975 No 36 s 10; Residential Tenancies Act 1978–1981 s 52 (SA)

42 Tenant's fixtures, etc

- (1) The tenant shall not affix any fixture to the premises, or make any renovation, alteration, or addition of or to the premises, except—
 - (a) in accordance with the tenancy agreement; or
 - (b) with the prior written consent of the landlord (*see* section 42A).
- (2) *[Repealed]*
- (3) The tenant may, at any time before the expiry of the tenancy, remove any fixture that the tenant has affixed to the premises during the term of the tenancy, unless the removal would cause irreparable damage to the premises.
- (4) Any fixtures affixed by the tenant to the premises but not removed by the tenant on the expiry of the tenancy become the property of the landlord.
- (5) Despite subsection (4), the tenant may remove any fixtures on or after the expiry of the tenancy if the tenant—
 - (a) does so in accordance with an agreement or arrangement reached with the landlord; or

- (b) reasonably believes that he or she is entitled to do so because of anything the landlord has said or done.
- (6) If, on removing any fixture, the tenant causes any damage to the premises, the tenant must inform the landlord immediately and, at the landlord's option, either repair the damage or compensate the landlord for any reasonable expenses incurred by the landlord in repairing the damage.
- (7) Subsections (3) to (6) do not apply in relation to a fixture that is a minor change. (*See instead* section 42B(4) to (6).)

Compare: Residential Tenancies Act 1978–1981 s 50 (SA)

Section 42 heading: amended, on 11 February 2021, by section 22(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 42(1)(b): amended, on 11 February 2021, by section 22(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 42(2): repealed, on 11 February 2021, by section 22(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 42(4): replaced, on 1 October 2010, by section 27 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 42(5): inserted, on 1 October 2010, by section 27 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 42(6): inserted, on 1 October 2010, by section 27 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 42(7): inserted, on 11 February 2021, by section 22(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

42A Consent for tenant's fixtures, etc

- (1) The landlord must not unreasonably withhold consent for a fixture, renovation, alteration, or addition.
- (2) The landlord may impose reasonable conditions on the landlord's consent.
- (3) If the tenant makes a written request for consent, the landlord must respond in writing within 21 days after receiving the request.
- (4) In the response, the landlord must indicate whether or not the landlord considers the fixture, renovation, alteration, or addition to be a minor change (*see* section 42B(2)).
- (5) If the landlord considers the fixture, renovation, alteration, or addition to be more than a minor change and the landlord needs more time to consider the request, the landlord may, in the written response under subsection (3), extend the time for responding to the tenant's request.
- (6) A landlord who extends the time for responding under subsection (5) must respond to the request in writing within a reasonable amount of time.
- (7) A landlord commits an unlawful act if the landlord fails, without reasonable excuse, to comply with subsection (3), (4), or (6).

Section 42A: inserted, on 11 February 2021, by section 23 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

42B Minor changes

- (1) Without limiting section 42A(1), it is unreasonable for a landlord to withhold consent to a minor change to premises.
- (2) In this section and section 42A, a **minor change** is any fixture, renovation, alteration, or addition of or to the premises that—
 - (a) presents no more than a low risk of material damage to the premises; and
 - (b) would allow the premises to be returned easily to substantially the same condition; and
 - (c) does not pose a risk to health and safety (including during work to install, remove, or undo the minor change) that cannot reasonably practicably be eliminated or minimised; and
 - (d) does not compromise the structural integrity, weathertightness, or character of any building; and
 - (e) would not have an unreasonable negative effect on any person's enjoyment or use of any property outside the premises; and
 - (f) does not require any regulatory consent (for example, a building consent); and
 - (g) does not breach any obligation or restriction relevant to the premises (for example, an obligation or a restriction imposed by a bylaw, a planning or body corporate rule, or a covenant).
- (3) A landlord commits an unlawful act if the landlord withholds consent for a minor change.
- (4) If a minor change is made in accordance with a request under section 42A, the tenant must, on or before the expiry of the tenancy, return the premises to a condition that is substantially the same as the condition that the premises were in before the minor change was made.
- (5) Subsection (4) does not apply if the landlord and the tenant agree a different arrangement in relation to the minor change for the end of the tenancy (for example, that the minor change will remain in place).
- (6) A tenant who fails to comply with subsection (4) commits an unlawful act.

Section 42B: inserted, on 11 February 2021, by section 23 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

43 Disposition of landlord's interest

- (1) Where the landlord disposes of his or her interest in the premises to any other person (in this section referred to as the purchaser), the following provisions shall apply:
 - (a) the landlord shall give to the tenant written notice of the disposition, including the name and contact address of the purchaser so far as those particulars are known to the landlord:

- (b) until that notice is received by the tenant, the tenant shall not be obliged to pay any rent to the purchaser, and shall not be liable to the purchaser in any proceedings in respect of any sum paid to the landlord on account of rent:
 - (c) from and after the date on which the tenant receives that notice, or such later date as may be specified in the notice, the tenant shall pay to the purchaser all sums due and payable by way of rent in respect of any period commencing after that date:
 - (d) subject to any lawful claim made to the Tribunal before the date of settlement, the landlord's interest in any bond paid by the tenant shall pass to the purchaser on the earlier of the date of settlement or the date of possession.
- (1A) The following must also be included in the notice under subsection (1)(a) if known to the landlord:
- (a) the purchaser's contact mobile telephone number (if any):
 - (b) the purchaser's contact email address (if any).
- (2) Nothing in subsection (1)(a) or (1A) shall absolve the purchaser from the obligation imposed on the purchaser by section 15.

Section 43(1)(a): amended, on 1 May 1996, by section 19(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 43(1)(d): inserted, on 1 May 1996, by section 19(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 43(1A): inserted, on 1 July 2016, by section 13(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 43(2): amended, on 1 July 2016, by section 13(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 43(2): amended, on 1 May 1996, by section 19(3) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

43A Effect of provision prohibiting assignment by tenant

- (1) A provision in a tenancy agreement that prohibits the tenant from assigning the tenancy is of no effect.
- (2) However, if the tenancy agreement relates to a tenancy described in section 53B(1)(a) (which relates to social housing tenancies) and contains a provision that expressly and unconditionally prohibits the tenant from assigning the tenancy, the provision has effect.

Section 43A: inserted, on 11 February 2021, by section 24 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

43B Assignment of tenancy by tenant

- (1) A tenant may, at any time during the tenancy, assign the tenancy—
 - (a) with the prior written consent of the landlord; and

- (b) in accordance with any reasonable conditions attached to that consent by the landlord.
- (2) Subsection (1) does not apply in the circumstances described in section 43A(2).
- (3) A tenant commits an unlawful act if the tenant assigns the tenancy—
 - (a) without the prior written consent of the landlord; or
 - (b) if the tenancy is a tenancy described in section 53B(1)(a), in contravention of a provision described in section 43A(2).
- (4) If a tenant makes a written request for the landlord's consent to an assignment and the request identifies, and includes contact details for, the proposed assignee, the landlord must respond in writing to the request within a reasonable period of time.
- (5) A landlord who, without reasonable excuse, fails to comply with subsection (4) commits an unlawful act.
- (6) The landlord must not—
 - (a) withhold consent unreasonably; or
 - (b) attach any unreasonable conditions to the consent.
- (7) A landlord's consent must not be taken to have been withheld unreasonably if, instead of consenting to an assignment, the landlord offers to accept a surrender of the tenancy on reasonable terms.
- (8) A landlord's consent must be taken to have been withheld unreasonably if the withholding of the consent is an unlawful act under section 12 (discrimination to be unlawful act).

Section 43B: inserted, on 11 February 2021, by section 24 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

43C Effect of assignment by tenant

- (1) A tenant who assigns the tenancy with the consent of the landlord and in accordance with any conditions attached to the consent ceases, on the date on which the assignment takes effect, to be responsible to the landlord for the obligations imposed on the tenant by the agreement and this Act.
- (2) Subsection (1) does not affect any liability already incurred by the tenant to the landlord for anything done or omitted to be done before the date on which the assignment takes effect.

Section 43C: inserted, on 11 February 2021, by section 24 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

44 Subletting or parting with possession by tenant

- (1) There may be included in a tenancy agreement a provision that expressly and unconditionally prohibits the tenant from subletting or parting with possession of the premises during the term of the tenancy.

- (2) In the absence of such a provision, the tenant may at any time during the tenancy sublet or otherwise part with possession of the premises with the prior written consent of the landlord and in accordance with any conditions attached to that consent by the landlord.
- (2A) A tenant commits an unlawful act if he or she sublets or otherwise parts with possession of the premises—
 - (a) in contravention of a provision of the kind described in subsection (1); or
 - (b) in any other case, without the prior written consent of the landlord.
- (3) The landlord shall not withhold that consent unreasonably, nor attach any unreasonable conditions to it.
- (4) Without limiting subsection (3), a landlord's consent shall be taken to have been withheld unreasonably if the withholding of the consent is an unlawful act under section 12 (discrimination to be unlawful act).
- (5) Nothing in this section applies to the assignment of a tenancy by a tenant (*see* sections 43A to 43C).
- (6) *[Repealed]*

Compare: 1952 No 51 s 110; 1965 No 16 s 3; 1975 No 36 s 9(1); Residential Tenancies Act 1978–1981 s 52 (SA)

Section 44 heading: amended, on 11 February 2021, by section 25(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 44 heading: amended, on 1 October 2010, by section 28(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 44(1): amended, on 11 February 2021, by section 25(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 44(2): amended, on 11 February 2021, by section 25(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 44(2): amended, on 1 October 2010, by section 28(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 44(2A): inserted, on 1 October 2010, by section 28(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 44(2A): amended, on 11 February 2021, by section 25(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 44(4): replaced, on 1 May 1996, by section 5(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 44(4): amended, on 11 February 2021, by section 25(5) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 44(5): replaced, on 11 February 2021, by section 25(6) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 44(6): repealed, on 11 February 2021, by section 25(6) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

44A Recovery of expenses incurred by landlord

- (1) A landlord who consents to an assignment under section 43B, to a subletting or parting with possession under section 44, or to termination of the tenancy in

accordance with section 50(1)(d) is entitled to recover from the outgoing tenant any expenses reasonably incurred by the landlord in respect of the assignment, subletting, parting with possession, or termination.

- (2) A landlord who seeks to recover expenses from a tenant in accordance with subsection (1) must first provide an itemised account of the expenses to the tenant.
- (3) A landlord who takes any step to recover expenses referred to in subsection (1) without providing an itemised account of the expenses to the tenant—
 - (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Section 44A: inserted, on 11 February 2021, by section 26 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

45 Landlord's responsibilities

- (1) The landlord shall—
 - (a) provide the premises in a reasonable state of cleanliness; and
 - (b) provide and maintain the premises in a reasonable state of repair having regard to the age and character of the premises and the period during which the premises are likely to remain habitable and available for residential purposes; and
 - (ba) comply with all requirements in respect of smoke alarms imposed on the landlord by regulations made under section 138A; and
 - (bb) comply with the healthy homes standards; and
 - (bc) *[Repealed]*
 - (bd) comply with all requirements in respect of contaminants imposed on the landlord by regulations made under section 138C(3)(c); and
 - (c) comply with all requirements in respect of buildings, health, and safety under any enactment so far as they apply to the premises; and
 - (ca) if the premises do not have a reticulated water supply, provide adequate means for the collection and storage of water; and
 - (d) compensate the tenant for any reasonable expenses incurred by the tenant in repairing the premises where—
 - (i) the state of disrepair has arisen otherwise than as a result of a breach of the tenancy agreement by the tenant and is likely to cause injury to persons or property or is otherwise serious and urgent; and
 - (ii) the tenant has given the landlord notice of the state of disrepair or made a reasonable attempt to do so; and

- (e) take all reasonable steps to ensure that none of the landlord's other tenants causes or permits any interference with the reasonable peace, comfort, or privacy of the tenant in the use of the premises.
- (1AA) Subsection (1AAB) applies to a landlord of premises if—
 - (a) the landlord knows that tests carried out in accordance with prescribed methods have established that the premises are contaminated; and
 - (b) the premises have not been decontaminated in accordance with the relevant prescribed decontamination process.
- (1AAB) If this subsection applies—
 - (a) and the premises have not yet been provided to the tenant, the landlord must not provide the premises to the tenant until the premises have been decontaminated in accordance with a relevant prescribed decontamination process:
 - (b) and the tenant has already been provided with the premises, the landlord may continue to provide the premises to the tenant (under that tenancy or any extension or renewal of that tenancy) only if the premises are being decontaminated in accordance with a relevant prescribed decontamination process and any rules prescribed under section 138C(3)(f).
- (1AAC) Subsections (1AA) and (1AAB) do not limit subsection (1), but *see also*, in relation to the landlord's liability for contaminant presence, section 45A.
- (1A) Failure by the landlord to comply with any of paragraphs (a) to (ca) of subsection (1) is declared to be an unlawful act.
- (1AB) A contravention by the landlord of subsection (1AAB) is declared to be an unlawful act.
- (1AC) If the tenant requests the landlord to provide information described in section 123A(1)(e) (relating to the healthy homes standards) to the tenant, the landlord must, within 21 days after the date of receiving the request, provide the information to the tenant.
- (1AD) A landlord who, without reasonable excuse, fails to comply with subsection (1AC)—
 - (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.
- (1B) *[Repealed]*
- (1C) *[Repealed]*
- (2) The landlord shall not interfere with the supply of gas, electricity, water, telephone services, or other services to the premises, except where the interference is necessary to avoid danger to any person or to enable maintenance or repairs to be carried out.

- (2A) A contravention by the landlord of subsection (2) is declared to be an unlawful act.
- (2B) The landlord of premises that are insured may at any time, and must within a reasonable time after receiving a request from the tenant for a copy of the insurance policy, provide to the tenant under a tenancy agreement a copy of each insurance policy that is relevant to the tenant's liability for destruction of, or damage to, the premises.
- (2C) If anything changes so that the insurance information that was provided in accordance with subsection (2B) or this subsection is no longer correct, the landlord must, within a reasonable time after the landlord becomes aware of the change,—
- (a) provide the tenant with a copy of the correct information; or
 - (b) if the premises are no longer insured, provide the tenant with a statement that they are not insured.
- (2D) A landlord's failure to comply with subsection (2B) or (2C) is declared to be an unlawful act.
- (3) The provisions of subsections (1) to (1AAB) shall apply notwithstanding that the tenant has notice of the state of the premises at the time at which the tenancy agreement is entered into.
- (4) Nothing in subsections (1) to (1AAB) shall impose upon the landlord any obligation to repair any damage, or compensate the tenant for any want of repair, arising out of any breach by the tenant of any obligation imposed on tenants by section 40.
- (5) In this section **premises** includes facilities.

Compare: 1952 No 51 s 116H; 1975 No 36 s 10; Residential Tenancies Act 1978–1981 s 46(1), (2), (4) (SA)

Section 45(1)(ba): inserted, on 1 July 2016, by section 14(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 45(1)(bb): replaced, on 1 July 2019, by section 5(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 45(1)(bc): repealed, on 1 July 2019, by section 5(2) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 45(1)(bd): inserted, on 30 January 2021, by section 28(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 45(1)(ca): inserted, on 1 October 2010, by section 29(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 45(1)(d)(ii): replaced, on 1 October 2010, by section 29(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 45(1AA): inserted, on 30 January 2021, by section 28(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 45(1AAB): inserted, on 30 January 2021, by section 28(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 45(1AAC): inserted, on 30 January 2021, by section 28(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 45(1A): inserted, on 1 October 2010, by section 29(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 45(1AB): inserted, on 30 January 2021, by section 28(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 45(1AC): inserted, on 11 February 2021, by section 27 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 45(1AD): inserted, on 11 February 2021, by section 27 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 45(1B): repealed, on 1 July 2019, by section 5(2) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 45(1C): repealed, on 1 July 2019, by section 5(2) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 45(2A): inserted, on 1 October 2010, by section 29(4) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 45(2B): inserted, on 27 August 2019, by section 7 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 45(2C): inserted, on 27 August 2019, by section 7 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 45(2D): inserted, on 27 August 2019, by section 7 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 45(3): amended, on 30 January 2021, by section 28(4) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 45(4): amended, on 30 January 2021, by section 28(4) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

45A Protection from liability for landlord who complies with contaminant regulations

- (1) Subsection (2) applies to a landlord of premises during any period where—
 - (a) a contaminant is present at the premises, but either—
 - (i) the premises are not contaminated with the contaminant; or
 - (ii) unknown to the landlord, the premises are contaminated with the contaminant; and
 - (b) regulations made under section 138C(3)(c) are in force in respect of the contaminant and apply in relation to the premises.
- (2) The landlord (having complied with those regulations during that period) is not liable, under this Act, for not having provided the tenant with clean or habitable premises during that period on the basis of the presence of the contaminant in the premises.
- (3) For the purpose of this section, a landlord knows that premises are contaminated only if the landlord knows that tests carried out in accordance with a relevant prescribed method have established that the premises are contaminated.

Section 45A: inserted, on 30 January 2021, by section 29 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

45B Landlord must permit and facilitate installation of fibre connection in certain circumstances

- (1) The landlord must permit the installation of a fibre connection in the premises if—
 - (a) there is no fibre connection in the premises; and
 - (b) it is possible to install a fibre connection in the premises; and
 - (c) the tenant requests a fibre connection; and
 - (d) the fibre connection can be installed at no cost to the landlord (for example, because the cost is covered by the UFB Initiative).
- (2) However, a landlord is not required to permit the installation of a fibre connection—
 - (a) if installation would materially compromise the weathertightness or the character of any building; or
 - (b) if installation would compromise the structural integrity of any building; or
 - (c) if installation would breach an obligation or a restriction that is relevant to the premises (for example, an obligation or a restriction imposed by a bylaw, a planning or body corporate rule, or a covenant); or
 - (d) if—
 - (i) the landlord is to carry out extensive alterations, refurbishment, repairs, or redevelopment of the premises; and
 - (ii) the work is to begin, or material steps towards it are to be taken, within 90 days after the date on which the landlord receives a request for the installation of fibre from the tenant; and
 - (iii) the installation would impede that work; or
 - (e) if the Tribunal, on application by the landlord, determines that, due to the circumstances of the premises or the installation, the landlord should not be required to provide for the installation of a fibre connection in the premises.
- (3) A landlord who is required to permit the installation of a fibre connection must take all reasonable steps to facilitate the installation within a reasonable period of time.
- (4) If a tenant makes a written request for the installation of a fibre connection, the landlord must respond within 21 days after receiving the request.
- (5) If a network operator makes a written request for consent or information from the landlord, the landlord must respond to the request within 21 days after receiving the request.
- (6) A landlord commits an unlawful act if the landlord, without reasonable excuse, fails to comply with subsection (3), (4), or (5).

- (7) In this section,—

fibre connection, in relation to premises, means a connection to a fibre fixed line access service from within the premises

fibre fixed line access service, **network operator**, and **UFB Initiative** have the same meanings as in section 5 of the Telecommunications Act 2001

material steps has the same meaning as in section 51(2A).

Section 45B: inserted, on 11 February 2021, by section 28 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

46 Locks

- (1) The landlord shall provide and maintain such locks and other similar devices as are necessary to ensure that the premises are reasonably secure.
- (2) Neither the landlord nor the tenant shall alter any existing lock or similar device, or add to or remove from the premises any lock or similar device, without the consent of the other given at the time that, or a reasonable time before, the alteration, removal, or addition is carried out.
- (3) Failure to comply with subsection (1), and contravention of subsection (2), without reasonable excuse, is each hereby declared to be an unlawful act.

Compare: Residential Tenancies Act 1978–1981 s 48 (SA)

47 Landlord to give notice to tenant if premises put on market

- (1) If, at any time after entering into a tenancy agreement, the landlord puts the premises on the market for the purposes of sale or other disposition, the landlord must, as soon as practicable, give written notice of that fact to the tenant.
- (2) When a landlord is offering residential premises as available for letting, the landlord shall inform prospective tenants if the premises are on the market for the purposes of sale or other disposition.
- (3) A landlord who fails to comply with subsection (1) or (2) commits an unlawful act.
- (4) A landlord who fails to comply with subsection (2) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Section 47 heading: amended, on 11 February 2021, by section 29(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 47(1): amended, on 11 February 2021, by section 29(2)(a) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 47(1): amended, on 11 February 2021, by section 29(2)(b) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 47(2): inserted, on 1 May 1996, by section 20 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 47(3): inserted, on 11 February 2021, by section 29(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 47(4): inserted, on 11 February 2021, by section 29(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

48 Landlord's right of entry

- (1) The landlord shall not enter the premises during the currency of the tenancy agreement, except—
- (a) with the consent of the tenant freely given at, or immediately before, the time of entry; or
 - (b) in any of the circumstances described in subsections (2) to (3).
- (2) The landlord may enter the premises—
- (a) in any case of emergency; or
 - (b) for the purpose of inspecting the premises, at any time between 8 o'clock in the morning and 7 o'clock in the evening on a day specified in a notice given to the tenant not less than 48 hours nor more than 14 days before the intended entry, and not more frequently than once in any period of 4 weeks; or
 - (ba) for the purpose of testing for the presence of contaminants or taking samples for such testing (except where the testing or sample taking is part of a prescribed decontamination process) at any time between 8 o'clock in the morning and 7 o'clock in the evening of any day, after giving to the tenant notice of the intended entry and the reason for it (including stating the contaminants to be tested for) at least 48 hours but not more than 14 days before the intended entry; or
 - (c) for the purpose of determining whether or not—
 - (i) the tenant has, within the period allowed by the landlord, completed satisfactorily any work required by the landlord to be done by the tenant to remedy any breach by the tenant of any of the provisions of the tenancy agreement or of this Act; or
 - (ii) the tenant has, within the agreed period, completed satisfactorily any work agreed to be done by the tenant,—
at any time between 8 o'clock in the morning and 7 o'clock in the evening on any day (after the expiry of the period allowed for the work) specified in a notice given to the tenant not less than 48 hours nor more than 14 days before the intended entry; or
 - (ca) for the purpose of complying, or preparing to comply, with any requirements in respect of smoke alarms imposed, or prospectively imposed, on landlords by regulations made under section 138A, at any time between 8 o'clock in the morning and 7 o'clock in the evening of any day, after giving to the tenant notice of the intended entry and the reason for it at least 24 hours before the intended entry; or
 - (cb) for the purpose of complying, or preparing to comply, with the healthy homes standards (including any prospective requirements of those standards), at any time between 8 o'clock in the morning and 7 o'clock in the

- evening of any day, after giving to the tenant notice of the intended entry and the reason for it at least 24 hours before the intended entry; or
- (cc) without limiting paragraph (d), for the purpose of carrying out decontamination work to the premises, and attending to such other matters required if decontaminating in accordance with a prescribed process (including any testing or sample taking as part of that prescribed process), at any time between 8 o'clock in the morning and 7 o'clock in the evening of any day, after giving to the tenant notice of the intended entry and the reason for it at least 24 hours before the intended entry; or
 - (d) for the purpose of carrying out necessary repairs to or necessary maintenance of, the premises, at any time between 8 o'clock in the morning and 7 o'clock in the evening of any day, after giving to the tenant notice of the intended entry and the reason for it at least 24 hours before the intended entry; or
 - (da) for the purpose of providing services agreed to under the tenancy agreement, but only if the entry complies with any conditions specified in the tenancy agreement; or
 - (e) pursuant to an order of the Tribunal.
- (2A) Subsection (2B) applies if—
- (a) there is rent that is at least 14 days in arrear; and
 - (b) the landlord has reasonable cause to believe that the tenant has abandoned the premises.
- (2B) The landlord may enter the premises for the purpose of confirming whether the tenant has abandoned the premises at any time specified in a notice given to the tenant not less than 24 hours before the intended entry.
- (3) With the prior consent of the tenant, the landlord may enter the premises at any reasonable time for the purpose of showing the premises—
- (a) to prospective tenants; or
 - (b) to prospective purchasers; or
 - (c) to a registered valuer engaged in the preparation of a report on the premises; or
 - (d) to a real estate agent engaged in appraising, evaluating, or selling or otherwise disposing of the premises; or
 - (e) to an expert engaged in appraising or evaluating the premises; or
 - (f) to a person who is authorised to inspect the premises under any enactment.
- (3A) For the purposes of subsection (3), the tenant—
- (a) may not withhold his or her consent unreasonably; and
 - (b) may make the consent subject to any reasonable conditions.

- (3B) If premises are entered for the purpose of testing for the presence of contaminants or taking samples for such testing (including as part of any decontamination process), the landlord must, within 7 days of receiving the results of the testing, notify the tenant, in writing, of the results of the testing and provide the tenant with a copy (if any) of the results.
- (4) The following are each hereby declared to be unlawful acts:
- (a) entry upon the premises by the landlord other than as permitted by or under any of subsections (1) to (3):
 - (b) failure by the tenant, without reasonable excuse, to allow the landlord to enter upon the premises in any circumstances in which the landlord is entitled to enter under subsections (2) to (3):
 - (c) failure by the landlord to notify, or to provide results to, the tenant as required under subsection (3B).
- (4A) A landlord who fails to notify, or to provide results to, the tenant as required under subsection (3B) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.
- (5) Notwithstanding anything in subsections (2) to (4), the landlord shall not use force or the threat of force to enter or attempt to enter the premises while the tenant, or any other person with the permission of the tenant, is in the premises.
- (6) Every landlord who breaches subsection (5) commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$3,000.
- (7) In this section **premises** does not include land or facilities.
- (8) Nothing in this section shall apply in respect of any tenancy granted by the Armed Forces to any person subject to the Armed Forces Discipline Act 1971.

Compare: 1952 No 51 s 116G; 1975 No 36 s 10; Residential Tenancies Act 1978–1981 s 49 (SA)

Section 48(1)(a): amended, on 1 October 2010, by section 30(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 48(1)(b): amended, on 1 July 2016, by section 15(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 48(2)(ba): inserted, on 27 August 2019, by section 30(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 48(2)(c): replaced, on 1 May 1996, by section 21(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 48(2)(ca): replaced, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 48(2)(cb): inserted, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 48(2)(cc): inserted, on 30 January 2021, by section 30(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 48(2)(d): amended, on 1 May 1996, by section 21(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 48(2)(da): inserted, on 1 October 2010, by section 30(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 48(2)(e): inserted, on 1 May 1996, by section 21(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 48(2A): inserted, on 1 July 2016, by section 15(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 48(2B): inserted, on 1 July 2016, by section 15(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 48(3): replaced, on 1 October 2010, by section 30(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 48(3A): inserted, on 1 October 2010, by section 30(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 48(3B): inserted, on 27 August 2019, by section 30(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 48(4): replaced, on 1 May 1996, by section 21(4) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 48(4)(b): amended, on 1 July 2016, by section 15(4) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 48(4)(c): inserted, on 11 February 2021, by section 30(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 48(4A): inserted, on 11 February 2021, by section 30(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 48(5): amended, on 1 July 2016, by section 15(5) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 48(6): amended, on 11 February 2021, by section 30(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 48(6): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

49 Mitigation of damage or loss

Where any party to a tenancy agreement breaches any of the provisions of the agreement or of this Act, the other party shall take all reasonable steps to limit the damage or loss arising from that breach, in accordance with the rules of law relating to mitigation of loss or damage upon breach of contract.

Compare: Residential Tenancies Act 1978–1981 s 60 (SA)

Responsibility for damage

Heading: inserted, on 27 August 2019, by section 8 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

49A General principle

- (1) Except as provided in section 49B, a tenant has no liability or obligation, and must not be required, to—
 - (a) meet the cost of making good any destruction of, or damage to, the premises; or

- (b) indemnify the landlord against the cost of making good the destruction or damage; or
 - (c) pay damages related to the destruction or damage; or
 - (d) carry out any works to make good the destruction or damage.
- (2) A tenant is not, in any case, liable for fair wear and tear.

Section 49A: inserted, on 27 August 2019, by section 8 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

49B When tenant liable

- (1) A tenant is not excused from liability or obligation by section 49A(1) if, and to the extent that,—
- (a) the destruction or damage was intentionally done or caused by the tenant or by a person for whose actions the tenant is responsible under section 41 or 66L; or
 - (b) the destruction or damage was the result of an act or omission by the tenant or by a person for whose actions the tenant is responsible under section 41 or 66L and the act or omission occurred on or about the premises and constitutes an imprisonable offence.
- (2) To the extent provided in subsection (3), the tenant is liable to the landlord for destruction of, or damage to, the premises that is caused by a careless act or omission of the tenant or of a person for whose actions the tenant is responsible under section 41 or 66L, other than an act or omission described in subsection (1).
- (3) The tenant's liability under subsection (2) is limited,—
- (a) if the property is insured against the destruction or damage, to the lesser of the applicable excess under the insurance and whichever of the following is applicable:
 - (i) if the tenant pays an income-related rent within the meaning of section 2(1) of the Public and Community Housing Management Act 1992, the market rent within the meaning of section 2(1) of that Act for the premises for a period of 4 weeks;
 - (ii) in any other case, the rent under the tenancy agreement for a period of 4 weeks; or
 - (b) otherwise, to whichever of the following is applicable:
 - (i) if the tenant pays an income-related rent within the meaning of section 2(1) of the Public and Community Housing Management Act 1992, the market rent within the meaning of section 2(1) of that Act for the premises for a period of 4 weeks;
 - (ii) in any other case, the rent under the tenancy agreement for a period of 4 weeks.
- (4) However,—

- (a) if any insurance moneys that would otherwise have been payable because of the destruction or damage are irrecoverable because of an act or omission of the tenant or of a person for whose actions the tenant is responsible under section 41 or 66L, for the purposes of subsection (3) the property is treated as not insured against the destruction or damage (and therefore subsection (3)(b) sets out the limit of the tenant's liability under subsection (2)); and
 - (b) *see also* clause 19 of Schedule 1AA (for other circumstances where subsection (3)(b) sets out the limit of the tenant's liability under subsection (2), regardless of whether the property is insured against the destruction or damage).
- (5) To avoid doubt, a tenant's liability under subsection (2) may, if the tenancy agreement so provides or the tenant and landlord so agree, be satisfied by the tenant carrying out works to make good the destruction or damage up to a value of the liability limit in subsection (3).
- (6) Unless the damage is the result of an action described in subsection (1), a tenant's obligations under section 42(6) (removal of a fixture) to repair damage or to compensate the landlord for expenses incurred in repairing damage are limited to work of a value, or payment of an amount, up to the liability limit set out in subsection (3).
- (7) Destruction or damage of which the landlord becomes aware after this section comes into force is presumed to have occurred after this section came into force unless the tenant proves otherwise.
- (8) If any destruction of, or damage to, the premises is proved to have occurred during any tenancy to which this Act applies,—
 - (a) it is for the landlord to prove—
 - (i) that any damage is not fair wear and tear; and
 - (ii) that any destruction or damage occurred in circumstances described in subsection (1)(b); and
 - (iii) that any insurance moneys are irrecoverable for the reasons described in subsection (4)(a); and
 - (b) it is for the tenant to prove—
 - (i) that any destruction or damage was not intentionally done or caused as described in subsection (1)(a); and
 - (ii) that any destruction or damage was not caused by a careless act or omission described in subsection (2).

Section 49B: inserted, on 27 August 2019, by section 8 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

49C Landlord, not insurer, to benefit from tenant liability for careless damage

- (1) An insurer of the premises against destruction or damage has no right or claim in relation to a tenant's liability under section 49B(2) or (6), including no right of equitable or contractual subrogation and no right arising out of an assignment by the insured.
- (2) If an insured receives or is entitled to receive any money or benefit arising out of a tenant's liability under section 49B(2) or (6), an insurer of the premises may not take that money or benefit into account in calculating the amount payable under the insurance.

Section 49C: inserted, on 27 August 2019, by section 8 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

49D Unlawful acts related to liability

It is declared to be an unlawful act for a landlord—

- (a) to demand, request, or accept from the tenant—
 - (i) payment of an amount related to destruction of, or damage to, the premises that exceeds the tenant's liability in accordance with section 49B; or
 - (ii) the carrying out of any works to make good destruction of, or damage to, the premises the value of which exceeds the tenant's liability in accordance with section 49B:
- (b) to propose to, or enter into with, the tenant an agreement under which the tenant is obligated—
 - (i) to pay an amount related to destruction of, or damage to, the premises that exceeds the tenant's liability under section 49B; or
 - (ii) to carry out any works to make good the destruction or damage if the value of the works exceeds the tenant's liability under section 49B.

Section 49D: inserted, on 27 August 2019, by section 8 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

49E Meaning of premises

In sections 49A to 49D, unless the context otherwise requires, **premises** includes facilities.

Section 49E: inserted, on 27 August 2019, by section 8 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

*Termination of tenancies and recovery of possession***50 Circumstances in which tenancies are terminated**

- (1) Subject in the case of a subtenancy to section 57, no tenancy to which this Act applies shall terminate or be terminated otherwise than as follows:

- (a) in the case of a fixed-term tenancy, on the expiry of the term of the tenancy or, if any of sections 55AA, 56A(1), 58(1)(d), (da), 59, 59A, or 59B apply, by giving notice in accordance with the applicable section:
 - (ab) on the death of a sole tenant under a tenancy agreement or a sole tenant under a boarding house tenancy agreement, in accordance with section 50A or 66W, as the case requires:
 - (ac) by the sole tenant under a fixed-term tenancy or periodic tenancy giving notice of withdrawal under section 56B:
 - (b) in the case of a periodic tenancy to which a right of termination under any of sections 51 to 53B, 55AA, 56A(1), 58(1)(c), and 59 to 59B applies, by giving notice in accordance with the applicable section:
 - (ba) in the case of a boarding house tenancy to which a right of termination under any of sections 52 to 53A, 58(1)(c), 59 to 59B, 66U, 66V, and 66X applies, by giving notice in accordance with the applicable section:
 - (c) where the tenant acquires the landlord's interest in the premises:
 - (d) where the tenant surrenders the tenancy, or delivers up vacant possession of the premises, to the landlord with the landlord's written consent:
 - (e) by disclaimer, by any person having lawful power to disclaim:
 - (f) by order of the Tribunal pursuant to the powers conferred on it by this Act.
- (2) No right of termination to which subsection (1) applies limits any other right of termination that may also apply.

Compare: Residential Tenancies Act 1978–1981 s 61(1) (SA)

Section 50(1)(a): replaced, on 1 October 2010, by section 31 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 50(1)(a): amended, on 11 August 2021, by section 31(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 50(1)(a): amended, on 30 January 2021, by section 31 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 50(1)(a): amended, on 27 August 2019, by section 9 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 50(1)(ab): inserted, on 1 October 2010, by section 31 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 50(1)(ac): inserted, on 11 August 2021, by section 31(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 50(1)(b): replaced, on 11 February 2021, by section 31(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 50(1)(b): amended, on 11 August 2021, by section 31(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 50(1)(ba): inserted, on 11 February 2021, by section 31(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 50(2): inserted, on 11 February 2021, by section 31(5) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

50A Termination following death of sole tenant

- (1) On the death of a sole tenant under a tenancy agreement (whether for a fixed-term tenancy or a periodic tenancy), the tenancy agreement terminates on the earliest of the following dates:
 - (a) the date that is the 21st day after the date on which the personal representative of the tenant or a person who is the tenant's next of kin gives the landlord written notice of the death of the tenant;
 - (b) the date that is the 21st day after the landlord gives the personal representative of the tenant or a person who is the tenant's next of kin written notice to vacate the premises that are the subject of the tenancy agreement;
 - (c) the date that is agreed in writing by the landlord with the personal representative of the tenant or with a person who is the tenant's next of kin;
 - (d) the date determined as the termination date of the tenancy agreement by the Tribunal on the application of the landlord under subsection (2).
- (2) If a landlord is unable to give notice to vacate under subsection (1)(b), the landlord may apply, without notice, to the Tribunal for an order to terminate the tenancy.

Compare: Residential Tenancies Act 1997 s 228 (Vic)

Section 50A: inserted, on 1 October 2010, by section 32 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

51 Termination by notice

- (1) A landlord may terminate a periodic tenancy by giving at least 63 days' notice if—
 - (a) the owner of the premises requires the premises, within 90 days after the termination date, as the principal place of residence for at least 90 days for the owner or a member of the owner's family; or
 - (b) the landlord customarily uses the premises, or has acquired the premises, for occupation by employees of the landlord or by contractors under contracts for services with the landlord, and—
 - (i) that fact is clearly stated in the tenancy agreement; and
 - (ii) the premises are required for that use; or
 - (c) the landlord customarily uses the premises, or has acquired the premises, for occupation by employees of a school board of trustees or by contractors under contracts for services with a school board of trustees, and—
 - (i) that fact is clearly stated in the tenancy agreement; and
 - (ii) the premises are required for that use; and
 - (iii) the landlord is the Ministry of Education.

- (2) A landlord may terminate a periodic tenancy by giving at least 90 days' notice if—
- (a) the premises are to be put on the market by the owner within 90 days after the termination date for the purposes of sale or other disposition; or
 - (b) the owner is required, under an unconditional agreement for the sale of the premises, to give the purchaser vacant possession; or
 - (c) the landlord is not the owner of the premises and the landlord's interest in the premises is due to end; or
 - (d) the landlord or owner has acquired the premises to facilitate the use of nearby land for a business activity and—
 - (i) that fact is clearly stated in the tenancy agreement; and
 - (ii) the premises are required to be vacant of residential tenants to facilitate that use; or
 - (e) the premises are to be converted into commercial premises for at least 90 days by the landlord or owner; or
 - (f) extensive alterations, refurbishment, repairs, or redevelopment of the premises are to be carried out by the landlord or owner, and—
 - (i) it would not be reasonably practicable for the tenant to remain in occupation while the work is undertaken; and
 - (ii) the work is to begin, or material steps towards it are to be taken, within 90 days after the termination date; or
 - (g) the premises are to be demolished and the demolition is to begin, or material steps towards it are to be taken, within 90 days after the termination date.
- (2A) In subsection (2)(f) and (g), taking a **material step** means applying for regulatory consent, seeking engineering or other professional advice, or taking any other significant step.
- (2B) A tenant may terminate a periodic tenancy in any case by giving at least 28 days' notice.
- (3) Every notice to terminate a tenancy shall—
- (a) be in writing; and
 - (b) identify the premises to which it relates; and
 - (c) specify the date by which the tenant is to vacate the premises; and
 - (ca) if the notice is given by the landlord, set out the reasons for the termination; and
 - (d) be signed by the party giving the notice, or by that party's agent.
- (4) In a notice to terminate a tenancy, no special form of words shall be required; and no such notice shall be held invalid for any failure to comply strictly with the requirements of subsection (3) so long as the notice is in writing, the inten-

tion to terminate the tenancy on a particular date or on the expiry of a particular period is stated clearly in the notice, and that any non-compliance is not such as to mislead or affect unjustly the interests of the recipient.

- (5) A notice to terminate a tenancy may be given on any day, and the period of notice may be expressed to expire on any day, regardless of the date on which the tenancy commenced or of any date on which any rent is to be paid.
- (6) A party who has given an effective notice to terminate a tenancy—
 - (a) may, at any time before the expiry of the period of notice, revoke the notice with the consent of the other party; but
 - (b) may give a further notice to terminate the tenancy only if the prior notice is revoked.
- (7) Where a party has given a notice to terminate the tenancy and subsequently realises that, because of—
 - (a) some error in the way in which the period of the notice or the date of the expiry of that period is expressed in the notice; or
 - (b) some delay in serving the notice,—the period of notice given is less than the minimum prescribed by subsection (1) or (as the case may require) subsection (2) or (2B), that party may, with the agreement of the other party or (failing such agreement) with the consent of the Tribunal, give to the other party a further notice varying the first notice so as to bring the period of notice given up to or above that minimum so required.
- (8) Every notice given under subsection (7) shall comply with the requirements of subsection (3).
- (9) The Tribunal shall not give its consent under subsection (7) unless it is satisfied—
 - (a) that the error in the notice or the delay in serving the notice was inadvertent; and
 - (b) that the party who gave the notice has sought to correct the matter as soon as practicable after realising that the period of notice given is inadequate; and
 - (c) that it would not be unfair to the other party to allow the original notice to be varied in the manner proposed.
- (10) In subsections (1) and (2), **termination date** means the date of termination provided for by the notice of termination given by the landlord (regardless of when termination in fact occurs).

Compare: Residential Tenancies Act 1978–1981 ss 62, 64(1)(ca), (2), 65, 69, 70 (SA)

Section 51(1): replaced, on 11 February 2021, by section 32(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 51(2): replaced, on 11 February 2021, by section 32(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 51(2A): inserted, on 11 February 2021, by section 32(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 51(2B): inserted, on 11 February 2021, by section 32(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 51(3)(ca): inserted, on 1 October 2010, by section 33(5) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 51(3)(ca): amended, on 11 February 2021, by section 32(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 51(6): replaced, on 1 October 2010, by section 33(6) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 51(7): amended, on 11 February 2021, by section 32(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 51(10): inserted, on 11 February 2021, by section 32(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

52 Provision for shorter notice may be made with consent of Tribunal

With the consent of the Tribunal, the parties to a tenancy agreement may provide for the termination of the tenancy by the giving of notice of a specified period (being less than that required by section 51), or on the happening of any event to be specified in the agreement, or where the landlord requires possession of the premises for any purpose to be specified in the agreement.

53 Special provisions for notice terminating service tenancies

- (1) The landlord or the tenant may terminate a service tenancy by giving at least 14 days' notice if the contract of service or, as the case requires, the contract for services has been terminated or either party has given notice to terminate that contract (subject to subsections (2) to (7)).
- (2) Where the contract of service or, as the case requires, contract for services is terminated, or the tenant is transferred to another district, on less than 14 days' notice, the landlord may terminate the service tenancy by the giving of notice of less than 14 days if—
 - (a) the landlord believes on reasonable grounds that the tenant will cause substantial damage to the premises if the tenant is permitted to remain for 14 days; or
 - (b) it is necessary for the conduct of the landlord's business where the tenant was employed that a replacement employee be appointed within less than 14 days and no suitable alternative accommodation is available for the replacement worker during the period of 14 days.
- (3) No notice under this section shall have effect to terminate a service tenancy on a date preceding the date on which the termination of the contract of service or, as the case requires, contract for services or the transfer of the employee takes effect.

- (4) Where the tenant of a service tenancy dies leaving any dependant residing in the premises, the landlord may terminate the tenancy by giving at least 14 days' notice.
- (5) However, in any case to which subsection (4) applies, the landlord may terminate the tenancy by giving at least 5 days' notice if it is necessary for the conduct of the landlord's business at the place of business where the tenant was employed that a replacement employee be appointed within less than 14 days and no suitable alternative accommodation is available for the replacement worker during the period of 14 days.
- (5A) Section 50A does not limit subsection (4) or (5).
- (6) Without limiting anything in subsections (2) to (5), in respect of a service tenancy granted by the Armed Forces to any person subject to the Armed Forces Discipline Act 1971, the landlord may terminate the tenancy by giving less than 14 days' notice if the operational requirements of the Armed Forces so require.
- (7) In any proceedings before the Tribunal in which the validity of a notice purporting to have been given under this section is in issue, the following provisions shall apply:
 - (a) whether the contract of service or, as the case requires, contract for services was or was not terminated shall be a question of fact to be determined by the Tribunal, but the Tribunal shall not be concerned with the lawfulness or otherwise of that termination:
 - (b) it shall be for the landlord to establish to the satisfaction of the Tribunal the matters referred to in paragraphs (a) and (b) of subsection (2), and in subsection (5):
 - (c) in the case of a service tenancy granted by the Armed Forces to any person subject to the Armed Forces Discipline Act 1971, a certificate by the Secretary of Defence to the effect that operational requirements necessitated the giving of notice of less than 14 days shall be accepted by the Tribunal as conclusive proof of that matter.

Section 53(1): replaced, on 1 October 2010, by section 34(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 53(1): amended, on 11 February 2021, by section 33(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 53(2): amended, on 1 October 2010, by section 34(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 53(3): amended, on 1 October 2010, by section 34(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 53(4): amended, on 11 February 2021, by section 33(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 53(5): amended, on 11 February 2021, by section 33(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 53(5A): inserted, on 1 October 2010, by section 34(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 53(7)(a): amended, on 1 October 2010, by section 34(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

53A Special provisions for notice terminating certain student tenancies

- (1) In this section, **student tenancy** means a tenancy to which this Act applies that is granted by an institution (as defined in section 10(1) of the Education and Training Act 2020) to a person who is eligible to be a tenant by virtue of the person being—
 - (a) a student; or
 - (b) a student of a particular educational institution.
- (2) The landlord of a student tenancy, or the tenant of a student tenancy, may terminate the tenancy by giving at least 14 days' notice if the tenant ceases to be eligible to be granted the tenancy.
- (3) In any proceedings before the Tribunal in which the validity of a notice under subsection (2) is in issue, the question of when the tenant ceased to be eligible to be a tenant under the tenancy is a question of fact to be determined by the Tribunal.

Section 53A: inserted, on 1 October 2010, by section 35 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 53A(1): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 53A(2): amended, on 11 February 2021, by section 34 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

53B Special provisions for notice terminating social housing tenancies

- (1) The landlord under a periodic tenancy may terminate the tenancy by giving at least 90 days' notice if—
 - (a) the tenancy—
 - (i) was granted before 14 April 2014 and is a tenancy of Kāinga Ora housing; or
 - (ii) was granted as a tenancy of social housing to a tenant assessed under the Public and Community Housing Management Act 1992 as eligible to be allocated social housing; but
 - (b) following the grant of the tenancy,—
 - (i) the social housing provider is notified under section 103 of that Act that the tenant is no longer eligible for social housing; or
 - (ii) in the case of community housing, the community housing provider ceases to be a registered community housing provider; or

- (iii) the social housing provider requires the tenant to transfer to different social housing provided by that provider, and the provider considers that—
 - (A) the transfer is necessary or desirable for any reason; and
 - (B) the other housing is appropriate for the tenant's housing needs as most recently assessed (regardless of when that assessment took place).

- (2) In this section,—

agency, community housing, community housing provider, Kāinga Ora housing, registered community housing provider, social housing, and social housing provider have the meanings given to them by section 2(1) of the Public and Community Housing Management Act 1992

as most recently assessed means—

- (a) as most recently assessed by the agency and notified to the provider under section 103 of the Public and Community Housing Management Act 1992; or
- (b) if there has been no such assessment and notification under that section in relation to the tenant, as most recently assessed by HNZ

HNZ has the meaning that it had under section 2(1) of the Public and Community Housing Management Act 1992 as in force on 13 April 2014.

Section 53B: inserted, on 11 February 2021, by section 35 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

54 Tribunal may declare retaliatory notice of no effect

- (1) Within 28 working days after receipt of a notice terminating the tenancy, being a notice that complies with the requirements of section 51 (or, in the case of a boarding house tenancy, section 66U), the tenant may apply to the Tribunal for an order declaring that the notice is of no effect on the ground that, in giving the notice, the landlord was motivated wholly or partly by the exercise or proposed exercise by the tenant of any right, power, authority, or remedy conferred on the tenant by the tenancy agreement or by this or any other Act or any complaint by the tenant against the landlord relating to the tenancy.
- (2) If, on any such application, the Tribunal is satisfied that the landlord was so motivated in giving the notice, it shall declare the notice to be of no effect unless the Tribunal is satisfied that the purported exercise by the tenant of any such right, power, authority, or remedy, or the making by the tenant of any such complaint, was or would be vexatious or frivolous to such an extent that the landlord was justified in giving the notice.
- (3) The giving of a notice terminating a tenancy is an unlawful act if the notice is declared under subsection (2) to be of no effect.

Compare: Residential Tenancies Act 1978–1981 ss 66 (SA)

Section 54(1): amended, on 1 July 2016, by section 16(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 54(1): amended, on 1 October 2010, by section 36 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 54(3): inserted, on 1 July 2016, by section 16(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

55 Termination on non-payment of rent, damage, or assault

- (1) Subject to subsection (2), on any application made to it under this section by the landlord, the Tribunal shall make an order terminating the tenancy if the Tribunal is satisfied that—
- (a) the rent was, at the date on which the application was filed under section 86, at least 21 days in arrear; or
 - (aa) the tenancy is a periodic tenancy and—
 - (i) on 3 separate occasions within a 90-day period the rent has been at least 5 working days in arrear; and
 - (ii) on each occasion the landlord gave the tenant written notice advising the tenant of the arrear, the dates for which rent was overdue, the amount or amounts of overdue rent, and the tenant's right to make an application to the Tribunal challenging the notice (*see* sections 77(1) and 78(1)(a) regarding the Tribunal); and
 - (iii) each notice stated how many other notices (if any) the landlord had given the tenant under this paragraph in relation to the same tenancy and 90-day period; and
 - (iv) the landlord's application to the Tribunal was made within 28 days after the landlord gave the third notice; or
 - (b) the tenant has caused, or has permitted any other person to cause, or has threatened to cause, substantial damage to the premises; or
 - (c) the tenant has assaulted, or has threatened to assault, or has caused or permitted any person to assault, or to threaten to assault, any of the following persons:
 - (i) the landlord or any member of the landlord's family;
 - (ii) the owner of the premises or any member of the owner's family;
 - (iii) any agent of the landlord;
 - (iv) any occupier of any building of which the premises constitute a part;
 - (v) any neighbour of the premises or of any building of which the premises constitute a part.
- (1A) Notwithstanding section 78(3), the Tribunal may, instead of making a final termination order for the non-payment of rent under subsection (1)(a), make a conditional order if, but only if, it is satisfied that—

- (a) the tenant will pay any rent in arrear within a period specified by the Tribunal; and
 - (b) it is unlikely that the tenant will commit any further breach of a kind to which any of paragraphs (a), (b), and (c) of subsection (1) applies.
- (1B) Any conditional order referred to in subsection (1A)—
 - (a) shall set out the terms of repayment of any rent in arrear or any other conditions attaching to the order; and
 - (b) shall automatically take effect as a final termination order if the conditions are not complied with; and
 - (c) shall lapse if the conditions are complied with.
- (2) The Tribunal may refuse to make an order under subsection (1) if, but only if, it is satisfied that the breach has been remedied (where it is capable of remedy), the landlord has been compensated for any loss arising from the breach, and it is unlikely that the tenant will commit any further breach of a kind to which this section applies (but *see also* section 78A(3)(b)).
- (3) It shall not be necessary for the landlord to give to the tenant notice of the landlord's intention to apply under this section for an order terminating the tenancy.
- (4) In this section **premises** includes facilities.

Section 55(1)(aa): inserted, on 11 February 2021, by section 36(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 55(1)(c): replaced, on 1 October 2010, by section 37 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 55(1A): inserted, on 1 May 1996, by section 22(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 55(1A): amended, on 11 February 2021, by section 36(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 55(1A)(b): amended, on 11 February 2021, by section 36(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 55(1B): inserted, on 1 May 1996, by section 22(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 55(2): amended, on 27 August 2019, by section 11 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 55(4): inserted, on 1 May 1996, by section 22(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

55AA Termination by notice for physical assault by tenant

- (1) A landlord may terminate a fixed-term or periodic tenancy by giving at least 14 days' notice to the tenant if—
 - (a) the tenant has physically assaulted the landlord, the owner, a member of the landlord's or owner's family, or the landlord's agent; and
 - (b) a charge has been filed in respect of the physical assault against the tenant by or on behalf of the Crown.

- (2) For the purpose of subsection (1)(b), a charge has been filed in respect of a physical assault if the particulars of the charge describe a physical assault against a person referred to in subsection (1)(a), regardless of the offence that is specified in the charge.
- (3) A notice to terminate a tenancy under this section must—
 - (a) be in the approved form and include the prescribed information; and
 - (b) be accompanied by qualifying evidence of the matters in subsection (1)(b); and
 - (c) advise the tenant of the tenant's right to make an application to the Tribunal challenging the notice (*see* sections 77(1) and 78(1)(a) regarding the Tribunal); and
 - (d) be signed by the landlord or the landlord's agent.
- (4) If the tenant makes an application to the Tribunal challenging the notice, it is for the landlord to prove that the physical assault occurred and that the notice met the requirements of subsection (3).
- (5) If the tenant makes an application to the Tribunal challenging the notice before the tenancy is terminated, the tenancy does not terminate under this section except in accordance with an order of the Tribunal.
- (6) In this section,—

charge means a charging document under section 14 of the Criminal Procedure Act 2011

physical assault means the act of intentionally applying force to the person of another, directly or indirectly

qualifying evidence means—

- (a) a declaration in the approved form made by a person who is prescribed, or is of a class prescribed, for the purposes of this subsection; or
- (b) evidence, in the approved form, of a prescribed type.

Section 55AA: inserted, on 11 August 2021, by section 37 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

55A Termination for anti-social behaviour

- (1) A landlord under a periodic tenancy may apply to the Tribunal for an order terminating the tenancy on the ground of anti-social behaviour.
- (2) The Tribunal must (subject to subsection (3)) make the order if satisfied that—
 - (a) on 3 separate occasions within a 90-day period the tenant, or a person in the premises with the tenant's permission (other than the landlord or a person acting on the landlord's behalf or with the landlord's authority), engaged in anti-social behaviour in connection with the tenancy; and
 - (b) on each occasion the landlord gave the tenant written notice—

- (i) describing clearly which specific behaviour was considered to be anti-social and (if known to the landlord) who engaged in it; and
 - (ii) advising the tenant of the date, approximate time, and location of the behaviour; and
 - (iii) stating how many other notices (if any) the landlord has given the tenant under this paragraph in connection with the same tenancy and the same 90-day period; and
 - (iv) advising the tenant of the tenant's right to make an application to the Tribunal challenging the notice (*see* sections 77(1) and 78(1)(a) regarding the Tribunal); and
 - (c) the landlord's application to the Tribunal was made within 28 days after the landlord gave the third notice.
- (3) However, the Tribunal must not make the order if satisfied that—
- (a) doing so would be unfair because of the circumstances in which the behaviour occurred or the notices were given; or
 - (b) in making the application, the landlord was motivated wholly or partly by the exercise or proposed exercise by the tenant of any right, power, authority, or remedy conferred on the tenant by the tenancy agreement or by this or any other Act or any complaint by the tenant against the landlord relating to the tenancy (unless the Tribunal is satisfied that the purported exercise or the complaint was or would be vexatious or frivolous to such an extent that the landlord was justified in making the application).
- (4) In deciding whether to make an order under subsection (2), the Tribunal must not take into account the impact that terminating the tenancy would have on the tenant.
- (5) In subsection (2)(a), if a tenant is in the premises at the same time as another person (other than the landlord or a person acting on the landlord's behalf or with the landlord's authority), the tenant is presumed to have permitted the person to be in the premises unless the tenant proves that they took all reasonable steps to prevent the person from entering the premises or to eject the person from the premises.
- (6) If a tenant makes an application to the Tribunal challenging a notice given under subsection (2)(b), it is for the landlord to prove that anti-social behaviour was engaged in as described in subsection (2)(a) and that the notice met the requirements of subsection (2)(b).
- (7) In this section, **anti-social behaviour** means—
- (a) harassment; or
 - (b) any other act or omission (whether intentional or not), if the act or omission reasonably causes alarm, distress, or nuisance that is more than minor.

Section 55A: inserted, on 11 February 2021, by section 38 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

55B Termination where it would be unreasonable to require landlord to continue with tenancy

- (1) A landlord under a periodic tenancy may apply to the Tribunal for an order terminating the tenancy on the ground of hardship.
- (2) The Tribunal may make the order only if satisfied that—
 - (a) without the order the landlord would suffer greater hardship than the tenant; and
 - (b) because of that hardship, it would be unreasonable to require the landlord to continue with the tenancy.
- (3) In deciding whether it would be unreasonable to require the landlord to continue with the tenancy, the Tribunal must take into account the impact that terminating the tenancy would have on the tenant.
- (4) Any order under this section must specify a date for the termination.

Section 55B: inserted, on 11 February 2021, by section 38 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

56 Termination for non-payment of rent and other breaches

- (1) On an application made to it under this section by the landlord or the tenant, the Tribunal may make an order terminating the tenancy if the Tribunal is satisfied that—
 - (a) the other party has committed a breach of any of the provisions of the tenancy agreement (including provisions relating to the payment of rent) or of this Act; and
 - (b) in the case of a breach capable of remedy,—
 - (i) the applicant gave to the other party a notice specifying the nature of the breach complained of and requiring the other party to remedy the breach within a reasonable period, being not less than 14 days commencing with the day on which the notice was given; and
 - (ii) the other party failed to remedy the default within the required period; and
 - (c) that the breach is of such a nature or of such an extent that it would be inequitable to refuse to make an order terminating the tenancy.
- (2) Where an application is made by a landlord under this section and the Tribunal is satisfied that at the time of determining the matter the landlord could have made an application under section 55, the Tribunal shall determine the matter as if an application had been made under that section.

Section 56 heading: replaced, on 1 October 2010, by section 38(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 56(1)(a): amended, on 1 October 2010, by section 38(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 56(1)(b)(i): amended, on 1 October 2010, by section 38(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 56(2): inserted, on 1 May 1996, by section 23 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

56A Termination where premises are unlawful residential premises

- (1) A tenant of premises that at the start of the tenancy were, and that remain, unlawful residential premises may terminate the tenancy by giving not less than 2 days' notice to the landlord.
- (2) Without limiting subsection (1), a landlord or a tenant may apply to the Tribunal for an order terminating a tenancy on the ground that the premises are unlawful residential premises.
- (3) The Tribunal may make the order if section 78A applies and the Tribunal is satisfied that it would be inequitable to refuse to make an order terminating the tenancy.

Section 56A: inserted, on 27 August 2019, by section 12 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

56B Withdrawal from tenancy following family violence

- (1) A tenant under a fixed-term or periodic tenancy may withdraw from the tenancy by giving at least 2 days' notice to the landlord if—
 - (a) the notice is accompanied by qualifying evidence that the tenant has been a victim of family violence while a tenant of the premises; and
 - (b) the notice is in the approved form and includes the prescribed information.
- (2) If there are no other tenants under the tenancy at the time of the withdrawal, the tenancy terminates.
- (3) If there are other tenants (**remaining tenants**) under the tenancy at the time of the withdrawal,—
 - (a) the tenant withdrawing from the tenancy (the **withdrawing tenant**) ceases to be responsible to the landlord for obligations under the tenancy agreement and this Act, except in respect of any liability for anything done or omitted to be done before the withdrawal; and
 - (b) the tenancy continues in relation to the remaining tenants only; and
 - (c) the withdrawing tenant must give each remaining tenant notice of the withdrawal no later than the close of the day that is 2 days after the date of the withdrawal; and
 - (d) the amount of rent for which the remaining tenants are liable is reduced as set out in subsection (5) (unless subsection (6) applies).

- (4) A failure to comply with subsection (3)(c) does not affect the validity of the withdrawal.
- (5) For the period of 2 weeks beginning with the day after the date of the withdrawal, the rent payable for the premises is reduced to an amount calculated in accordance with the following formula:

$$a = b \div c \times d$$

where—

- a is the rent payable for the 2-week period
- b is the rent that would otherwise have been payable for the 2-week period
- c is the number of tenants immediately before the withdrawal
- d is the number of remaining tenants.
- (6) However, the amount of rent is not reduced under subsection (5) if—
- (a) the rent payable under the tenancy by the remaining tenants is income-related rent; or
- (b) the tenancy is a PACHMA tenancy prescribed, or of a class prescribed, for the purposes of this subsection; or
- (c) the tenancy, or the landlord under the tenancy, is prescribed, or of a class prescribed, for the purposes of this subsection.
- (7) Neither a rent reduction under subsection (5), nor the reinstatement from the end of the 2-week period of the rent previously payable, is a variation of the tenancy agreement for the purposes of sections 13B and 13C, and the reinstatement does not constitute a rent increase.
- (8) In this section,—

family violence has the meaning given to it by section 9 of the Family Violence Act 2018

income-related rent, Kāinga Ora housing, and social housing have the meanings given to them by section 2(1) of the Public and Community Housing Management Act 1992

PACHMA tenancy means a tenancy that—

- (a) was granted before 14 April 2014 and is a tenancy of Kāinga Ora housing; or
- (b) was granted as a tenancy of social housing to a tenant assessed under the Public and Community Housing Management Act 1992 as eligible to be allocated social housing

qualifying evidence means—

- (a) a declaration in the approved form made by a person who is prescribed, or is of a class prescribed, for the purposes of this subsection; or
- (b) evidence, in the approved form, of a prescribed type.

Section 56B: inserted, on 11 August 2021, by section 39 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

56C Service of notices of withdrawal and accompanying evidence

- (1) Despite section 136(6),—
 - (a) if a notice of withdrawal under section 56B(1) and accompanying qualifying evidence under section 56B(1)(a) are sent by post in accordance with section 136, they are to be treated as given to the landlord on the date on which they are posted, and, in proving that the notice and evidence were given, it is sufficient to prove that the letter was properly addressed and posted;
 - (b) if a notice of withdrawal under section 56B(3)(c) is sent by post in accordance with section 136, it is to be treated as given to the tenant on the date on which it is posted, and, in proving that the notice was given, it is sufficient to prove that the letter was properly addressed and posted.
- (2) Despite section 136(7),—
 - (a) if a notice of withdrawal under section 56B(1) and accompanying qualifying evidence under section 56B(1)(a) are delivered to an address in accordance with section 136, they are to be treated as given to the landlord on the date on which they are delivered, and, in proving that the notice and evidence were given, it is sufficient to prove that the letter was properly addressed and delivered;
 - (b) if a notice of withdrawal under section 56B(3)(c) is delivered to an address in accordance with section 136, it is to be treated as given to the tenant on the date on which it is delivered, and, in proving that the notice was given, it is sufficient to prove that the letter was properly addressed and delivered.

Section 56C: inserted, on 11 August 2021, by section 39 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

56D Termination where it would be unreasonable to require remaining tenant to continue with tenancy

- (1) A tenant under a fixed-term tenancy from which another tenant withdraws under section 56B may apply to the Tribunal for an order terminating the tenancy on the ground of hardship.
- (2) The Tribunal may make the order only if satisfied that,—
 - (a) as a result of the withdrawal, the tenant who made the application is suffering, or will suffer, hardship; and
 - (b) that hardship is or will be greater than the hardship that the landlord would suffer if the tenancy were terminated; and
 - (c) because of the hardship, it would be unreasonable to require the tenant to continue with the tenancy.

- (3) Any application under this section must be made before the end of the period of 60 days beginning with the day after the date of the withdrawal.
- (4) Any order under this section must specify a date for the termination.

Section 56D: inserted, on 11 August 2021, by section 39 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

56E Disclosure of notice of withdrawal or accompanying evidence

- (1) A landlord, or a person or class of person prescribed for the purposes of section 56B(8), must not disclose the whole or part of a notice of withdrawal under section 56B(1), or any of the accompanying qualifying evidence, unless the disclosure is permitted by subsection (2).
- (2) The disclosure is permitted if it—
 - (a) is with the consent of the tenant who gave the notice; or
 - (b) is for the purpose of seeking legal advice; or
 - (c) is for the purposes of, or in connection with, any legal proceedings or procedure under this or any other Act to settle a dispute between the landlord and the tenant, or between the landlord and a guarantor of the tenant, in relation to the tenancy; or
 - (d) is of a type, or in circumstances, prescribed by regulations for the purposes of this section; or
 - (e) is otherwise authorised or required by or under any enactment or rule of law.
- (3) A person who contravenes subsection (1) commits an unlawful act.

Section 56E: inserted, on 11 August 2021, by section 39 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

57 Effect on subtenancy of termination of head tenancy

- (1) Except as provided in subsections (2) and (3), where any premises are subject to a tenancy and 1 or more subtenancies, on the termination of the tenancy each subtenancy shall be deemed to be terminated.
- (2) Where—
 - (a) the landlord has consented to a subletting by the tenant to a subtenant; and
 - (b) the landlord is giving to the tenant notice to terminate the tenancy in accordance with section 51 or section 52,—

the landlord may, on the same date, give a copy of the notice to the subtenant, in which case the notice shall have effect to terminate the subtenancy on the date on which the tenancy will terminate.
- (3) Subject to subsection (2), where the landlord gives to the tenant notice to terminate the tenancy in accordance with section 51 or section 52, the following

provisions shall apply in respect of each subtenancy to which the landlord has consented:

- (a) the subtenancy shall continue notwithstanding the giving or expiry of that notice:
- (b) for the purposes of sections 15, 21A, and 43, the landlord under the tenancy shall be deemed to have acquired the sublandlord's interest under the subtenancy, and the provisions of those sections, with any necessary modifications, shall apply accordingly:
- (c) the landlord under the tenancy shall have the same rights (if any) as the sublandlord had under the subtenancy agreement or this Act to give notice terminating the subtenancy or to apply to the Tribunal for an order terminating the subtenancy or for an order for possession of the premises:
- (d) if, on the expiry of the notice given in respect of the tenancy, the subtenancy is still subsisting, the subtenancy shall be deemed to be a tenancy granted by the landlord to the subtenant.

Section 57(3)(b): amended, on 1 May 1996, by section 10(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

58 Mortgagee or other person becoming entitled to possession

- (1) Where a mortgagee or other person becomes entitled (as against the landlord) to possession of the premises, the following provisions shall apply:
 - (a) the tenancy shall continue notwithstanding that the mortgagee or other person has become entitled (as against the landlord) to possession of the premises:
 - (b) for the purposes of sections 15, 21A, and 43, the mortgagee or other person shall be deemed to have acquired the landlord's interest in the premises, and the provisions of those sections, with any necessary modifications, shall apply accordingly:
 - (c) the mortgagee or other person shall have the same rights (if any) as the landlord had under the tenancy agreement or this Act to give notice terminating the tenancy or to apply to the Tribunal for an order terminating the tenancy or for an order for possession of the premises:
 - (d) without limiting paragraph (c), but subject to paragraph (e), in the case of a fixed-term tenancy, the mortgagee or other person shall have the same right to give notice terminating the tenancy as the landlord would have had if the tenancy had been a periodic tenancy:
 - (da) in the case of a fixed-term tenancy, the tenant has the same right to give notice terminating the tenancy as the tenant would have had if the tenancy had been a periodic tenancy:
 - (e) paragraph (d) shall not apply where the mortgagee or other person is bound by the tenancy or consented in writing to its creation.

- (2) Subsection (1) shall apply notwithstanding anything to the contrary in the Property Law Act 2007 or the Land Transfer Act 1952 or any other enactment.

Compare: Residential Tenancies Act 1978–1981 s 61(1)(c)–(2)(c) (SA)

Section 58(1)(b): amended, on 1 May 1996, by section 10(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 58(1)(da): inserted, on 1 October 2010, by section 39 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 58(2): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

59 Destruction of premises

- (1) Where, otherwise than as a result of a breach of the tenancy agreement (whether for a fixed-term tenancy or a periodic tenancy), the premises are destroyed, or are so seriously damaged as to be uninhabitable,—
- (a) the rent shall abate accordingly; and
- (b) either party may give notice to the other terminating the tenancy.
- (2) Where a landlord gives notice of termination under subsection (1), the period of notice shall be not less than 7 days.
- (3) Where a tenant gives notice of termination under subsection (1), the period of notice shall be not less than 2 days.
- (4) Where, otherwise than as a result of a breach of the tenancy agreement, the premises are partially destroyed, or part of the premises is so seriously damaged as to be uninhabitable,—
- (a) the rent shall abate accordingly; and
- (b) either party may apply to the Tribunal for an order terminating the tenancy, and the Tribunal may make such an order if it is satisfied that it would be unreasonable to require the landlord to reinstate the property or (as the case may require) to require the tenant to continue with the tenancy albeit at a reduced rent.
- (5) This section does not apply in relation to damage that is contamination by a contaminant if regulations prescribe a relevant method of testing for, and a relevant maximum inhabitable level of, that contaminant (but *see* section 59B).

Compare: Residential Tenancies Act 1978–1981 s 71 (SA)

Section 59(1): amended, on 1 October 2010, by section 40 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 59(5): inserted, on 30 January 2021, by section 33 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

59A Termination where breach renders premises uninhabitable

- (1) This section applies if, as a result of a breach of the tenancy agreement (whether for a fixed-term tenancy or a periodic tenancy) by a party, the premises are destroyed or are so seriously damaged as to be uninhabitable.

- (2) If the tenant is not in breach, the rent abates.
- (3) The party who is not in breach may give notice to the other party terminating the tenancy.
- (4) When a landlord gives notice of termination under this section, the period of notice is not less than 7 days.
- (5) When a tenant gives notice of termination under this section, the period of notice is not less than 2 days.
- (6) This section does not apply in relation to damage that is contamination by a contaminant if regulations prescribe a relevant method of testing for, and a relevant maximum inhabitable level of, that contaminant (but *see* section 59B).

Section 59A: inserted, on 1 October 2010, by section 41 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 59A(6): inserted, on 30 January 2021, by section 34 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

59B Termination where regulations prescribe testing methods and maximum inhabitable level of contaminant

- (1) This section applies if testing in accordance with a relevant prescribed method establishes contamination by a contaminant, in any part of the premises, at a level that is above a relevant maximum inhabitable level prescribed for that contaminant.
- (2) If the contamination has occurred as a result of a breach of the tenancy agreement (whether for a fixed-term tenancy or a periodic tenancy),—
 - (a) the whole of the premises is treated as uninhabitable; and
 - (b) if the tenant is not in breach, the rent abates; and
 - (c) the party who is not in breach may give notice to the other party terminating the tenancy.
- (3) If the contamination has occurred otherwise than as a result of a breach of the tenancy agreement (whether for a fixed-term tenancy or a periodic tenancy), then, unless subsection (4) applies,—
 - (a) the whole of the premises is treated as uninhabitable; and
 - (b) the rent abates; and
 - (c) either party may give notice to the other terminating the tenancy.
- (4) However, for the purposes of subsection (3), if the only part of the premises that is established to be contaminated above the maximum inhabitable level is a remote and inconsequential part of the premises (*see* subsection (8)),—
 - (a) the rent abates accordingly; and
 - (b) either party may apply to the Tribunal for an order terminating the tenancy.

- (5) On an application under subsection (4)(b), the Tribunal may make an order terminating the tenancy if it is satisfied that it would be unreasonable to require the landlord to decontaminate the premises or (as the case may require) to require the tenant to continue with the tenancy albeit at a reduced rent.
- (6) Where a landlord gives notice of termination under this section, the period of notice is not less than 7 days.
- (7) Where a tenant gives notice of termination under this section, the period of notice is not less than 2 days.
- (8) In this section, a part of the premises is **remote and inconsequential** if—
 - (a) it is physically located away from, or physically closed off to, the rest of the premises in a way that is likely to prevent the spread of the contaminant to the rest of the premises (or is capable of being, and, after contamination is established, is, physically removed from or physically closed off to the rest of the premises in a way that is likely to prevent that spread); and
 - (b) the rest of the premises can reasonably be used, without that part, as residential premises under the tenancy agreement.

Section 59B: inserted, on 30 January 2021, by section 35 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

60 Tenant remaining in possession after termination of tenancy

- (1) Where a tenant remains in occupation of the premises after the tenancy has terminated or has been terminated, all the obligations of the tenant shall continue in force as if the tenancy were still subsisting until such time as the tenant ceases to occupy the premises.
- (2) If the landlord permits the tenant to remain in the premises for more than 90 days after the tenancy has terminated or has been terminated, without obtaining a possession order, or for more than 90 days after obtaining a possession order, the landlord shall be deemed to have granted, and the tenant shall be deemed to have accepted, as from the date on which that period of 90 days expired, a periodic tenancy of the premises on the same terms and conditions as pertained to the original tenancy immediately before its termination.
- (3) The landlord shall not be taken to have permitted the tenant to remain in possession, or to have given up the right to proceed under this Act in respect of any breach of the tenant's obligations, merely because the landlord accepts payment of rent in respect of any period after the tenancy has been terminated.

Compare: Residential Tenancies Act 1978–1981 s 61(2) (SA)

60AA Landlord acting to terminate tenancy without grounds

A landlord commits an unlawful act if they give or purport to give a notice to terminate to the tenant or apply or purport to apply to the Tribunal for an order

terminating the tenancy knowing that they are not entitled, under this Act, to give the notice or to make the application.

Section 60AA: inserted, on 11 February 2021, by section 40 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

60A Fixed-term tenancy becomes periodic unless contrary notice given

- (1) On the expiry of a fixed-term tenancy of more than 90 days, the tenancy continues as a periodic tenancy with the same terms as the terms contained in the expired tenancy so far as those terms are consistent with a periodic tenancy.
- (2) However, the tenancy does not continue as a periodic tenancy if,—
 - (a) before the expiry, the parties renew or extend the existing tenancy agreement; or
 - (b) before the expiry, the parties agree not to continue with the tenancy; or
 - (c) at least 28 days before the expiry, the tenant gives the landlord written notice of the tenant's intention not to continue with the tenancy; or
 - (d) before the expiry, a party gives notice as mentioned in any of section 50(1)(a) to (b) that terminates the tenancy on or before the expiry or that would do if the tenancy were already periodic.
- (3) Subsection (4) applies if—
 - (a) a tenancy continues as a periodic tenancy under subsection (1); but
 - (b) before the continuation, a party gave notice as mentioned in any of section 50(1)(a) to (b) that would, if the tenancy had been fixed-term throughout or periodic throughout, terminate the tenancy from a time after the continuation.
- (4) The tenancy is terminated with effect from that time (and the termination is to be treated as falling within the relevant paragraph of section 50(1)).
- (5) *[Repealed]*
- (6) *[Repealed]*

Section 60A: inserted, on 1 October 2010, by section 42 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 60A(2): replaced, on 11 February 2021, by section 41 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 60A(3): replaced, on 11 February 2021, by section 41 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 60A(4): replaced, on 11 February 2021, by section 41 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 60A(5): repealed, on 11 February 2021, by section 41 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 60A(6): repealed, on 11 February 2021, by section 41 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

60B Tenant must exercise right to renew or extend tenancy not later than 28 days before expiry

- (1) A tenant who wishes to exercise a right under the tenancy agreement to require the landlord to grant the tenant a renewal or an extension of the tenancy must exercise that right by giving the landlord written notice, in accordance with this section, of the tenant's intention to exercise the right.
- (2) The tenant must give notice of the tenant's intention not later than the 28th day before the date on which the tenancy would otherwise expire.
- (3) On an application, made before or after the expiry of the tenancy, by a tenant who has failed to comply with subsection (1) or (2) but who wishes to renew or extend the tenancy, the Tribunal may order the renewal or extension of the tenancy.
- (4) The Tribunal may make an order under subsection (3) only if satisfied that, without the order, the tenant would suffer greater hardship than the landlord.
- (5) If the Tribunal makes an order under subsection (3), the Tribunal may order that the tenant pay the landlord an amount determined by the Tribunal by way of reasonable compensation for any loss or damage to the landlord that has resulted from the tenant's failure to comply with subsection (1) or (2).

Section 60B: inserted, on 1 October 2010, by section 42 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 60B heading: amended, on 11 February 2021, by section 42(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 60B(2): amended, on 11 February 2021, by section 42(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

60C Notices and orders continue to apply to renewed or extended tenancies

- (1) This section applies to a tenancy (the **current tenancy**) that results from the renewal or extension of a previous tenancy (the **previous tenancy**).
- (2) The rent payable at the commencement of the current tenancy in respect of that tenancy—
 - (a) is the rent that is payable under the previous tenancy immediately before the commencement of the current tenancy; and
 - (b) is subject to any lawful notice or order, given or made before the commencement of the current tenancy, that varies that rent on or after that commencement; and
 - (c) may be increased only if any of sections 24 to 28B apply.

Section 60C: inserted, on 1 October 2010, by section 42 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

61 Abandonment of premises

- (1) On the application of the landlord, the Tribunal may make an order terminating a tenancy where it is satisfied that the tenant has abandoned the premises and the rent is in arrear.
- (2) Where the Tribunal makes an order under subsection (1) in respect of a periodic tenancy, it shall determine, as best it can on the evidence before it, the date on which the landlord first became aware, or ought reasonably to have become aware, that the tenant had abandoned the premises, and shall specify that date in the order.
- (3) A tenant who abandons the premises shall, notwithstanding any rule of law to the contrary, be liable to pay the rent for any period up to and including, but not after, the following date:
 - (a) in the case of a periodic tenancy,—
 - (i) the date of the expiry of the period of 28 days after the date specified by the Tribunal under subsection (2); or
 - (ii) the date of commencement of a new tenancy of the premises,—
whichever is the earlier:
 - (b) in the case of a fixed-term tenancy,—
 - (i) the date of the expiry of the term; or
 - (ii) the date of commencement of a new tenancy of the premises,—
whichever is the earlier.
- (3A) Subsection (3) does not apply if section 78A applies.
- (4) Nothing in section 49 shall impose upon the landlord any obligation, on finding that the tenant has abandoned the premises, to make an application under this section or to grant a new tenancy of the premises.
- (5) It is declared that a tenant commits an unlawful act if, without reasonable excuse, he or she abandons the premises when the rent is in arrear.
- (6) A process for dealing with applications under subsection (1) within 10 working days and without a hearing is set out in section 91AA.

Section 61(3)(a)(i): amended, on 11 February 2021, by section 43 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 61(3A): inserted, on 27 August 2019, by section 13 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 61(5): inserted, on 1 October 2010, by section 43 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 61(6): inserted, on 1 July 2016, by section 17 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

62 Goods left on premises on termination of tenancy

- (1) Where, on the termination of the tenancy, the tenant leaves on the premises foodstuffs or other perishable goods, the landlord may, immediately after tak-

ing possession of the premises, dispose of those goods in any way the landlord thinks fit.

- (2) If the tenant leaves on the premises goods that are neither foodstuffs nor other perishable goods, the landlord must, immediately after taking possession of the premises, make all reasonable efforts to contact the tenant and to agree with the tenant on a period within which the tenant is to collect the goods.
- (3) If the landlord is unable to contact the tenant or to agree on a period with the tenant, or if the tenant fails to collect the goods within the agreed period, the landlord must ensure that any personal documents belonging to the tenant are stored securely and must deal with the other goods either—
 - (a) in accordance with section 62A; or
 - (b) by securing them in safe storage and by applying to the Tribunal in accordance with section 62B.
- (3A) However, if tests carried out in accordance with a relevant prescribed method have established that the premises are contaminated, and regulations under this Act prescribe a process (and associated duties) for dealing with the goods, subsection (3) does not apply and those regulations must instead be complied with.
- (4) In this section, **premises** includes facilities.

Section 62: replaced, on 1 October 2010, by section 44 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 62(3A): inserted, on 30 January 2021, by section 36 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

62A Disposal of abandoned goods following assessment of market value

- (1) The landlord may deal with the goods to which section 62(3) applies, other than personal documents belonging to the tenant, by making all reasonable efforts to assess the market value of those goods.
- (2) If the assessment under subsection (1) indicates that any of the goods have a value below the cost of storing, transporting, and selling them, the landlord may immediately dispose of those goods in any way the landlord thinks fit.
- (3) If the assessment under subsection (1) indicates that any of the goods have a value above the cost of storing, transporting, and selling them, the landlord must secure those goods in safe storage for not less than 35 days from the date on which the landlord first took possession of those goods.
- (4) If, before the landlord disposes of the goods under subsection (5), the tenant claims the goods and any personal documents belonging to the tenant or claims either the goods or the documents,—
 - (a) the landlord may require the tenant to pay the landlord's actual and reasonable costs arising out of the storage of the goods; and
 - (b) the landlord must release to the tenant any goods and personal documents claimed by the tenant, subject to payment of any costs required under paragraph (a); and

- (c) the tenant must give the landlord a receipt for any goods and personal documents released to the tenant.
- (5) If, after the period of 35 days specified in subsection (3), the goods or any personal documents belonging to the tenant remain unclaimed, the landlord must—
 - (a) continue to secure those goods and personal documents in safe storage to await any claims by the tenant under subsection (4); or
 - (b) do the following:
 - (i) take any personal documents belonging to the tenant to the nearest Police station and obtain a receipt for them from a Police employee; and
 - (ii) sell the other goods by public auction or by private contract at a reasonable market price.
- (6) If the landlord has sold the goods under subsection (5)(b)(ii), the landlord may apply to the Tribunal for an order specifying the amount (if any) owing to the landlord out of the proceeds of sale.

Section 62A: inserted, on 1 October 2010, by section 44 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

62B Disposal of abandoned goods in accordance with Tribunal order

- (1) The landlord may apply to the Tribunal for an order for the disposal of the goods to which section 62(3) applies, including any personal documents belonging to the tenant.
- (2) On an application under subsection (1), the Tribunal must make an order—
 - (a) for the return of the goods to the tenant; or
 - (b) if that is not practicable, for the sale or other disposition of the goods.
- (3) Without limiting section 78(3), the Tribunal may, in making an order for the sale or other disposition of goods under this section, direct that the order is not to take effect unless the tenant has had the opportunity to collect the goods within a period specified in the order or unless another condition is met.
- (4) If the Tribunal makes an order for the sale of goods under this section, the order must state the amount owing (if any) to the landlord out of the proceeds of sale.

Section 62B: inserted, on 1 October 2010, by section 44 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

62C Application of proceeds of sale and recovery of amount owing

- (1) In this section, **amount owing** means—
 - (a) where the landlord has sold the goods under section 62A(5)(b)(ii) but there is no order under section 62A(6), the cost of storage, transport, and sale reasonably incurred by the landlord:

- (b) where there is an order by the Tribunal under section 62A(6) or 62B(4) specifying the amount owing to the landlord out of the proceeds of sale, that amount.
- (2) The landlord may deduct any amount owing from the proceeds of any sale under section 62A(5)(b)(ii) or under an order made under section 62B(2)(b).
- (3) The landlord must pay the proceeds of any sale, less any deduction made under subsection (2), to the chief executive, and the chief executive must pay those proceeds into the Residential Tenancies Trust Account.
- (4) To the extent that any amount owing to the landlord is not fully reimbursed under subsection (2), the landlord may seek reimbursement, in accordance with section 22, 22A, or 22B, for that amount out of any bond held in the Residential Tenancies Trust Account in respect of the tenancy.
- (5) To the extent that any amount owing to the landlord is not fully reimbursed under subsections (2) and (4), the landlord may recover those costs from the tenant.

Section 62C: inserted, on 1 October 2010, by section 44 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

62D Tenant may claim proceeds of sale

At any time within 1 year after the date of a sale under section 62A(5)(b)(ii) or under an order made under section 62B(2)(b), the tenant may apply to the chief executive for the payment to the tenant of the proceeds of sale in the Residential Tenancies Trust Account, and the chief executive must either make that payment to the tenant or, if there are reasonable grounds to do so, refer the matter to the Tribunal for determination.

Section 62D: inserted, on 1 October 2010, by section 44 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

62E Responsibility of tenant unaffected

Sections 62A to 62D and any regulations made for the purposes of section 62(3A) do not absolve the tenant from any responsibility imposed on the tenant by the tenancy agreement or by section 40(1)(e) or by any rule of law to remove from the premises on the termination of the tenancy all goods owned by the tenant that the tenant is entitled to possess.

Section 62E: inserted, on 1 October 2010, by section 44 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 62E: amended, on 30 January 2021, by section 37 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

62F Protection from liability

- (1) The landlord is not liable in respect of goods sold or disposed of under section 62 or 62A or in accordance with regulations, or under an order made under section 62B or in accordance with regulations, unless it is shown that, at the

time of the sale or disposition, the landlord had reason to believe that the goods were not owned by the tenant.

- (2) Any goods sold under section 62A(5)(b)(ii) or in accordance with regulations, or under an order made under section 62B(2)(b) or in accordance with regulations, are not recoverable from the purchaser unless it is shown that the purchaser acted otherwise than in good faith.
- (3) In this section, **regulations** means regulations made for the purposes of section 62(3A).

Section 62F: inserted, on 1 October 2010, by section 44 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 62F(1): amended, on 30 January 2021, by section 38(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 62F(2): amended, on 30 January 2021, by section 38(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 62F(3): inserted, on 30 January 2021, by section 38(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

63 Entry without order of Tribunal prohibited

- (1) No person shall enter into possession of any residential premises in the occupation of a tenant except with the consent of the tenant or pursuant to an order for possession made by the Tribunal and duly enforced in accordance with section 106.
- (2) Notwithstanding anything in section 57 of the Crimes Act 1961, every person who, otherwise than pursuant to a possession order duly enforced in accordance with section 106, enters onto any land or into any land, being residential premises to which this Act applies, for the purpose of taking possession of that land or building without the consent of the tenant commits an offence and is liable on conviction to a fine not exceeding \$3,000.

Compare: Residential Tenancies Act 1978–1981 s 80 (SA)

Section 63(2): amended, on 11 February 2021, by section 44 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 63(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 63(2): amended, on 1 October 2010, by section 45 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

64 Possession orders

- (1) Subject to subsection (2), on the application of any person entitled to possession of the premises following the termination of a tenancy, the Tribunal shall make an order granting possession of the premises to that person.
- (2) No possession order may be made more than 90 days after the date of the termination of the tenancy.

- (3) Every order of the Tribunal made under any of sections 55, 55A to 56A, 59, 59B, and 61 terminating a tenancy shall have effect as a possession order granting possession of the premises to the landlord.
- (4) No possession order (including an order of a kind referred to in subsection (3)) shall be capable of being filed under section 106 more than 90 days after—
 - (a) the date of the order; or
 - (b) in the case of a conditional order under section 55(1A) or section 78(3) or section 88(2) which states that it is an order to which this paragraph applies, the date on which the conditional order takes effect as a final termination order.

Section 64(2): amended, on 1 October 2010, by section 46 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 64(3): amended, on 11 February 2021, by section 45 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 64(4): replaced, on 1 May 1996, by section 25 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 64(4): amended, on 12 December 2012, by section 5 of the Residential Tenancies Amendment Act 2012 (2012 No 113).

65 Eviction of squatters

- (1) Where, on the application of any person entitled to possession of any residential premises, the Tribunal is satisfied that any other person is in possession of the premises as a squatter or trespasser, or otherwise than pursuant to any right of occupation granted to that person by any person having lawful authority to grant that right to that other person, the Tribunal shall make a possession order granting possession of the premises to the applicant.
- (2) Nothing in subsection (1) shall limit or affect the provisions of the Trespass Act 1980, or any other remedy that may be available to the person lawfully entitled to possession of the premises.
- (3) To avoid doubt, the Tribunal has jurisdiction under this section even though the premises are not subject to a tenancy agreement.

Section 65(3): inserted, on 1 October 2010, by section 47 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66 Reduction or termination of fixed-term tenancy

- (1) On application by a party to a fixed-term tenancy, the Tribunal may make an order reducing the term of the tenancy by a period stated in the order, and making such variations in the terms of the tenancy as are necessary because of the reduction of the term, where it is satisfied that, because of an unforeseen change in the applicant's circumstances, the severe hardship which the applicant would suffer if the term of the tenancy were not reduced would be greater than the hardship which the other party to the tenancy would suffer if the term were reduced.

- (2) Where the Tribunal makes an order under subsection (1), the Tribunal may order that the applicant pay to the other party an amount determined by the Tribunal by way of reasonable compensation for any loss or damage to the other party which would result from the reduction in the term of the tenancy.
- (3) On an application by a tenant who is a party to a fixed-term tenancy, the Tribunal may make an order terminating the tenancy if the Tribunal is satisfied that the tenant has received a notice of a rent increase that—
 - (a) is substantial; and
 - (b) is of an amount that the tenant could not reasonably foresee when he or she entered into the tenancy agreement; and
 - (c) has caused, or will cause, serious hardship.
- (4) On an application by a tenant who is party to a fixed-term tenancy of premises held in a stratum estate under the Unit Titles Act 2010, the Tribunal may make an order terminating the tenancy if satisfied that—
 - (a) the tenant is adversely affected by a change to the body corporate operational rules made under that Act; and
 - (b) because of that change, it would be unreasonable to require the tenant to continue with the tenancy.

Compare: Residential Tenancies Act 1980 s 113 (Vic)

Section 66: replaced, on 1 May 1996, by section 27 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 66 heading: amended, on 1 October 2010, by section 48(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 66(2): amended, on 1 October 2010, by section 48(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 66(3): inserted, on 1 October 2010, by section 48(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 66(4): inserted, on 1 October 2010, by section 48(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Part 2A

Boarding house tenancies

Part 2A: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Application

Heading: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66A Application of Part

- (1) This Part sets out special provisions that apply only to boarding house tenancies.

- (2) The following provisions do not apply to boarding house tenancies unless otherwise specifically applied:
- (a) section 7 (relating to short fixed-term tenancies):
 - (b) section 9(1) and (2) (relating to transitional provisions):
 - (c) sections 36 to 42, 43A to 45A, and 46 to 49 (relating to the rights and obligations of landlords and tenants):
 - (d) sections 50A, 51, and 55 to 57 (relating to the termination of tenancies):
 - (e) section 61 (relating to the abandonment of premises):
 - (f) section 64 (relating to possession orders).
- (3) When applying other provisions to boarding house tenancies, terms that are defined in section 66B have the meaning given by that section.

Section 66A: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 66A(2)(c): replaced, on 11 February 2021, by section 46 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

66B Interpretation for this Part

In this Part, unless the context otherwise requires,—

boarding house means residential premises—

- (a) containing 1 or more boarding rooms along with facilities for communal use by the tenants of the boarding house; and
- (b) occupied, or intended by the landlord to be occupied, by at least 6 tenants at any one time

boarding house tenancy means a residential tenancy in a boarding house—

- (a) that is intended to, or that does in fact, last for 28 days or more; and
- (b) under which the tenant is granted exclusive rights to occupy particular sleeping quarters in the boarding house, and has the right to the shared use of the facilities of the boarding house

boarding house tenancy agreement means a tenancy agreement (as defined in section 2(1)) relating to a boarding house tenancy

boarding room means a room in a boarding house that is used as sleeping quarters by 1 or more tenants of the boarding house, and that is for use only by a tenant whose tenancy agreement relates to that room

contact person means a natural person or an organisation

facilities means the facilities provided by the landlord of a boarding house for the shared use by tenants of the boarding house, such as—

- (a) toilet and bathroom facilities:
- (b) cooking facilities:
- (c) general living, dining, or recreational areas:

- (d) laundry facilities:
- (e) lifts and stairways:
- (f) rubbish storage and rubbish disposal facilities:
- (g) appliances for heating or cooling premises:
- (h) communication facilities:
- (i) lawns, gardens, and outhouses:
- (j) any land or buildings intended for use for storage space or for the parking of motor vehicles

premises means the boarding house, comprising the boarding rooms and all the facilities of the boarding house; and includes any part of any premises.

Section 66B: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Boarding house tenancy agreements

Heading: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66C Content of boarding house tenancy agreements

- (1) A boarding house tenancy agreement must comply with the requirements in section 13A and must, in addition, contain the following:
 - (a) a statement of whether the tenancy is intended to last for 28 days or more:
 - (b) 1 or more telephone numbers at which the landlord may be contacted by the tenant at any reasonable time:
 - (c) the room number of the boarding room to which the tenancy agreement relates:
 - (d) a statement as to whether the boarding room that the tenant is renting is shared by other tenants and, if so, the maximum number of other tenants who may occupy the room:
 - (e) a statement of whether the tenancy is a joint tenancy and, if so, the names of the other people who will occupy the boarding room under the tenancy agreement:
 - (f) a statement of the services (if any) to be provided by the landlord:
 - (g) if the premises are managed by a person other than the landlord, the name and contact address (which must include a telephone number) of that person:
 - (h) a description of the fire evacuation procedures that apply to the premises.

- (2) A boarding house tenancy agreement may, in addition, provide for the tenant to supply, for the purposes of sections 62 to 62B and 66X, the name and contact details of a contact person.

Compare: Residential Tenancies Act 1997 s 125 (Vic)

Section 66C: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66D Bond of 1 week's rent or less

- (1) If 1 week's rent or less is received as bond under a boarding house tenancy,—
- (a) the bond need not be lodged with the chief executive, and sections 19 to 22D do not apply; and
 - (b) the landlord must immediately give the tenant a receipt for the bond, and the receipt must comply with section 19(1)(a); and
 - (c) the landlord must refund the bond to the tenant when the tenancy terminates.
- (2) Despite subsection (1)(c), the landlord may retain out of a bond—
- (a) any unpaid rent owing under the tenancy; and
 - (b) any other amount owing by the tenant to the landlord, such as (without limitation) costs associated with repairing damage attributable to the tenant, replacing lost keys, reimbursement for services provided by the landlord, or unpaid gas, electricity, water, or telephone charges.
- (3) If the landlord does not refund the bond, or withholds more of the bond than the tenant considers is justified, the tenant may apply to the Tribunal for an order.

Section 66D: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66E Outgoings

- (1) The landlord is responsible for all outgoings in respect of the boarding house that are incurred—
- (a) whether or not the boarding house is occupied; or
 - (b) for common facilities; or
 - (c) in respect of rooms that are occupied by more than 1 tenant.
- (2) Without limiting the generality of subsection (1), the landlord is responsible for the cost of—
- (a) the general rate (within the meaning of section 13 of the Local Government (Rating) Act 2002) payable in respect of the boarding house; and
 - (b) insurance premiums payable in respect of the boarding house.
- (3) A tenant is responsible for all outgoings that are exclusively attributable to the tenant's occupation of a room that is exclusively occupied by the tenant.

- (4) Without limiting the generality of subsection (3), the tenant is responsible for the following charges, incurred during the tenancy, in respect of the premises:
- (a) electricity and gas supplied to the tenant's boarding room, if the supply is separately metered for that room:
 - (b) telephone and Internet connected to the tenant's boarding room.
- (5) If the landlord provides services to a tenant, and payment for those services is not included in the rent, the landlord must provide the tenant each week with an itemised account of the services provided and the amount payable by the tenant.

Compare: Residential Tenancies Act 1997 ss 108, 109 (Vic)

Section 66E: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66F Tenancy not assignable by tenant

A boarding house tenancy is not assignable by a tenant.

Compare: Residential Tenancies Act 1997 s 93 (Vic)

Section 66F: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Rights and obligations of landlords and tenants

Heading: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66G Quiet enjoyment

- (1) Every tenant of a boarding house is entitled to the quiet enjoyment of the premises, without interruption by the landlord or another tenant of the boarding house.
- (2) The landlord must not cause or permit any interference with the reasonable peace, comfort, or privacy of the tenant in the use of the premises by the tenant.
- (3) The tenant must not cause or permit any interference with the reasonable peace, comfort, or privacy of any other tenant on the premises.
- (4) Contravention of subsection (2) or (3) in circumstances that amount to harassment of a tenant is declared to be an unlawful act.

Compare: Residential Tenancies Act 1997 ss 113, 122 (Vic)

Section 66G: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66H Landlord's obligations at start of tenancy

- (1) When a tenant enters into a boarding house tenancy agreement, the landlord must give the tenant—
 - (a) a copy of the current house rules; and
 - (b) if services are or may be provided by the landlord that are not covered by the rent, a list of the services and their cost.

- (2) When a tenant first takes occupation of a boarding room under a boarding house tenancy, the landlord must ensure that—
- (a) the tenant has vacant possession of the room or, if the room is shared, of the tenant's sleeping quarters in the room; and
 - (b) the room is in a reasonable state of cleanliness; and
 - (c) there is no legal impediment to the tenant's occupation of the room.
- (3) *See also* sections 66I(1B)(a) and 66IA.

Compare: Residential Tenancies Act 1997 s 109 (Vic)

Section 66H: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 66H(3): inserted, on 30 January 2021, by section 40 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

66I Landlord's ongoing obligations

- (1) The landlord of a boarding house must, at all times,—
- (a) ensure that the facilities of the premises are in a reasonable state of cleanliness; and
 - (b) ensure that the premises are in a reasonable state of repair, having regard to the age and character of the premises and the period during which the premises are likely to remain habitable and available for residential purposes; and
 - (ba) comply with all requirements in respect of smoke alarms imposed on the landlord by regulations made under section 138A; and
 - (bb) comply with the healthy homes standards; and
 - (bc) comply with all requirements in respect of contaminants imposed on the landlord by regulations made under section 138C(3)(c); and
 - (c) comply with all requirements in respect of buildings, health, and safety under any enactment so far as they apply to the premises; and
 - (d) ensure that there are sufficient locks or similar devices to ensure that the premises are reasonably secure; and
 - (e) ensure that the tenant has access at all times to his or her room and to toilet and bathroom facilities in the premises; and
 - (f) ensure that the tenant has access at all reasonable hours to the other facilities in the premises; and
 - (g) ensure that copies of the house rules and fire evacuation procedures are on display in the premises at all times; and
 - (h) take all reasonable steps to ensure that the house rules are observed, and to enforce them in a fair and consistent manner.
- (1A) Subsection (1B) applies to a landlord of a boarding house tenancy if—

- (a) the landlord knows that tests carried out in accordance with a relevant prescribed method have established that any part of the boarding room or facilities of the boarding house is contaminated; and
 - (b) the boarding room or facilities (as relevant) have not been decontaminated in accordance with a relevant prescribed decontamination process.
- (1B) If this subsection applies—
 - (a) and the boarding room has not yet been provided to the tenant, the landlord must not provide the boarding room to the tenant until the boarding room or facilities (as relevant) have been decontaminated in accordance with a relevant prescribed decontamination process:
 - (b) and the tenant has already been provided with the boarding room, the landlord may continue to provide the boarding room to the tenant (under that tenancy or any extension or renewal of that tenancy) only if the boarding room or facilities (as relevant) are being decontaminated in accordance with a relevant prescribed decontamination process and any rules prescribed under section 138C(3)(f).
- (1C) Subsections (1A) and (1B) do not limit subsection (1) or section 66H(2), but *see also*, in relation to the landlord's liability for contaminant presence, section 66IA.
- (2) Subsections (1) to (1B) apply even if the tenant has notice, at the time when the tenancy agreement is entered into, of the state of the premises.
- (3) The obligations in subsection (1) are in addition to the obligation in section 66G(2).
- (4) Failure by the landlord to comply with any of paragraphs (a) to (c) of subsection (1) is declared to be an unlawful act.
- (5) A contravention by the landlord of subsection (1B) is declared to be an unlawful act.
- (6) If the tenant requests the landlord to provide information described in section 123A(1)(e) (relating to the healthy homes standards) to the tenant, the landlord must, within 21 days after the date of receiving the request, provide the information to the tenant.
- (7) A landlord who, without reasonable excuse, fails to comply with subsection (6)—
 - (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.

Compare: Residential Tenancies Act 1997 ss 120–124, 127(2) (Vic)

Section 66I: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 66I(1)(ba): inserted, on 1 July 2016, by section 18(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 66I(1)(bb): replaced, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 66I(1)(bc): inserted, on 30 January 2021, by section 41(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66I(1A): inserted, on 30 January 2021, by section 41(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66I(1B): inserted, on 30 January 2021, by section 41(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66I(1C): inserted, on 30 January 2021, by section 41(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66I(2): amended, on 30 January 2021, by section 41(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66I(5): inserted, on 30 January 2021, by section 41(4) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66I(6): inserted, on 11 February 2021, by section 47 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 66I(7): inserted, on 11 February 2021, by section 47 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

66IA Protection from liability for landlord who complies with contaminant regulations

- (1) Subsection (2) applies to a landlord of a boarding house during any period where—
 - (a) a contaminant is present at the premises, but either—
 - (i) the premises are not contaminated with the contaminant; or
 - (ii) unknown to the landlord, the premises are contaminated with the contaminant; and
 - (b) regulations made under section 138C(3)(c) are in force in respect of the contaminant and apply in relation to the premises.
- (2) The landlord (having complied with those regulations during that period) is not liable, under this Act, for not having provided the tenant with clean or habitable premises during that period on the basis of the presence of the contaminant in the premises.
- (3) For the purpose of this section, a landlord knows that premises are contaminated only if the landlord knows that tests carried out in accordance with a relevant prescribed method have established that the premises are contaminated.

Section 66IA: inserted, on 30 January 2021, by section 42 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

66J Other obligations of landlord

- (1) The landlord must not interfere with the supply of gas, electricity, water, telephone services, or other services to the premises, unless the interference is necessary to avoid danger to any person or to enable maintenance or repairs to be carried out.

- (2) If, at any time after entering into a boarding house tenancy agreement, the landlord puts the premises on the market for the purposes of sale or other disposition, the landlord must, as soon as practicable, give written notice of that fact to the tenant.
- (2A) If a landlord is offering a boarding house tenancy, the landlord must inform prospective tenants if the premises are on the market for the purposes of sale or other disposition.
- (2B) A landlord who fails to comply with—
 - (a) subsection (1), (2), or (2A) commits an unlawful act;
 - (b) subsection (2A) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.
- (3) Before changing any lock or similar device, the landlord must tell every tenant of the boarding house who will be affected about the change.
- (3A) If the landlord carries out tests for the presence of contaminants in any of the facilities, the landlord must, within 7 days of receiving the results of the testing, notify every current tenant of the boarding house, in writing, of the results of the testing, and provide each of them with a copy (if any) of the results.
- (4) A landlord who fails to comply with subsection (3A)—
 - (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.
- (5) The landlord of premises that are insured may at any time, and must within a reasonable time after receiving a request from the tenant for a copy of the insurance policy, provide to the tenant under a tenancy agreement a copy of each insurance policy that is relevant to the tenant's liability for destruction of, or damage to, the premises.
- (6) If anything changes so that the insurance information that was provided in accordance with subsection (5) or this subsection is no longer correct, the landlord must, within a reasonable time after the landlord becomes aware of the change,—
 - (a) provide the tenant with a copy of the correct information; or
 - (b) if the premises are no longer insured, provide the tenant with a statement that they are not insured.
- (7) A landlord's failure to comply with subsection (5) or (6) is declared to be an unlawful act.

Section 66J: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 66J(2): replaced, on 11 February 2021, by section 48(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 66J(2A): inserted, on 11 February 2021, by section 48(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 66J(2B): inserted, on 11 February 2021, by section 48(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 66J(3A): inserted, on 27 August 2019, by section 43 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66J(4): replaced, on 11 February 2021, by section 48(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 66J(5): inserted, on 27 August 2019, by section 15 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66J(6): inserted, on 27 August 2019, by section 15 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66J(7): inserted, on 27 August 2019, by section 15 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

66K Obligations of tenant

- (1) The tenant of a boarding house must—
 - (a) pay the rent when it is payable under the tenancy agreement; and
 - (b) ensure that the tenant's boarding room is occupied principally for residential purposes; and
 - (c) keep the tenant's room reasonably clean and reasonably tidy, and in a condition that does not create a health or safety hazard; and
 - (ca) comply with all requirements in respect of smoke alarms imposed on the tenant by regulations made under section 138A; and
 - (d) notify the landlord, as soon as possible after discovery, of any damage to the premises or of the need for any repairs; and
 - (e) observe the house rules.
 - (f) *[Repealed]*
- (2) The tenant of a boarding house must not—
 - (a) intentionally or carelessly damage, or permit any other person to damage, the premises; or
 - (b) cause or permit any interference with, or render inoperative, any means of escape from fire within the meaning of the Building Act 2004; or
 - (c) use the tenant's boarding room, or permit the room to be used, for an unlawful purpose; or
 - (d) cause or permit any interference with the reasonable peace, comfort, or privacy of any person residing in the neighbourhood; or
 - (e) affix any fixture to the premises, or make any renovation, alteration, or addition of or to the premises, without the prior written consent of the landlord; or
 - (f) alter, add to, or remove from the premises any lock or similar device; or
 - (g) keep a pet on the premises without the permission of the landlord.

- (3) The obligations in this section are in addition to the obligation in section 66G(3).
- (4) The following are declared to be unlawful acts:
 - (a) a contravention of subsection (2)(b):
 - (b) a contravention of subsection (2)(c):
 - (c) a contravention of subsection (2)(d) in circumstances that amount to harassment of a neighbour of the tenant.
- (5) *See* sections 49A and 49B in relation to the tenant's liability for a contravention of subsection (2)(a).

Section 66K: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 66K(1)(ca): inserted, on 1 July 2016, by section 19 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 66K(1)(e): amended, on 27 August 2019, by section 16(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66K(1)(f): repealed, on 27 August 2019, by section 16(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66K(5): inserted, on 27 August 2019, by section 16(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

66L Tenant's liability for damage caused by others

- (1) The tenant of a boarding house is responsible for anything done or omitted to be done by any person who is on the premises with the tenant's permission if the act or omission would have constituted a breach of the tenancy agreement had it been the act or omission of the tenant.
- (2) Any damage done to a tenant's boarding room is presumed to have been caused by the tenant, unless the tenant proves otherwise or is not the only tenant of that room.
- (3) For the purposes of subsection (2), a person who enters the tenant's boarding room is presumed to be on the premises with the tenant's permission, unless the tenant proves otherwise or is not the only tenant of that room.

Section 66L: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66M Tenant's obligations at end of tenancy

On the termination of a tenancy, the tenant of a boarding house must—

- (a) quit the premises; and
- (b) remove all his or her goods from the premises; and
- (c) leave the tenant's boarding room in a reasonably clean and reasonably tidy condition, and remove all rubbish from the room; and
- (d) return to the landlord all keys, security or pass cards, and other such devices provided by the landlord for the use of the tenant; and

- (e) leave in or at the premises all other chattels provided by the landlord for the use of tenants of the boarding house.

Section 66M: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66N Mitigation of damage or loss

If a landlord or tenant breaches any provision of the tenancy agreement, the other party must take all reasonable steps to limit the damage or loss arising from the breach, in accordance with the rules of law relating to mitigation of loss or damage upon breach of contract.

Section 66N: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

House rules

Heading: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66O Landlord may make house rules

- (1) The landlord of a boarding house may make house rules relating to—
 - (a) the use and enjoyment of the premises; and
 - (b) the provision of services.
- (2) No house rule may—
 - (a) be inconsistent with this Act; or
 - (b) require or purport to permit anything that is or would be illegal and, in particular, must not—
 - (i) require or permit any form of discrimination in contravention of the Human Rights Act 1993; or
 - (ii) purport to permit anything that would breach the Privacy Act 2020.
- (3) The landlord may at any time change the house rules, but a new house rule does not come into effect until the landlord has given each tenant of the boarding house at least 7 days' written notice of the new house rule.

Compare: Residential Tenancies Act 1997 ss 126, 127 (Vic)

Section 66O: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 66O(2)(b)(ii): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

66P What tenant may do if he or she objects to house rules

- (1) A tenant may apply to the Tribunal for an order declaring a house rule to be unlawful on the grounds that it breaches section 66O(2).
- (2) Subsection (1) applies even if, when the tenancy was entered into, the tenant had notice of the relevant house rule.

- (3) The Tribunal may, on the application of a tenant, make any of the following determinations in relation to a house rule:
- (a) require the landlord to apply a house rule in a particular manner;
 - (b) vary the rule;
 - (c) set the rule aside.
- (4) A landlord commits an unlawful act if he or she, in breach of an order of the Tribunal made under this section,—
- (a) adopts or maintains a house rule that has been declared unlawful; or
 - (b) refuses to apply a house rule in the manner ordered by the Tribunal; or
 - (c) does not give effect to a house rule as varied by the Tribunal; or
 - (d) purports to give effect to a house rule that has been set aside by the Tribunal.

Compare: Residential Tenancies Act 1997 s 128 (Vic)

Section 66P: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Landlord's right of entry

Heading: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66Q Landlord has right to enter premises at any time

- (1) The landlord of a boarding house may enter the boarding house at any time.
- (2) The landlord must not use the facilities of the boarding house for his or her own domestic purposes unless the landlord resides at the boarding house.

Section 66Q: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66R Landlord's right to enter boarding room is limited

- (1) The landlord of a boarding house may enter a boarding room that is currently let to a tenant only in the following circumstances:
- (a) with the consent of the tenant (or, if the room is let to more than 1 tenant, with the consent of any tenant of the room) freely given at, or immediately before, the time of entry;
 - (b) the landlord believes on reasonable grounds that there is an emergency and that immediate entry is necessary to save life or property;
 - (c) the landlord believes on reasonable grounds that there is a serious risk to life or property and that immediate entry is necessary to reduce or eliminate the risk;
 - (d) services are provided under the tenancy agreement and it is necessary to enter the room in order to provide them, but, in this case, the entry must

be in accordance with any conditions specified in the tenancy agreement or the house rules:

- (e) the Tribunal has ordered that the landlord may enter the room.
- (2) The landlord may also enter the room of a tenant if the landlord—
- (a) gives the tenant (or, if the room is let to more than 1 tenant, any tenant of the room), at least 24 hours before the entry, a notice of entry that complies with section 66S; and
 - (b) enters the room only for the purpose set out in the notice of entry (which must be one of the purposes set out in section 66S(1)); and
 - (c) enters the room between 8 am and 6 pm.
- (3) A landlord entering a room under this section—
- (a) must do so in a reasonable manner; and
 - (b) must not stay in the room longer than is necessary to achieve the purpose of the entry; and
 - (c) must not interfere with the tenant's property unless it is necessary for the purpose of the entry.

Compare: Residential Tenancies Act 1997 ss 136, 138 (Vic)

Section 66R: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66S Notice of entry

- (1) The purposes for which a landlord may enter a boarding room under a notice of entry are—
- (a) to show the room to a prospective tenant;
 - (b) to show the room to a prospective buyer or lender, or to a registered valuer, real estate agent, or an expert engaged in appraising or evaluating the boarding house, if the boarding house is to be sold or used as security;
 - (c) where entry to the room is necessary to enable the landlord to fulfil his or her obligations under this Act:
- (ca) without limiting paragraph (c), to comply, or to prepare to comply, with any requirements in respect of smoke alarms imposed, or prospectively imposed, on landlords by regulations made under section 138A:
 - (cb) without limiting paragraph (c), to comply, or to prepare to comply, with the healthy homes standards (including any prospective requirements of those standards):
 - (cc) to test for the presence of stated contaminants, or to take samples for such testing:

- (d) where the landlord has reasonable grounds to believe that a tenant of the room has failed to comply with his or her obligations as a tenant under this Act:
 - (e) the landlord wishes to confirm whether or not a tenant of the room has abandoned the tenancy:
 - (f) the landlord wishes to inspect the room and no entry for that purpose has been made within the last 4 weeks:
 - (g) to inspect work that the landlord has required the tenant to carry out or that the tenant has agreed to carry out.
- (2) The tenant may be notified of the proposed entry orally or in writing.
- (3) The notice must—
- (a) state the purpose of the entry, which must be one of the purposes listed in subsection (1); and
 - (aa) if the purpose is to test for the presence of stated contaminants or to take samples for such testing (or involves such testing or sample taking for the purpose of subsection (1)(c)), state those contaminants; and
 - (b) identify the person or persons who will enter the room; and
 - (c) state the date on which entry will be made and the approximate time of entry.
- (4) If the notice is in writing, it must be served on the tenant by—
- (a) giving it to the tenant in person; or
 - (b) putting it on the door of the tenant's room; or
 - (c) putting it inside the tenant's room (for example, by sliding it under the door).
- (5) If a boarding room is entered under a notice of entry for the purpose of testing for the presence of stated contaminants, or taking samples for such testing (or involves such testing or sample taking for the purpose of subsection (1)(c)), the landlord must, within 7 days of receiving the results of the testing, notify the tenant, in writing, of the results of the testing and provide the tenant with a copy (if any) of the results.

Compare: Residential Tenancies Act 1997 ss 137, 139 (Vic)

Section 66S: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 66S(1)(ca): replaced, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 66S(1)(cb): inserted, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 66S(1)(cc): inserted, on 27 August 2019, by section 44(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66S(3)(aa): inserted, on 27 August 2019, by section 44(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 66S(5): inserted, on 27 August 2019, by section 44(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

66T Consequence of abuse, or refusal, of right of entry

- (1) The following are unlawful acts:
 - (a) entry into a tenant's room by a landlord otherwise than in accordance with section 66R:
 - (b) the use or threat of force by the landlord to enter or attempt to enter a tenant's room (other than as provided for in section 66R(1)(b) or (c)):
 - (c) failure by a tenant of a boarding room (or any person occupying the tenant's room with the tenant's permission) to permit the entry by the landlord into the tenant's room when the person entering is exercising a right of entry in accordance with section 66R:
 - (d) failure by the landlord to notify, or to provide results to, the tenant as required under section 66S(5).
- (1A) A landlord who fails to notify, or to provide results to, the tenant as required under section 66S(5) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.
- (2) A landlord who uses or threatens to use force to gain entry into a tenant's room in breach of subsection (1)(b) commits an offence and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$3,000.
- (3) If a landlord enters a tenant's room under section 66R(2), but does not comply with sections 66R(3) and 66S, the tenant may apply to the Tribunal for an order prohibiting the landlord from exercising the right to enter under section 66R(2) for a period specified in the order.
- (4) If a landlord damages any property of a tenant while in the tenant's room, the tenant may apply to the Tribunal for compensation for the damage.

Compare: Residential Tenancies Act 1997 ss 140, 141 (Vic)

Section 66T: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 66T(1)(d): inserted, on 11 February 2021, by section 49(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 66T(1A): inserted, on 11 February 2021, by section 49(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 66T(2): amended, on 11 February 2021, by section 49(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Termination

Heading: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66U Termination of tenancy by landlord

- (1) The landlord of a boarding house may terminate a boarding house tenancy—

- (a) immediately, if the tenant has—
 - (i) caused, or threatened to cause, serious damage to the premises; or
 - (ii) endangered, or threatened to endanger, people or property; or
 - (iii) caused, or threatened to cause, serious disruption to other tenants; or
 - (b) on 48 hours' notice, if—
 - (i) the landlord has, by written notice to the tenant, required the tenant to pay any rent in arrears within a stated period of not less than 10 days, commencing on the day the notice is given, and the tenant fails to pay the rent in arrears within the stated period; or
 - (ii) the tenant is using the premises for an illegal purpose; or
 - (iii) the landlord believes, having complied with section 66X, that the tenant has abandoned the room; or
 - (c) on 14 days' notice, if the tenancy is also a service tenancy, in which case section 53 applies; or
 - (d) on 28 days' notice, if no reason is given.
- (2) A notice of termination given by a landlord to a tenant of a boarding house must—
- (a) be in writing; and
 - (b) state the date on which the notice is given; and
 - (c) state the date on which the termination takes effect; and
 - (d) state the reason for the termination (unless 28 days' notice is given, in which case no reason need be given); and
 - (e) state the name of the tenant; and
 - (f) state the name, contact address, and telephone number of the landlord or his or her agent.
- (3) Subsections (4) to (9) of section 51 apply, with all necessary modifications, to a notice of termination given by the landlord of a boarding house.
- (4) To avoid doubt, section 54 (which provides that the Tribunal may order that notice by a landlord is of no effect in certain circumstances) applies to boarding house tenancies.

Section 66U: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66V When tenant may terminate tenancy

- (1) A tenant under a boarding house tenancy may terminate the tenancy by giving at least 48 hours' notice to the landlord.
- (2) A tenant need not give notice in writing.

- (3) If a boarding house tenancy is also a service tenancy, the requirement in section 53(1) that a tenant give not less than 14 days' notice does not apply.

Section 66V: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66W Termination of tenancy on death of sole tenant

A boarding house tenancy terminates 48 hours after the death of a sole tenant under the tenancy.

Section 66W: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Abandonment

Heading: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66X Abandonment by tenant

- (1) If the tenant of a boarding house is in arrear with the rent, and if the landlord has reason to believe that the tenant has abandoned the premises, the landlord—
- (a) may put a notice on the door of the tenant's boarding room advising the tenant that the landlord will enter the room 24 hours later to confirm whether or not the tenant has abandoned the tenancy; and
 - (b) must make all reasonable efforts to contact the contact person (if any) identified in the tenant's tenancy agreement.
- (2) The landlord must not enter the room until at least 24 hours after putting the notice on the door.
- (3) If, after inspecting the room and making contact (if possible) with the tenant's contact person, the landlord considers, on reasonable grounds, that the tenant has abandoned the room, the landlord may terminate the tenancy by putting a notice of termination that complies with subsection (4) and section 66S(1) on the door of the tenant's room.
- (4) The notice of termination must specify the date and time on which the tenancy terminates, which must be a time no sooner than 48 hours after the notice is put on the door.
- (5) It is declared that a tenant commits an unlawful act if, without reasonable excuse, he or she abandons the premises when the rent is in arrear.

Section 66X: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

66Y Possession orders

- (1) A landlord may apply to the Tribunal for a possession order if—
- (a) the landlord has given the tenant notice under section 66U and the tenant has not quit the premises within the period specified in the notice; or

- (b) the tenant has given the landlord notice under section 66V and the tenant has not quit the premises within the period specified by the tenant.
- (2) If the Tribunal is satisfied that the notice of termination was properly given and has not been withdrawn, it must make an order granting possession of the premises to the landlord.

Section 66Y: inserted, on 1 October 2010, by section 49 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Part 3 The Tenancy Tribunal

Constitution and administration

67 Constitution of Tribunal

- (1) For the purposes of this Act there is hereby constituted a tribunal, to be called the Tenancy Tribunal.
- (2) The Tribunal shall consist of—
 - (a) 1 person, being a person who has held a required qualification for at least 5 years, who shall be appointed to be the Principal Tenancy Adjudicator:
 - (b) *[Repealed]*
 - (c) such number of other persons as may be required to ensure the efficient and expeditious exercise of the jurisdiction of the Tribunal throughout New Zealand, who shall be appointed to be Tenancy Adjudicators.
- (2A) One Tenancy Adjudicator, being a person who has held a required qualification for at least 5 years, may be appointed to be the Deputy Principal Tenancy Adjudicator.
- (3) Every Tenancy Adjudicator shall be appointed by the Governor-General on the joint recommendation of the Minister of Justice and the Minister.
- (4) *[Repealed]*
- (5) No person shall be eligible for appointment to the Tribunal unless that person—
 - (a) has a required qualification; or
 - (b) is, in the opinion of the Minister of Justice and the Minister, otherwise capable by reason of special knowledge or experience of performing and exercising the duties, functions, and powers of a Tenancy Adjudicator.
- (6) In recommending persons for appointment to the Tribunal under subsection (2)(c), the Minister of Justice and the Minister shall ensure, so far as practicable, that—
 - (a) *[Repealed]*

- (b) there will be sufficient Tenancy Adjudicators who have a required qualification to ensure the efficient and expeditious dispatch of those cases that are directed by the Principal Tenancy Adjudicator, under section 84(3), to be heard and determined by a Tenancy Adjudicator who has a required qualification, whether sitting alone or with any other Tenancy Adjudicator.
- (7) The office of Tenancy Adjudicator shall not be held in conjunction with any office or employment in the public service, nor with any other office or employment that, in the opinion of the Minister of Justice and the Minister, is inconsistent with the office of Tenancy Adjudicator.
- (8) The duties, functions, and powers of the Tribunal shall not be affected by any vacancy in its membership.
- (9) In this section, the term **a required qualification** means—
 - (a) a practising certificate as a barrister or solicitor, or as both a barrister and solicitor, of the High Court of New Zealand; or
 - (b) an equivalent qualification issued or recognised by the appropriate authority in any Commonwealth country, or in any other common law country or state.

Section 67(2)(b): repealed, on 1 May 1996, by section 28(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 67(2A): inserted, on 1 May 1996, by section 28(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 67(3): replaced, on 1 May 1996, by section 28(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 67(3): amended, on 1 October 2010, by section 50(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 67(4): repealed, on 1 October 2010, by section 50(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 67(5)(b): amended, on 1 October 2010, by section 50(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 67(5)(b): amended, on 1 May 1996, by section 28(3) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 67(6): amended, on 1 October 2010, by section 50(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 67(6): amended, on 1 May 1996, by section 28(4) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 67(6)(a): repealed, on 1 October 2010, by section 50(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 67(7): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 67(7): amended, on 1 October 2010, by section 50(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 67(7): amended, on 1 May 1996, by section 28(5) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

67A Appointment of temporary acting Principal Tenancy Adjudicator, Deputy Principal Tenancy Adjudicator, or Tenancy Adjudicator

- (1) If the Principal Tenancy Adjudicator, the Deputy Principal Tenancy Adjudicator, or a Tenancy Adjudicator becomes incapable of acting by reason of illness, absence, or other sufficient cause, or if the Principal Tenancy Adjudicator, the Deputy Principal Tenancy Adjudicator, or a Tenancy Adjudicator considers it is not proper or not desirable that he or she should adjudicate on a specified matter, the Governor-General, on the joint recommendation of the Minister and the Minister of Justice, may appoint a suitable person as the acting Principal Tenancy Adjudicator, the acting Deputy Principal Tenancy Adjudicator, or an acting Tenancy Adjudicator for the period or purpose stated in the appointment.
- (2) No person may be appointed as an acting Principal Tenancy Adjudicator, acting Deputy Principal Tenancy Adjudicator, or acting Tenancy Adjudicator unless he or she is eligible for appointment to the relevant position.
- (3) An acting Principal Tenancy Adjudicator, acting Deputy Principal Tenancy Adjudicator, or acting Tenancy Adjudicator is, while acting in that position, to be treated as the Principal Tenancy Adjudicator, the Deputy Principal Tenancy Adjudicator, or a Tenancy Adjudicator.
- (4) No appointment of an acting Principal Tenancy Adjudicator, acting Deputy Principal Tenancy Adjudicator, or acting Tenancy Adjudicator, no act done by an acting Principal Tenancy Adjudicator, acting Deputy Principal Tenancy Adjudicator, or acting Tenancy Adjudicator, and no act done by the Tenancy Tribunal may be questioned in any proceedings on the ground that the occasion for the appointment had not arisen or had ceased.

Section 67A: inserted, on 14 November 2018, by section 256 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

68 Term of office of Tenancy Adjudicators

- (1) Every Tenancy Adjudicator must be appointed for a term of up to 5 years commencing on the date of the appointment or on such other date as may be specified in the instrument of appointment.
 - (1A) A person appointed under subsection (1) may be reappointed.
- (2) *[Repealed]*
- (3) Any Tenancy Adjudicator may at any time be removed from office by the Governor-General for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.
- (4) Any Tenancy Adjudicator may at any time resign by writing addressed to the Minister of Justice.
- (5) Where the term of office of any Tenancy Adjudicator expires, that Adjudicator shall, unless sooner vacating office under subsection (3) or subsection (4), continue in office until—

- (a) that person is reappointed; or
 - (b) a successor to that person is appointed; or
 - (c) that person is informed in writing by the Minister of Justice and the Minister that that person is not to be reappointed and that a successor to that person is not to be appointed.
- (6) A Tenancy Adjudicator who continues in office for any period under subsection (5) may act as an Adjudicator during that period for the purpose of—
 - (a) completing any proceedings partly or wholly heard by the Tribunal before the expiry of his or her term of office:
 - (b) hearing any other proceedings.
- (7) A Tenancy Adjudicator who has resigned, or whose successor is appointed or who will not be replaced (unless he or she was removed from office), may continue in office for the purpose of completing any proceedings that are partly or wholly heard.
- (8) In this section, **Tenancy Adjudicator** includes the Principal Tenancy Adjudicator and the Deputy Principal Tenancy Adjudicator.

Section 68(1): amended, on 14 November 2018, by section 257(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 68(1A): inserted, on 14 November 2018, by section 257(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 68(2): repealed, on 1 October 2010, by section 51(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 68(3): amended, on 1 January 2002, by section 70(1) of the Human Rights Amendment Act 2001 (2001 No 96).

Section 68(5): replaced, on 1 May 1996, by section 29 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 68(5)(c): amended, on 1 October 2010, by section 51(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 68(6): replaced, on 14 November 2018, by section 257(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 68(7): inserted, on 14 November 2018, by section 257(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 68(8): inserted, on 14 November 2018, by section 257(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

69 Remuneration of Tenancy Adjudicators

- (1) There shall be paid to the Principal Tenancy Adjudicator and the Deputy Principal Tenancy Adjudicator remuneration by way of salary, fees, or otherwise, and allowances and expenses, at such rate as the Remuneration Authority may from time to time determine in accordance with the Remuneration Authority Act 1977.
- (2) There shall be paid to each Tenancy Adjudicator (other than the Principal Tenancy Adjudicator and the Deputy Principal Tenancy Adjudicator) remuneration

by way of salary, fees, or otherwise, and allowances and expenses, at such rate as the Minister of Finance, from time to time determines by written instrument, and different forms of remuneration and different rates may be so determined for different classes of Tenancy Adjudicators.

- (3) The remuneration of a Tenancy Adjudicator shall not be diminished during the continuance of the Tenancy Adjudicator's appointment.
- (4) Any determination under subsection (2), and any provision of any such determination, may be made so as to come into force on a date to be specified in that behalf in the determination, being the date of the making of the determination or any other date, whether before or after the date of the making of the determination.
- (5) Every such determination, and every provision of any such determination, in respect of which no date is specified under subsection (4) shall come into force on the date of the making of the determination.

Section 69(1): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

70 Tenancy Adjudicators to be protected

Every Tenancy Adjudicator, in the performance of the Tenancy Adjudicator's duties under this Act, shall have and enjoy the same protection as Justices of the Peace acting in their criminal jurisdiction have and enjoy under sections 4A to 4F of the Justices of the Peace Act 1957.

Section 70: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

71 Conduct of Tribunal and stationing of Tenancy Adjudicators

- (1) The Principal Tenancy Adjudicator shall be responsible for ensuring the orderly and expeditious discharge of the business of the Tribunal throughout New Zealand, and accordingly may, subject to subsection (2) and to such consultation with the other Tenancy Adjudicators as is appropriate and practicable, give all such directions as are contemplated by the succeeding provisions of this section.
- (2) Sittings of the Tribunal must be held, as and when necessary for the dispatch of its business, at the places that the chief executive directs.
- (3) Each Tenancy Adjudicator shall be stationed at, and shall exercise the jurisdiction of the Tribunal in, such place or places as the Principal Tenancy Adjudicator may from time to time direct.
- (4) Notwithstanding anything in subsections (2) and (3), the fact that a Tenancy Adjudicator sits in any particular place shall be conclusive evidence of that Tenancy Adjudicator's authority to do so, and no exercise of any jurisdiction or power by any Tenancy Adjudicator shall be questioned on the ground that the Tenancy Adjudicator was not stationed at, or authorised to exercise the juris-

diction of the Tribunal in, the place where the Tenancy Adjudicator exercised the jurisdiction or power.

- (5) Sittings of the Tribunal for the dispatch of its business in any particular place shall, subject to any directions by the Principal Tenancy Adjudicator, be held on such days and at such times as may be appointed by the Tenancy Adjudicator, or one of the Tenancy Adjudicators, stationed at, and authorised to exercise the jurisdiction of the Tribunal in, that place.

Section 71(2): replaced, on 1 October 2010, by section 52 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

71A Delegation by Principal Tenancy Adjudicator

- (1) The Principal Tenancy Adjudicator may delegate any of his or her functions, duties, and powers to another Tenancy Adjudicator (including the Deputy Principal Tenancy Adjudicator) who holds the qualification described in section 67(2)(a) and who the Principal Tenancy Adjudicator is satisfied has the necessary capability, skills, and experience to perform or exercise those functions, duties, and powers.
- (2) A delegation—
 - (a) must be in writing; and
 - (b) must be to a named person; and
 - (c) is revocable at any time, in writing; and
 - (d) does not prevent the performance or exercise of a function, duty, or power by the Principal Tenancy Adjudicator.
- (3) A person to whom any functions, duties, or powers are delegated may perform or exercise them in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.
- (4) A person who appears to act under a delegation is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.
- (5) A person to whom any functions, duties, or powers are delegated must be paid remuneration and expenses (if any) determined in accordance with section 69(1) for work undertaken in that capacity.

Section 71A: inserted, on 29 October 2019, by section 258 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

72 Registrars

- (1) Every Registrar, and every Deputy Registrar, of the District Court is a Registrar of the Tribunal.
- (2) In addition, employees of the Ministry of Justice who are not Registrars, or Deputy Registrars, of the District Court may be designated by the chief executive of the Ministry of Justice as Registrars of the Tribunal.
- (3) It is the responsibility of each Registrar—

- (a) to arrange, in accordance with the instructions of the chief executive of the Ministry of Justice, for the provision of any secretarial and administrative services that may be necessary for the efficient and expeditious exercise of the Tribunal's jurisdiction; and
 - (b) to ensure that adequate arrangements are made, in consultation with the chief executive, for the filing and processing of all applications and other documents required or authorised to be filed under this Act; and
 - (c) to arrange fixtures for cases to be dealt with by the Tribunal; and
 - (d) to carry out, in respect of the exercise of the Tribunal's jurisdiction, the duties customarily carried out by a registrar of a judicial body.
- (4) Any Registrar may, at the direction of the chief executive (given generally or in any particular case), refer a matter to another Registrar.

Section 72: replaced, on 12 December 2012, by section 6 of the Residential Tenancies Amendment Act 2012 (2012 No 113).

Section 72(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 72(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

73 Seal of Tribunal

- (1) The Tribunal shall have a seal which shall be the seal of the Tribunal and shall be used for sealing documents that require to be sealed, and any other document that any Tenancy Adjudicator elects to seal.
- (1A) The seal may be applied to a document physically or electronically.
- (2) The form of the seal shall be such as the chief executive of the Ministry of Justice from time to time determines.
- (3) The seal of the Tribunal shall be judicially noticed by all courts and for all purposes.

Section 73(1): amended, on 1 July 2016, by section 21(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 73(1A): inserted, on 1 July 2016, by section 21(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 73(2): amended, on 1 October 2010, by section 54 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 73(2): amended, on 1 July 1995, by section 10(1) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

74 Records of Tribunal

- (1) Registrars must keep the records and papers of the Tribunal in the way (including by electronic means) approved by the chief executive of the Ministry of Justice.

- (2) Except where the Tribunal otherwise orders under section 95(3), the records and papers of the Tribunal shall be available for public inspection, on payment of the prescribed fee (if any), at all reasonable times.
- (3) The chief executive of the Ministry of Justice must make arrangements under which a true copy of any record or paper of the Tribunal that is available for public inspection will be provided to any person on—
 - (a) an application made by that person—
 - (i) to a Registrar; or
 - (ii) by any electronic means (for example, through an Internet site) approved by the chief executive of the Ministry of Justice (if the arrangements allow applications to be made by electronic means); and
 - (b) payment by that person of the prescribed fee (if any).
- (4) A certificate, given by a Tenancy Adjudicator or any Registrar and sealed with the seal of the Tribunal, to the effect that any such copy is a true copy of the record or paper of the Tribunal to which it relates shall, in the absence of proof to the contrary, be sufficient evidence that it is a true copy of that record or paper.

Section 74(1): replaced, on 1 July 2016, by section 22(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 74(3): replaced, on 1 July 2016, by section 22(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 74(4): amended, on 1 July 2016, by section 22(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

75 Offices and Tenancy Officers

[Repealed]

Section 75: repealed, on 1 October 2010, by section 55 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

76 Tenancy Mediators

- (1) The chief executive must, from time to time, appoint Tenancy Mediators for the purposes of this Act.
- (1A) For the purposes of subsection (1), the chief executive may appoint 1 or more of the following:
 - (a) natural persons under the Public Service Act 2020;
 - (b) natural persons otherwise than under that Act on terms and conditions determined by the chief executive;
 - (c) bodies corporate on terms and conditions determined by the chief executive.
- (1B) A Tenancy Mediator that is a body corporate must perform or exercise its duties, functions, and powers through natural persons who are officers or

employees of the body corporate and who are authorised by it for the purposes of this subsection.

- (2) *[Repealed]*
- (3) *[Repealed]*
- (4) *[Repealed]*
- (5) Tenancy Mediators shall have the following duties, functions, and powers:
 - (a) where an application has been made for the exercise of the Tribunal's jurisdiction in respect of any dispute, to offer their services to the parties to the dispute and to assist the parties in bringing about a settlement:
 - (b) in giving such assistance, to inquire fully into any such dispute and all matters affecting its merits, and to make such suggestions and recommendations and do all such things as they think right and proper for inducing the parties to come to a fair and amicable settlement:
 - (c) to carry out, in respect of disputes arising within the jurisdiction of the Tribunal, all such directions as the Tribunal may think fit to give:
 - (d) such other duties, functions, and powers as are conferred on Tenancy Mediators by this Act.
- (6) No Tenancy Mediator shall have power to determine any matter in dispute, whether with or without a request by the parties.
- (7) Subject to any directions of the Tribunal, no Tenancy Mediator shall have or exercise any duties, functions, or powers in respect of any dispute that is before the Tribunal.
- (8) For the purposes of subsection (7), a dispute is before the Tribunal from the time when the Registrar receives notice of the dispute until the time when the Tribunal makes a final determination in respect of the dispute.
- (9) In the performance of their duties, functions, and powers under this Act, Tenancy Mediators—
 - (a) shall be subject to the directions of, and responsible to, the Tribunal irrespective of whether or not they are officers or employees of any of the State services, provided that in all other respects Tenancy Mediators shall be subject to the terms and conditions, whether express or implied, of their employment contract or appointment; and
 - (b) shall be entitled to immunity from suit in respect of any act or matter done or omitted to be done by them in good faith.
- (9A) In relation to a Tenancy Mediator that is a body corporate, subsection (9)(b) also applies to any officer or employee of the body corporate through whom the body corporate is performing or exercising its duties, functions, and powers in accordance with subsection (1B).
- (9B) Subsection (9)(b) does not prevent the following:

- (a) the chief executive exercising a right under, or otherwise enforcing, the terms and conditions of a Tenancy Mediator's employment contract or appointment:
 - (b) a Tenancy Mediator that is a body corporate exercising a right under, or otherwise enforcing, the terms and conditions of the appointment or employment contract of any of its officers or employees.
- (10) Tenancy Mediators may perform and exercise their duties, functions, and powers at any place within New Zealand.
- (11) *[Repealed]*
 - Section 76(1): replaced, on 1 July 2016, by section 23(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).
 - Section 76(1A): inserted, on 1 July 2016, by section 23(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).
 - Section 76(1A)(a): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).
 - Section 76(1B): inserted, on 1 July 2016, by section 23(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).
 - Section 76(2): repealed, on 1 July 2016, by section 23(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).
 - Section 76(3): repealed, on 1 July 2016, by section 23(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).
 - Section 76(4): repealed, on 1 May 1996, by section 31(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).
 - Section 76(8): amended, on 1 October 2010, by section 56(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).
 - Section 76(9)(a): replaced, on 1 May 1996, by section 31(3) of the Residential Tenancies Amendment Act 1996 (1996 No 7).
 - Section 76(9A): inserted, on 1 July 2016, by section 23(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).
 - Section 76(9B): inserted, on 1 July 2016, by section 23(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).
 - Section 76(11): repealed, on 1 July 2016, by section 23(4) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Jurisdiction

77 Jurisdiction of Tribunal

- (1) The Tribunal has, subject to the Limitation Act 2010, jurisdiction to determine in accordance with this Act any dispute that—
 - (a) exists between a landlord and a tenant or between a landlord and the guarantor of a tenant; and
 - (b) relates to any tenancy to which this Act applies or to which this Act did apply at any material time.
- (2) Without limiting the generality of subsection (1), the Tribunal shall have jurisdiction to do the following things:

- (a) to determine whether any premises are or are not, or were or were not at any material time, residential premises to which this Act applies:
- (ab) to determine whether any premises are or are not, or were or were not at any material time, a boarding house as defined in section 66B:
- (ac) to determine whether any premises are or are not, or were or were not at any material time, unlawful residential premises as defined in section 78A(2):
- (b) to determine whether there is or is not, or was or was not at any material time, a tenancy agreement to which this Act applies in force in respect of any residential premises, and to determine the terms of and the parties to any such agreement:
- (c) to determine whether any tenancy is or is not, or was or was not at any material time, a service tenancy:
- (d) to determine whether any rent that is, or that was at any material time, being charged in respect of any tenancy to which this Act applies does or does not or did or did not exceed the market rent for that tenancy by a substantial amount, and, where the rent does or did exceed the market rent by a substantial amount, to make such order relating to the rent as it thinks just:
- (e) where any rent is, was, or will be required wholly or partly in a form other than money, to determine in monetary terms the value of the rent so required:
- (f) to determine whether or not any notice purporting to terminate a tenancy to which this Act applies was or was not authorised by any of the provisions of this Act and given in the form and manner prescribed by or under this Act:
- (g) to determine whether any person is or is not entitled to possession of any premises by virtue of any provision of any tenancy agreement to which this Act applies, or by virtue of any breach by any other person of any provision of any such tenancy agreement, or on the expiry of any such tenancy agreement, and to make an order for the recovery of the premises by any person who is entitled to possession:
- (h) before the commencement of the tenancy, and on the application of either or both of the parties, to consent to the inclusion of any term in any tenancy agreement to which this Act applies, where the inclusion of that term would otherwise be contrary to any of the provisions of this Act:
- (i) during the tenancy, and on the application of both of the parties, consent to the inclusion of any term in any tenancy agreement to which this Act applies, where the inclusion of that term would otherwise be contrary to any of the provisions of this Act, and to make an order varying the agreement accordingly:

- (j) to order that a provision of this Act shall not apply to, or in relation to, any tenancy agreement or any residential premises, or shall apply in such modified form as the Tribunal may specify in the order:
- (k) to order the tenant under any tenancy agreement to which this Act applies to pay to the landlord any sum found to be owing by the tenant to the landlord, whether by way of rent in arrear or otherwise pursuant to the tenancy agreement, and to order the landlord under any such tenancy agreement to pay to the tenant the whole or any part of any sum found to have been paid by way of rent in excess of the amount lawfully payable, or of any other sum demanded or received by the landlord in contravention of any of the provisions of this Act:
- (ka) to determine whether, and the extent to which, the guarantor of a tenant is liable to the landlord under the guarantee, and to order the guarantor to pay to the landlord any sum found to be payable under the guarantee:
- (l) to order the landlord or the tenant under any tenancy agreement to which this Act applies to do anything necessary to remedy the breach by that party of any express or implied provision of the tenancy agreement or any provision of this Act, or to do anything that that party is required to do by any such provision:
- (m) to order the landlord or the tenant under any tenancy agreement to which this Act applies to refrain from doing anything if the doing of that thing by that party would constitute a contravention or (as the case may require) a further contravention of any express or implied provision of the tenancy agreement or any provision of this Act:
- (maa) to determine whether a landlord should not be required to provide for the installation of a fibre connection for the purposes of section 45B(2)(e):
- (ma) to make an order declaring a house rule of a boarding house unlawful, or requiring a landlord to apply a house rule in a particular manner, or to vary a house rule, or to set a house rule aside:
- (mb) to order the landlord to refrain from exercising the power under section 66R(2) to enter the boarding room of a tenant under a boarding house tenancy:
- (mc) to make orders under section 62B or in accordance with any regulations made for the purposes of section 62(3A) concerning goods left on the premises on the termination of a tenancy:
- (md) to make orders in accordance with section 78A (which relates to unlawful residential premises) if that section applies:
- (me) to make orders for a person to pay a pecuniary penalty under sections 109B to 109E:
- (mf) to determine objections to improvement notices under section 126M:

- (n) to order the landlord or the tenant under any tenancy agreement to which this Act applies to pay to the other party such sum by way of damages or compensation as the Tribunal shall assess in respect of the breach of any express or implied provision of the tenancy agreement or any provision of this Act:
 - (o) to consider and determine any complaint by any party to a tenancy agreement or by the chief executive that any person has committed an unlawful act, and, where it finds such a complaint to be proved, to order the payment of such sum in the nature of exemplary damages, not exceeding the maximum prescribed by this Act, as the Tribunal may think just:
 - (p) to approve the assignment by the tenant of the rights of the tenant under any tenancy agreement to which this Act applies, or the subletting by the tenant under any such tenancy agreement of the whole or any part of the premises, where the Tribunal finds that the landlord has withheld consent unreasonably and the assignment or subletting is not absolutely prohibited by the tenancy agreement:
 - (pa) to record in any order requiring a party to pay money to any other party that the parties have agreed to enforce the payment of the amount specified in that order by way of an attachment order made under the District Court Act 2016:
 - (q) to make orders of a consequential or ancillary nature necessary to exercise or perfect the exercise of any of its jurisdiction.
- (2A) If subsection (2)(pa) applies, then section 78(2AB) to (2AD) apply.
- (2B) If section 78A applies in any matter, the Tribunal's jurisdiction under subsection (2)(k) and (n) of this section, in relation to that matter, is subject to that section.
- (2C) Nothing in this Act requires the Tribunal to inquire, in the case of every dispute within its jurisdiction, into whether premises are, or were at any material time, unlawful residential premises.
- (3) The Tribunal shall have jurisdiction to make an order for the recovery by any person of any residential premises to which this Act applies, or the eviction of any person from any such premises, regardless of the value of the premises or the amount of any rent payable for the premises.
- (4) In respect of tenancy agreements, the Tribunal has jurisdiction to exercise, and may exercise, all the powers conferred on a court by section 264 of the Property Law Act 2007 (which relates to the granting of relief to the tenant against the landlord's refusal to enter into a renewal of a tenancy agreement or to sell the landlord's interest in the premises to the tenant).
- (4A) The Tribunal does not have jurisdiction to determine a dispute so far as it raises a question as to the landlord's conduct in the landlord's capacity as a provider

of health or disability services and the conduct is of a kind about which a complaint may be made under the Health and Disability Commissioner Act 1994.

- (5) Despite subsection (1), the Tribunal does not have jurisdiction to require any party to pay any sum, or to do any work to a value, or otherwise to incur any expenditure, in excess of \$100,000.
- (6) Subsection (5) shall not prevent a party from abandoning so much of a claim as exceeds \$100,000 in order to bring the claim within the jurisdiction of the Tribunal; and, in any such case, an order of the Tribunal under this Act in relation to the claim shall operate to discharge from liability in respect of the amount so abandoned any person against whom the claim and the subsequent order is made.
- (7) Subsection (5) does not affect a claim relating to a tenancy that is for a balance of not more than \$100,000 that results from a set-off or any counterclaim in respect of the same tenancy, if the set-off or counterclaim is admitted by the claimant in the notice of claim.
- (7A) The Tribunal does not have jurisdiction to consent to a person charging a tenant a letting fee.
- (7B) The Tribunal does not have jurisdiction to determine a dispute so far as it raises a question as to whether a tenant of premises who gave notice accompanied by qualifying evidence under section 56B was in fact a victim of family violence while a tenant of the premises.
- (8) A cause of action shall not be divided into 2 or more claims for the purpose of bringing it within the jurisdiction of the Tribunal.

Section 77(1): replaced, on 1 October 2010, by section 57(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 77(1): amended, on 1 July 2016, by section 24 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 77(2)(ab): inserted, on 1 October 2010, by section 57(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 77(2)(ac): inserted, on 27 August 2019, by section 17(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 77(2)(f): amended, on 11 February 2021, by section 50(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 77(2)(ka): inserted, on 1 October 2010, by section 57(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 77(2)(maa): inserted, on 11 February 2021, by section 50(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 77(2)(ma): inserted, on 1 October 2010, by section 57(4) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 77(2)(mb): inserted, on 1 October 2010, by section 57(4) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 77(2)(mc): inserted, on 1 October 2010, by section 57(4) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 77(2)(mc): amended, on 30 January 2021, by section 45 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 77(2)(md): inserted, on 27 August 2019, by section 17(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 77(2)(me): inserted, on 11 February 2021, by section 50(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 77(2)(mf): inserted, on 11 February 2021, by section 50(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 77(2)(o): amended, on 18 August 1992, by section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 77(2)(p): amended, on 1 October 2010, by section 57(5) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 77(2)(pa): inserted, on 14 April 2014, by section 4(1) of the Residential Tenancies Amendment Act 2011 (2011 No 46).

Section 77(2)(pa): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 77(2A): inserted, on 14 April 2014, by section 4(2) of the Residential Tenancies Amendment Act 2011 (2011 No 46).

Section 77(2B): inserted, on 27 August 2019, by section 17(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 77(2C): inserted, on 27 August 2019, by section 17(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 77(4): replaced, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 77(4A): inserted, on 1 October 2010, by section 57(6) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 77(5): replaced, on 1 October 2010, by section 57(7) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 77(5): amended, on 11 February 2021, by section 50(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 77(6): amended, on 11 February 2021, by section 50(5) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 77(6): amended, on 1 October 2010, by section 57(8) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 77(7): replaced, on 1 October 2010, by section 57(9) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 77(7): amended, on 11 February 2021, by section 50(6) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 77(7A): inserted, on 12 December 2018, by section 8 of the Residential Tenancies (Prohibiting Letting Fees) Amendment Act 2018 (2018 No 44).

Section 77(7B): inserted, on 11 August 2021, by section 50(7) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

78 Orders of Tribunal

- (1) Without limiting the generality of section 77 or the nature or extent of orders that the Tribunal may make in the exercise of its jurisdiction, the Tribunal may, in respect of any claim within its jurisdiction (but subject to section 78A, if that section applies), make 1 or more of the following orders:

- (a) an order in the nature of a declaration, whether as to the status for the purposes of this Act of any premises or of any agreement or purported agreement, or as to the rights or obligations of any party, or otherwise:
 - (b) an order that a party yield possession of any premises to any other party:
 - (c) an order that a party deliver any specific chattels to any other party:
 - (d) an order that a party pay money to any other party:
 - (e) a work order:
 - (f) where it appears to the Tribunal that an agreement between the parties, or any term of any such agreement, is harsh or unconscionable, or that any power conferred by an agreement between them has been exercised in a harsh or unconscionable manner, an order varying the agreement, or setting it aside (either wholly or in part):
 - (g) where it appears to the Tribunal that an agreement between the parties has been induced by fraud, misrepresentation, or mistake, or that any writing purporting to express the agreement between the parties does not accord with their true agreement, an order varying, or setting aside, the agreement or the writing (either wholly or in part):
 - (h) any other order that the High Court or the District Court may make under any enactment or rule of law relating to contracts:
 - (i) an order dismissing an application.
- (1A) A person with an interest in premises that are not subject to a tenancy agreement may apply, without notice, to the Tribunal for an order under subsection (1)(a) declaring the status of the premises for the purposes of this Act.
- (1B) An order made on an application under subsection (1A) is binding on all parties to any subsequent proceedings before the Tribunal, but the Tribunal may, on application made in any such proceedings, rescind the order if satisfied that the order is wrong or, because of a change in circumstances, no longer applicable.
- (2) Where the Tribunal makes a work order against a party, it—
- (a) shall, where the order is made otherwise than by consent; and
 - (b) may, where the order is made by consent,—
- at the same time make an order under subsection (1)(d) to be complied with as an alternative to compliance with the work order.
- (2AA) Subsection (2) does not apply if the work order is a section 78A work order or if the work order, or any part of the work order, relates to any of the following:
- (a) smoke alarms:
 - (b) a failure to comply with the healthy homes standards:
 - (ba) decontamination:

- (c) a failure to comply with a standard of fitness or other requirement applying by virtue of section 120C of the Health Act 1956:
 - (d) a failure to comply with any other requirement relating to health or safety under any enactment.
- (2AAB) A work order may include a provision authorising the party in whose favour the order is made—
- (a) to undertake any work covered by the order if—
 - (i) the order is not complied with by the other party; and
 - (ii) the other party has not complied with the alternative money order provided for by subsection (2) (if any); and
 - (b) to charge the cost of undertaking the work (up to the amount specified by the Tribunal) to the other party.
- (2AABA) Subsection (2AAB) does not apply if the work order is a section 78A work order.
- (2AAC) Where any provision is made under subsection (2AAB)—
- (a) in favour of the landlord, the cost incurred by the landlord in undertaking any work in accordance with the provision (up to the amount specified by the Tribunal) is treated as rent in arrear and enforceable accordingly; or
 - (b) in favour of the tenant, the tenant may set off the cost incurred in undertaking any work in accordance with the provision (up to the amount specified by the Tribunal) against rent payable by the tenant.
- (2AAD) Without limiting subsection (2AAC)(b), where the tenant becomes authorised by any provision made under subsection (2AAB) to undertake any work, the tenant may pay to the chief executive any sum that would otherwise be payable by way of rent, up to the amount specified by the Tribunal, until sufficient has been accumulated to enable the tenant to undertake the work.
- (2AAE) Where any sum is paid to the chief executive under subsection (2AAD), the chief executive must give to the tenant a receipt showing the particulars of the payment, and must send a copy of the receipt to the landlord.
- (2AAF) Any money paid to the chief executive under subsection (2AAD) must be paid by the chief executive into the Residential Tenancies Trust Account, and must be paid out of that Account by the chief executive to the tenant if the chief executive is satisfied that the money is to be applied by the tenant to meet the cost of the work.
- (2AAG) The inclusion in a work order of any provision under subsection (2AAB) does not limit any other rights or remedies of the party in whose favour the order is made.
- (2A) Where the Tribunal makes an order under any of paragraphs (b), (c), or (h) of subsection (1), the Tribunal may at the same time make an order under subsec-

tion (1)(d) to be complied with as an alternative to compliance with the first-mentioned order.

(2AB) The Tribunal may record in an order made under subsection (1)(d) (a **money order**) that the parties have agreed to enforce the payment of the amount specified in that order by way of an attachment order made under the District Court Act 2016 if—

- (a) the money order was made at a hearing at which both parties were present; and
- (b) the party ordered to pay money consented to the payment of the money being enforced by way of an attachment order; and
- (c) both parties agreed on the terms of the attachment order, including the details specified in subsection (2AC).

(2AC) If subsection (2AB) applies, the money order must include the following details:

- (a) the employer to whom the attachment order will relate; and
- (b) whether deductions are to be made every week, fortnight, or month, or by reference to some other period (the **earnings period**); and
- (c) the amount or percentage to be deducted from salary or wages for the earnings period; and
- (d) the amount or percentage below which the net amount paid for the earnings period must not fall; and
- (e) the name and address of the person to whom the amounts deducted are to be paid; and
- (f) that the attachment order is to remain in force until the amount specified in the money order has been paid in full or, if the attachment order is to remain in force for a fixed period, that period.

(2AD) Nothing in subsection (2AC)(d) allows the parties to agree on a net amount to be paid for an earnings period that would otherwise derogate from section 157(3) of the District Court Act 2016.

(2AE) If subsection (2AC) is complied with, the money order may be filed in the District Court and, if so filed, sections 139(2) and 154 to 162 of the District Court Act 2016 apply to the extent they are applicable and subject to any necessary modifications.

(2AF) For the purposes of subsection (2AB)(a), **hearing** includes mediation.

(2AG) In this section, **employer** and **salary or wages** have the same meanings as in section 154 of the District Court Act 2016.

(2B) Where the Tribunal makes any 2 orders under subsection (2) or subsection (2A), it is the right of the person in whose favour the order is made to choose which order to enforce under section 107.

- (3) Any order made by the Tribunal may be unconditional or subject to such conditions (whether as to the time for, or mode of, compliance, or otherwise) as the Tribunal thinks fit to impose.

Section 78(1): amended, on 27 August 2019, by section 18(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 78(1)(h): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 78(1A): inserted, on 1 October 2010, by section 58 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 78(1B): inserted, on 1 October 2010, by section 58 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 78(2AA): inserted, on 1 July 2016, by section 25 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 78(2AA): amended, on 27 August 2019, by section 18(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 78(2AA)(b): replaced, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 78(2AA)(ba): inserted, on 30 January 2021, by section 46 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 78(2AAB): inserted, on 1 July 2016, by section 25 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 78(2AABA): inserted, on 27 August 2019, by section 18(3) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 78(2AAC): inserted, on 1 July 2016, by section 25 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 78(2AAD): inserted, on 1 July 2016, by section 25 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 78(2AAE): inserted, on 1 July 2016, by section 25 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 78(2AAF): inserted, on 1 July 2016, by section 25 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 78(2AAG): inserted, on 1 July 2016, by section 25 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 78(2A): inserted, on 1 May 1996, by section 32 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 78(2AB): inserted, on 14 April 2014, by section 5 of the Residential Tenancies Amendment Act 2011 (2011 No 46).

Section 78(2AB): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 78(2AC): inserted, on 14 April 2014, by section 5 of the Residential Tenancies Amendment Act 2011 (2011 No 46).

Section 78(2AD): inserted, on 14 April 2014, by section 5 of the Residential Tenancies Amendment Act 2011 (2011 No 46).

Section 78(2AD): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 78(2AE): inserted, on 14 April 2014, by section 5 of the Residential Tenancies Amendment Act 2011 (2011 No 46).

Section 78(2AE): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 78(2AF): inserted, on 14 April 2014, by section 5 of the Residential Tenancies Amendment Act 2011 (2011 No 46).

Section 78(2AG): inserted, on 14 April 2014, by section 5 of the Residential Tenancies Amendment Act 2011 (2011 No 46).

Section 78(2AG): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 78(2B): inserted, on 1 May 1996, by section 32 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

78A Orders of Tribunal relating to unlawful residential premises

- (1) This section applies in any matter where the Tribunal, on application by a party or otherwise on the evidence before the Tribunal in respect of any claim within its jurisdiction, determines or declares that the premises are, or were at any material time, unlawful residential premises.
- (2) For the purposes of this Act, **unlawful residential premises** means residential premises that are used for occupation for a person as a place of residence but—
 - (a) that cannot lawfully be occupied for residential purposes by that person (whether generally or whether for the particular residential purposes for which that person is granted occupation); and
 - (b) where the landlord's failure to comply with the landlord's obligations under section 36 or 45(1)(c), or section 66H(2)(c) or 66I(1)(c), as relevant, has caused the occupation by that person to be unlawful or has contributed to that unlawful occupation.
- (3) Despite anything to the contrary elsewhere in this Act,—
 - (a) unless the Tribunal is satisfied that, having regard to the special circumstances of the matter, including the nature of the premises, it would be unjust not to make the order, the Tribunal must not order the tenant to pay to the landlord—
 - (i) any sum found to be owing by way of rent in arrear; or
 - (ii) any other sum by way of damages or compensation:
 - (b) if the landlord has applied for termination on the ground of rent in arrear, the Tribunal may, but is not required to, make the order terminating the tenancy.
- (4) Without limiting the generality of section 77 or the nature or extent of orders that the Tribunal may make in accordance with this Act in relation to the matter,—
 - (a) the Tribunal may order the landlord to pay to the tenant—
 - (i) the whole of the sum found to have been paid by way of rent for the period for which the Tribunal is satisfied that the premises are or were unlawful residential premises; or

- (ii) an amount that is the sum referred to in subparagraph (i) less any amount that the Tribunal is satisfied, having regard to the special circumstances of the matter, including the nature of the premises, it is fair to deduct:
- (b) a section 78A work order may comprise or include an order that the landlord take the steps available to the landlord, as specified in the order, to (or to endeavour to)—
 - (i) remove or rectify any impediment to the tenant lawfully occupying the premises for residential purposes; or
 - (ii) comply with all requirements in respect of buildings, health, or safety under any enactment so far as they apply to the premises.
- (5) Even if the tenant does not apply for a particular order, the Tribunal may make any of the following orders on its own initiative:
 - (a) any order under subsection (4)(a); and
 - (b) any section 78A work order; and
 - (c) any other order, authorised by this Act, that is in favour of the tenant (including, without limitation, an order under section 109 for an amount in the nature of exemplary damages for failure to comply with section 45(1)(c) or 66I(1)(c)).

Section 78A: inserted, on 27 August 2019, by section 19 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

79 Jurisdiction to make interim orders

- (1) In respect of any matter in which the Tribunal has jurisdiction under this Act to make any final determination, the Tribunal may from time to time, on application by any party whether made *ex parte* or otherwise, make any interim order of a mandatory or prohibitory nature designed to preserve the position of the parties pending the final determination of the matter.
- (2) Where any such interim order is made on the *ex parte* application of any party, the other party may at any time apply to the Tribunal for the cancellation of that order.

80 Orders of Tribunal to be final

Subject to sections 105 and 117 to 120, every order made by the Tribunal shall, unless it is expressed to be an interim order made under section 79, be final and binding on all parties to the proceedings.

81 Exclusion of Tribunal's jurisdiction prohibited

- (1) A provision in any tenancy agreement to which this Act applies, or in any other agreement entered into by the parties to any such tenancy agreement, to exclude or limit—
 - (a) the jurisdiction of the Tribunal; or

- (b) the right of any person to invoke that jurisdiction—
shall be of no effect.
- (2) Without limiting the generality of subsection (1), the Tribunal shall have jurisdiction in respect of a claim notwithstanding any agreement relating to the matter that provides for—
 - (a) the submission to arbitration of any dispute or difference; or
 - (b) the making of an award upon such a submission to be a condition precedent to any cause of action accruing to a party to the agreement.
- (3) Subsection (1) does not apply where a cause of action has accrued, or is believed to have accrued, to a person and that person has agreed to the settlement or compromise of the claim based on that cause of action.

82 Exclusion of other jurisdictions

- (1) Notwithstanding any other enactment or rule of law to the contrary, no court or other body shall have originating jurisdiction in respect of any matter that is within the jurisdiction of the Tribunal unless—
 - (a) proceedings in respect of that matter were commenced before that court or other body before the commencement of this Act; or
 - (b) an order is made under section 83(2).
- (2) Where subsection (1)(a) applies to proceedings before a court or other body, the issues in dispute in the claim to which those proceedings relate (whether as shown in the initial claim or emerging in the course of the hearing) shall not be the subject of proceedings between the same parties before the Tribunal unless the proceedings are transferred to the Tribunal under subsection (3), or the claim before the court or other body is withdrawn, abandoned, or struck out.
- (3) In any case to which subsection (1)(a) applies, the court or other body before which the proceedings were being conducted immediately before the date of the commencement of this Act may, with the consent of each of the parties, instead of determining the matter itself, order that the proceedings be transferred to the Tribunal subject to such provision (if any) as to the payment of costs as the court or other body thinks fit.
- (4) Where proceedings are transferred to the Tribunal under subsection (3), the Tribunal may have regard to any notes of evidence transmitted to the Tribunal, and it shall not be necessary for that evidence to be given again before the Tribunal unless the Tribunal so requires.

83 Transfer of proceedings to District Court

- (1) Where any proceedings have been commenced before the Tribunal that the Tribunal has no jurisdiction to hear and determine, the Tribunal may, instead of striking out the proceedings, order that they be transferred to the District Court in its ordinary civil jurisdiction.

- (2) The Tribunal may order that any proceedings be transferred to the District Court in its ordinary civil jurisdiction if the Tribunal is satisfied that the proceedings would be more properly determined in that court.
- (3) The Tribunal shall not make an order under subsection (1) or subsection (2) in respect of a claim if any agreement of a kind described in section 81(2) requires that the claim be submitted to arbitration.
- (4) Any proceedings transferred to the District Court under this section shall be deemed to have been commenced by action in that court, and shall be dealt with by that court accordingly.

Section 83(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 83(2): replaced, on 1 May 1996, by section 33 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 83(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 83(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

83A Referral of complaints to Health and Disability Commissioner

If a dispute or part of a dispute raises a question as to the landlord's conduct in the landlord's capacity as a provider of health or disability services and the conduct is of a kind about which a complaint may be made under the Health and Disability Commissioner Act 1994, the Tribunal may—

- (a) consult with the Health and Disability Commissioner about the appropriateness of referring the dispute to the Health and Disability Commissioner; and
- (b) following that consultation, refer the dispute in whole or in part to the Health and Disability Commissioner for his or her consideration.

Section 83A: inserted, on 1 October 2010, by section 59 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

84 Jurisdiction of Tribunal generally exercisable by any Tenancy Adjudicator

- (1) Subject to the succeeding provisions of this section, any Tenancy Adjudicator sitting alone, or any 2 or more Tenancy Adjudicators sitting together, may exercise all or any of the jurisdiction and powers of the Tribunal.
- (2) The Principal Tenancy Adjudicator may from time to time direct that any particular case or any particular class of cases shall be heard by any particular Tenancy Adjudicator or Adjudicators, or by any particular class of Tenancy Adjudicators, or by any specified number of members, of the Tribunal.
- (3) Without limiting subsection (2), the Principal Tenancy Adjudicator may direct that any particular case shall be heard by a Tenancy Adjudicator who has a qualification of a kind described in section 67(9), either sitting alone or with any other Tenancy Adjudicator or Tenancy Adjudicators, where the Principal

Tenancy Adjudicator believes that the case raises or may raise important or difficult questions of law.

85 Manner in which jurisdiction is to be exercised

- (1) Subject to the provisions of this Act and of any regulations made under this Act, the Tribunal shall exercise its jurisdiction in a manner that is most likely to ensure the fair and expeditious resolution of disputes between landlords and tenants of residential premises to which this Act applies.
- (2) The Tribunal shall determine each dispute according to the general principles of the law relating to the matter and the substantial merits and justice of the case, but shall not be bound to give effect to strict legal rights or obligations or to legal forms or technicalities.

Procedure

86 Filing of applications

- (1) Proceedings before the Tribunal are commenced by filing an application in the approved form, with any prescribed fee,—
 - (a) at any office of the Tribunal; or
 - (b) by any electronic means (for example, through an Internet site) approved by the chief executive.
- (1A) The chief executive may, if acting under section 124A, file an application to commence a proceeding that relates to 2 or more tenancies if, for each tenancy,—
 - (a) 1 person is the landlord; or
 - (b) 1 person (**P**) or an associated person of P is the landlord.

Example

A is a landlord. A's spouse, B, is also a landlord.

B is an associated person of A.

The chief executive may file a single application to commence a proceeding that relates to 1 or more of A's tenancies and to 1 or more of B's tenancies.

- (2) Before the chief executive approves a proposed form for the purposes of subsection (1), the chief executive must consult with the Principal Tenancy Adjudicator about the proposed form.
- (2A) The approved form for an application under section 61(1) must (in particular) require the landlord, in the application,—
 - (a) to state whether the landlord wants the application to be dealt with under section 91AA; and
 - (b) to provide specified contact details of the tenant for use by the Tribunal under section 91AA(3), if the landlord wants the application to be dealt with under section 91AA.

- (3) The chief executive must determine the offices of the Tribunal for the purposes of subsection (1).
- (4) The chief executive may from time to time vary or replace a determination described in subsection (3).
- (5) The chief executive must publish every determination under subsection (3) and every variation or replacement under subsection (4) in the *Gazette* and on the Internet.

Section 86: replaced, on 1 October 2010, by section 60 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 86(1): replaced, on 1 July 2016, by section 26(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 86(1A): inserted, on 11 February 2021, by section 51 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 86(2A): inserted, on 1 July 2016, by section 26(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 86(3): replaced, on 12 December 2012, by section 7(2) of the Residential Tenancies Amendment Act 2012 (2012 No 113).

87 Duties of chief executive on receipt of application

- (1) When an application is filed in accordance with section 86, the chief executive may refer it to a Tenancy Mediator unless, in terms of any regulations made under this Act or of any directions given by the Principal Tenancy Adjudicator, the application is of a class that is to be referred directly to the Tribunal, in which case the chief executive must refer the application to the appropriate Registrar.
- (1A) Despite subsection (1), an application under section 61(1) must be referred directly to the Tribunal and the chief executive must refer the application to the appropriate Registrar accordingly.
- (2) Despite subsection (1), if either party informs the chief executive that that party refuses to have the matter considered by a Tenancy Mediator, the chief executive must refer the application to the appropriate Registrar.
- (3) For the purposes of this section and section 88, the **appropriate Registrar** is the Registrar nearest any premises in respect of which an application is made under this Act or any other Registrar that the chief executive considers appropriate for the purposes of the application.
- (4) The chief executive must ensure that a Tenancy Mediator to whom an application is referred is, and continues during the case to be, independent of each of the parties.
- (5) If any of the State services is a party, the Tenancy Mediator's independence cannot be challenged just because the Tenancy Mediator is an officer or employee of any of the State services.

Section 87: replaced, on 1 October 2010, by section 60 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 87(1): amended, on 12 December 2012, by section 8(1) of the Residential Tenancies Amendment Act 2012 (2012 No 113).

Section 87(1A): inserted, on 1 July 2016, by section 27(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 87(2): amended, on 12 December 2012, by section 8(2) of the Residential Tenancies Amendment Act 2012 (2012 No 113).

Section 87(3): inserted, on 12 December 2012, by section 8(3) of the Residential Tenancies Amendment Act 2012 (2012 No 113).

Section 87(4): inserted, on 1 July 2016, by section 27(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 87(5): inserted, on 1 July 2016, by section 27(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

88 Functions of Tenancy Mediators

- (1) The primary function of a Tenancy Mediator in respect of an application referred to the Tenancy Mediator under section 87 is to attempt to bring the parties to the dispute to an agreed settlement.
- (2) Where an agreed settlement is reached, the Tenancy Mediator may, to give effect to the settlement, make any order or orders that the Tribunal could have made if the application had come before it.
- (3) If it appears to the Tenancy Mediator that it is unlikely that an agreed settlement can be reached within a reasonable time, the Tenancy Mediator—
 - (a) shall report accordingly to the chief executive who shall refer the application to the appropriate Registrar for determination by the Tribunal; and
 - (b) shall, wherever practicable, after consultation with the chief executive and the appropriate Registrar, inform the parties of the date on which the Tribunal is likely to be able to hear the matter.
- (4) In any case to which subsection (3)(a) applies, the Tenancy Mediator may include in the Tenancy Mediator's report to the chief executive any statement of facts agreed to by the parties, a summary of the points settled in mediation and those still requiring determination by the Tribunal, and any comments that the Tenancy Mediator may wish to make on the conduct of the parties so far as that may be relevant to the question of costs before the Tribunal in accordance with section 102(2)(c), but shall in all respects strictly observe the provisions of sections 89 and 90.
- (5) The chief executive and the chief executive of the Ministry of Justice must make arrangements under which an order made by a Tenancy Mediator to give effect to an agreed settlement will be referred to a Tenancy Adjudicator or Registrar for sealing on an application made by the Tenancy Mediator or a party—
 - (a) to the appropriate Registrar; or

- (b) by any electronic means (for example, through an Internet site) approved by the chief executive and the chief executive of the Ministry of Justice (if the arrangements allow applications to be made by electronic means).
- (5A) The Tenancy Adjudicator or Registrar must seal a copy of the order, unless subsection (6) or (6A) applies.
- (6) Where that Tenancy Adjudicator believes that the order made by the Tenancy Mediator is outside the powers of the Tenancy Mediator to make, the Tenancy Adjudicator shall, instead of sealing the copy of the order,—
 - (a) decline to seal the order, and direct the chief executive to refer the matter to a Tenancy Mediator for further consideration in accordance with any directions given by the Tenancy Adjudicator; or
 - (b) direct that the matter be reconsidered and determined by the Tribunal.
- (6A) Where a Registrar to whom an order has been referred for sealing considers that the order is outside the powers of the Tenancy Mediator to make, the Registrar must, instead of sealing the copy of the order, decline to seal the order and refer the order to a Tenancy Adjudicator for consideration.
- (6B) If an order is referred to a Tenancy Adjudicator under subsection (6A), he or she must treat the order as if it had been referred directly to him or her under subsection (5).
- (7) Where any copy of an order made by a Tenancy Mediator is sealed under this section, it shall have effect as an order of the Tribunal, and shall be enforceable accordingly.
- (8) If a Tenancy Mediator makes an order under section 78(1)(d) to give effect to an agreed settlement, section 78(2AB) to (2AD) apply to the order, subject to the following modifications:
 - (a) section 78(2AB) and (2AD) must be read as if—
 - (i) the references to the money order were references to the agreed settlement; and
 - (ii) the reference to the Tribunal were a reference to the Tenancy Mediator; and
 - (iii) the reference to a hearing were a reference to mediation:
 - (b) the order made by the Tenancy Mediator under section 78(1)(d) may be filed in the District Court to be enforced as an attachment order only if it is sealed under this section.

Section 88(3)(a): amended, on 12 December 2012, by section 9 of the Residential Tenancies Amendment Act 2012 (2012 No 113).

Section 88(3)(a): amended, on 1 October 2010, by section 61(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 88(3)(b): amended, on 12 December 2012, by section 9 of the Residential Tenancies Amendment Act 2012 (2012 No 113).

Section 88(3)(b): amended, on 1 October 2010, by section 61(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 88(4): amended, on 1 July 2016, by section 28(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 88(4): amended, on 1 October 2010, by section 61(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 88(5): replaced, on 1 July 2016, by section 28(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 88(5): amended, on 14 November 2018, by section 259(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 88(5A): inserted, on 1 July 2016, by section 28(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 88(5A): amended, on 14 November 2018, by section 259(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 88(5A): amended, on 14 November 2018, by section 259(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 88(6)(a): replaced, on 1 October 2010, by section 61(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 88(6A): inserted, on 14 November 2018, by section 259(4) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 88(6B): inserted, on 14 November 2018, by section 259(4) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 88(8): inserted, on 14 April 2014, by section 6 of the Residential Tenancies Amendment Act 2011 (2011 No 46).

Section 88(8)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

89 Statements made in mediation to be subject to privilege

- (1) This section applies to any oral or written statement (including a statement contained in a document) made in the course of, and for the purposes of or in connection with, the mediation by a Tenancy Mediator of any dispute.
- (2) No action in defamation shall lie against any person in respect of any statement to which this section applies.
- (3) No evidence of any statement to which this section applies shall be admissible in any proceedings before any court or tribunal, or any person acting judicially.
- (4) Nothing in subsection (3) shall apply if—
 - (a) the parties to the dispute consent to the admission of the statement; or
 - (b) the statement is otherwise admissible in any criminal proceedings and the defendant in those proceedings adduces it; or
 - (c) the statement is otherwise admissible in any criminal proceedings in which a person is charged with an offence—
 - (i) against the person; or
 - (ii) against rights of property; or

- (iii) of threatening, conspiring, or attempting to commit an offence against the person or against rights of property,—
being an offence arising from an act or omission occurring after the statement was made; or
- (d) the statement is otherwise admissible in any criminal proceedings in which a person is charged with an offence arising from the making of the statement.

90 Tenancy Mediator to observe confidentiality

- (1) Every Tenancy Mediator commits an offence and is liable on conviction to a fine not exceeding \$1,800 who discloses to any other person any information or statement received by or made to the Tenancy Mediator in the course of, and for the purposes of or in connection with, the mediation of any dispute.
- (2) Nothing in subsection (1) shall apply if—
 - (a) the person from whom the information is received or by whom the statement is made consents to the disclosure; or
 - (b) there are reasonable grounds to believe that disclosure is necessary to prevent or minimise the danger of injury to any person or damage to any property; or
 - (c) the information or statement is given in evidence pursuant to section 89(4); or
 - (d) the disclosure is reasonably required for the purpose of facilitating the mediation; or
 - (e) the disclosure is made to the Tribunal in good faith.

Section 90(1): amended, on 11 February 2021, by section 52 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 90(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 90(2)(d): amended, on 1 May 1996, by section 35 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 90(2)(e): inserted, on 1 May 1996, by section 35 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

91 Notice of hearing by Tribunal

- (1) Where any application is referred to, or directed to be reconsidered and determined by, the Tribunal under section 87 or section 88, the Tribunal shall cause to be given to each party to the dispute reasonable notice of the time, place, and purpose of the hearing to be held in respect of the application.
- (2) The notice of the hearing shall be in writing, and shall include the following:
 - (a) a statement of such particulars as will fairly inform the party to whom it is given of the substance of the matters to be dealt with at the hearing:

- (b) a reference to the relevant provision of the Act or regulations under the authority of which the hearing will be held:
 - (c) a statement of where information on the procedure of the Tribunal may be obtained:
 - (d) a statement warning each party to whom the notice is given that if that party does not attend the hearing, the Tribunal may proceed to determine, dismiss, or adjourn the matter in that party's absence.
- (3) This section is subject to section 91AA.

Section 91(2)(d): amended, on 1 May 1996, by section 36(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 91(3): inserted, on 1 July 2016, by section 29 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

91AA Process for determining abandonment applications within 10 working days without hearing

- (1) This section applies if a landlord who files an application under section 61(1) (the **abandonment application**) in accordance with section 86 states in the abandonment application that the landlord wants the abandonment application to be dealt with under this section.
- (2) The Tribunal must complete the 2 stages set out in subsections (3) to (6) within 10 working days after the date on which the abandonment application was filed in accordance with section 86.

Stage 1

- (3) The Tribunal must, using the contact details provided by the landlord as referred to in section 86(2A)(b), take reasonable steps to attempt—
 - (a) to bring the abandonment application to the attention of the tenant; and
 - (b) to ascertain whether the tenant wants to contest the abandonment application.

Stage 2

- (4) The Tribunal must—
 - (a) decide whether it is satisfied of both of the matters in subsection (5); and
 - (b) if it decides that it is satisfied of both of those matters, determine the abandonment application in the way referred to in subsection (5)(b).
- (5) The matters referred to in subsection (4)(a) are as follows:
 - (a) that the tenant does not want to contest the abandonment application:
 - (b) that the information provided by the landlord with the abandonment application is sufficient on its own, or with only minor clarifications from the landlord, to enable the Tribunal to determine the abandonment application properly without a hearing and on the basis only of that information, or of that information with those minor clarifications.

- (6) For the purposes of subsection (5)(a), the Tribunal may treat the tenant as not wanting to contest the abandonment application if the tenant does not, within a period determined by the Tribunal, respond to the steps taken by the Tribunal under subsection (3) or respond to those steps in a way required by the Tribunal.
- (7) If the Tribunal decides that it is not satisfied of both of the matters in subsection (5), the Tribunal must proceed with the abandonment application in accordance with section 91.

Section 91AA: inserted, on 1 July 2016, by section 30 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

91A Service on tenants following application

- (1) If a landlord files an application within 2 months after the termination of the tenancy to which it relates, any notice or other document required to be served on the tenant in connection with the application is deemed to have been properly served on the tenant if—
 - (a) it is sent by post addressed to the tenant at the address or the Post Office box given by the tenant as an address for service in accordance with this Act or to a contact address that the tenant has supplied to the landlord in writing within the 2 months before the application; or
 - (b) it is delivered to the premises to which any address for service relates or to that contact address and either placed in the mailbox or attached to the door in a prominent position; or
 - (c) it is given to or served on the tenant personally; or
 - (d) it is given to or served on the tenant in accordance with section 136(2); or
 - (e) it is transmitted to the email address or facsimile number given by the tenant as an address for service.
- (2) If the landlord files an application more than 2 months after the termination of the tenancy to which it relates, any notice or other document required to be served on the tenant relating to the application must be given to or served on the tenant—
 - (a) personally; or
 - (b) by posting it to a contact address that the tenant has supplied to the landlord in writing within the 2 months before the application; or
 - (c) by delivering it to the place where the tenant now lives and giving it to any person appearing to be aged 16 years or older who appears to be residing at that place and who confirms that the tenant resides there; or
 - (d) by giving it to any solicitor or other agent of the tenant duly authorised by the tenant to receive service on his or her behalf.
- (3) This section overrides section 136(1) and (2).

Section 91A: inserted, on 1 October 2010, by section 63 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

91B Substituted service, etc

- (1) This section applies if—
 - (a) a notice or other document that is required to be served on a party is not served in accordance with this Act; and
 - (b) the Tribunal is satisfied that all reasonable efforts have been made to serve the notice or other document on the party in accordance with this Act.
- (2) The Tribunal may—
 - (a) direct—
 - (i) that, instead of service in accordance with this Act, specified steps be taken that are likely to bring the notice or other document to the attention of the party; and
 - (ii) that the notice or other document be treated as served on the party on the happening of a specified event or on the expiry of a specified period; or
 - (b) direct that the notice or other document be treated as served on the party on a specified date, if steps have already been taken that have brought, or are likely to bring or to have brought, the notice or other document to the attention of the party; or
 - (c) dispense with the requirement for service and proceed as if the notice or other document had been served on the party in accordance with this Act.

Section 91B: replaced, on 1 July 2016, by section 31 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

92 Non-attendance at hearing after due notice

- (1) Where notice of a hearing has been given to a party in accordance with section 91 and that party does not attend at the hearing, the Tribunal may hear and determine, or dismiss or adjourn, the matter in the absence of that party.
- (2) Where subsection (1) applies and neither the applicant nor the other party attends the hearing, the Tribunal may determine the matter only if it is satisfied that it has before it all the written information that it needs to make a proper determination.

Section 92(1): amended, on 1 May 1996, by section 36(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 92(2): inserted, on 1 October 2010, by section 64 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

92A Tribunal may strike out proceeding

The Tribunal may strike out, in whole or in part, a proceeding if satisfied that it—

- (a) discloses no reasonable cause of action; or
- (b) is likely to cause prejudice or delay; or
- (c) is frivolous or vexatious; or
- (d) is otherwise an abuse of process.

Section 92A: inserted, on 14 November 2018, by section 260 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

93 Right of audience

- (1) At any hearing before the Tribunal, every party shall be entitled to attend and be heard, to call evidence, and to examine, cross-examine, and re-examine witnesses.
- (2) Except as provided in the succeeding provisions of this section, no party shall be entitled to be represented at the hearing by counsel or by a representative, except where—
 - (a) the other party consents; or
 - (b) the amount in dispute exceeds \$6,000; or
 - (c) the other party is, or the other party's case is being conducted by, the chief executive acting under section 124 or 124A.
- (3) The Tribunal may allow any party to be represented by counsel if it considers that it would be appropriate to do so, having regard to—
 - (a) the nature and complexity of the issue involved; or
 - (b) any significant disparity between the parties affecting their ability to represent their respective cases.
- (4) Where any party to any proceedings before the Tribunal is represented by counsel, any other party to those proceedings may be represented by counsel.
- (5) The following parties may be represented by a representative who is approved by the Tribunal:
 - (a) the Crown, if the representative is an officer or employee of the Crown;
 - (b) a corporation or an unincorporated body of persons, if the representative is an officer or employee or a member of the corporation or body or holds a majority interest in it;
 - (c) a person jointly liable or entitled with another or others, if the representative is one of the persons jointly liable or entitled or, in the case of a partnership, is an employee of those persons;
 - (d) a minor, or other person under disability:

- (e) any other person, if the Tribunal is satisfied that for sufficient cause that person is unable to appear in person or is unable to present his or her case adequately.
- (6) Where a representative of a party is proposed for the Tribunal's approval, the Tribunal shall satisfy itself that the person proposed has sufficient knowledge of the case and sufficient authority to bind the party.
- (7) The Tribunal shall not appoint under section 94(2)(a), or approve under this section, as a representative of a party a person who is or has been enrolled as a barrister and solicitor, or who, in the opinion of the Tribunal, is, or has been, regularly engaged in advocacy work before other tribunals; but this prohibition does not apply where—
 - (a) the person proposed for approval is a person or one of the persons jointly liable or entitled with another or others; or
 - (b) the party seeking to be represented is a company and the person proposed for approval is the majority shareholder of the company; or
 - (c) the person proposed for approval is a person—
 - (i) who is managing; and
 - (ii) who was, before the proceedings were commenced before the Tribunal, managing—

the party's affairs because of the party's absence, age, or disability.

Section 93(2)(b): amended, on 1 October 2010, by section 65 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 93(2)(c): amended, on 1 July 2016, by section 32 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 93(2)(c): amended, on 18 August 1992, by section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 93(7)(b): amended, on 1 May 1996, by section 37 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 93(7)(c): inserted, on 1 May 1996, by section 37 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

94 Minors and persons under disability

- (1) Subject to this section, a minor may be a party to, and shall be bound by, proceedings before the Tribunal as if the minor were a person of full age and capacity.
- (2) Where a minor is a party to any proceedings before the Tribunal, the Tribunal may, if it considers it would be in the interests of the minor to do so,—
 - (a) at any time appoint to represent the minor a person who is willing to do so and who is not disqualified by section 93(7), and authorise that person to control the conduct of the minor's case; or

- (b) when approving a representative under section 93(5) or at any time thereafter, authorise that representative to control the conduct of the minor's case.
- (3) In any proceedings before the Tribunal, any manager or person appointed to administer another's affairs under the Protection of Personal and Property Rights Act 1988 shall, subject to that Act, control the conduct of the case of the person whose affairs they manage or administer.
- (4) A person who is empowered by or under this section to control the conduct of the case of another person may do all such things in the proceedings as the person so empowered could do if that person were a party to the proceedings in place of that other person.
- (5) Nothing in this section shall restrict the application of sections 103 to 110 of the Contract and Commercial Law Act 2017 to—
 - (a) a settlement agreed to by or on behalf of a minor; or
 - (b) a payment made or proposed to be made by, or on behalf of, or to, or for the benefit of, a minor,—after proceedings have been commenced before the Tribunal.
- (6) In this section **proceedings before the Tribunal** means—
 - (a) proceedings before the Tribunal or on appeal from the Tribunal; and
 - (b) a settlement agreed to in the course of any proceedings before the Tribunal or on appeal from the Tribunal; and
 - (c) proceedings under section 108 for enforcement of a work order of the Tribunal;—

and also includes any order made in any such proceedings.

Section 94(3): replaced, on 1 May 1996, by section 38 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 94(5): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

95 Proceedings usually to be in public

- (1) Except as provided in subsections (1A) and (2), the proceedings of the Tribunal shall be conducted in public.
- (1A) If the proceedings relate to withdrawal from a tenancy under section 56B, the Tribunal must order that the whole of the hearing be held in private.
- (2) In any other case, the Tribunal may, on the application of any party to the proceedings or on its own initiative, and after having due regard to the interests of the parties and to the public interest, order that the whole or any part of the hearing shall be held in private.
- (3) *[Repealed]*
- (4) *[Repealed]*

Section 95(1): amended, on 11 August 2021, by section 53(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 95(1A): inserted, on 11 August 2021, by section 53(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 95(2): amended, on 11 August 2021, by section 53(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 95(2): amended, on 1 October 2010, by section 66 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 95(3): repealed, on 11 February 2021, by section 53(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 95(4): repealed, on 11 February 2021, by section 53(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

95A Suppression orders

- (1) The Tribunal must, on the application of a party that has wholly or substantially succeeded in proceedings, order that the party's name or identifying particulars not be published, unless the Tribunal considers that publication is in the public interest or is justified because of the party's conduct or any other circumstances of the case.
- (1A) The Tribunal must, in any proceedings that relate to withdrawal from a tenancy under section 56B, order that the name and any identifying particulars of the parties not be published.
- (2) The Tribunal must, if the chief executive acts in the place of a party under section 124A, order that the name and any identifying particulars of that party not be published.
- (3) Subsection (4) applies to proceedings whether or not any of subsections (1) to (2) also applies to the proceedings.
- (4) The Tribunal may, on the application of any party to proceedings or on its own initiative, having regard to the interests of the parties and to the public interest, order that all or part of the evidence given or the name or any identifying particulars of any witness or party not be published.
- (5) An order under subsection (4) may be made subject to any conditions that the Tribunal considers appropriate.
- (6) An order under subsection (4), or a condition under subsection (5), must not be inconsistent with any of subsections (1) to (2) (to the extent that those subsections also apply to the proceedings).

Section 95A: inserted, on 11 February 2021, by section 54(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 95A(1A): inserted, on 11 August 2021, by section 54(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 95A(3): amended, on 11 August 2021, by section 54(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 95A(6): amended, on 11 August 2021, by section 54(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

96 Further provisions relating to procedure generally

- (1) The Tribunal may adjourn a hearing at any time and from time to time and place to place, upon the application of either party to the proceedings or of its own motion, and on such terms as it thinks fit.
- (2) The Tribunal may, on the application of any party to any proceedings before the Tribunal,—
 - (a) extend any time limit; or
 - (b) if it is satisfied that the other party will not be prejudiced thereby, waive compliance by the applicant with any other procedural requirement,—prescribed by or under this Act and relating to the proceedings.
- (3) The Tribunal may extend any such time limit notwithstanding that the application for the extension is not made until after the expiration of the time appointed or fixed.
- (3AA) The Tribunal must, on the application of any party to proceedings before it relating to withdrawal from a tenancy under section 56B, permit the party's evidence to be given remotely if the necessary facilities are available.
- (3AB) If evidence is to be given remotely under subsection (3AA), the Tenancy Adjudicator conducting the hearing or a Registrar of the Tribunal may determine which 1 or more of the following are to be used:
 - (a) telephone;
 - (b) audiovisual link;
 - (c) any other remote access facility that the Tenancy Adjudicator or Registrar considers appropriate.
- (3A) The hearing of any other matter or any part of it may be conducted by telephone, audiovisual link, or other remote access facility if the Tenancy Adjudicator conducting the hearing considers it appropriate and the necessary facilities are available.
- (4) Except as expressly provided in this Act or in any regulations made under this Act, the Tribunal may regulate its own procedure in such manner as it thinks fit.
- (5) Subject to the provisions of this Act and of any regulations made under this Act, and to any directions of the Principal Tenancy Adjudicator under section 115, the Tenancy Adjudicator who is sitting in any particular case, or, where 2 or more Tenancy Adjudicators are sitting, the Tenancy Adjudicator who is presiding, may give all such directions and do all such things as are necessary or desirable for the expeditious and just hearing and determination of the case.

Section 96(3AA): inserted, on 11 August 2021, by section 55(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 96(3AB): inserted, on 11 August 2021, by section 55(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 96(3A): inserted, on 14 November 2018, by section 261(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 96(3A): amended, on 11 August 2021, by section 55(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 96(5): amended, on 14 November 2018, by section 261(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

97 Evidence

- (1) The Tribunal shall not have the power to administer an oath but may require a person giving evidence at a hearing to make a statement promising to tell the truth.
- (2) Where a witness is required to make such a statement under subsection (1), a Tenancy Adjudicator or an officer of the Tribunal shall put to the witness the following questions, or words of similar effect, to which the witness shall indicate assent:

“Do you promise to tell the truth? And do you understand that if you fail to tell the truth you will be liable to prosecution for giving false evidence?”
- (3) The Tribunal may permit a party or witness to give evidence by tendering, or tendering and reading, a written statement and, if the Tribunal so requires, stating it to be the truth.
- (4) Subject to section 89, the Tribunal may call for and receive as evidence any statement, document, information, matter, or thing that in its opinion may assist it to deal effectually with the matters before it, whether or not the same would be admissible in a court of law.
- (5) The Tribunal may in any proceedings make use of any facts that may be judicially noticed.
- (6) The Tribunal shall have power to refuse to accept any evidence or submission that is irrelevant or repetitious.
- (7) Without limiting section 101, every person appearing before the Tribunal shall have the same privileges as witnesses have in courts of law in relation to the following matters:
 - (a) the giving of any evidence and the answering of any questions:
 - (b) the giving to the Tribunal of any information or statement:
 - (c) the production to the Tribunal of any document or thing.

98 Witness summons

- (1) For the purposes of a hearing before the Tribunal, the Tribunal may of its own motion, and shall on the application of any party to the proceedings, issue in writing a witness summons requiring the person named in the witness summons to attend before the Tribunal and to give evidence, or to produce any document or thing in that person's possession or under that person's control, relevant to the proceedings.

- (2) The power to issue a witness summons under subsection (1) may be exercised by the Tribunal, or by the Registrar acting by the direction, or with the authority, of the Tribunal.
- (3) A witness summons shall be served at least 5 working days before the date on which the attendance of the witness is required, unless in special circumstances the Tribunal directs otherwise.
- (4) Every witness attending a hearing of the Tribunal pursuant to a witness summons shall be entitled to a sum for that witness's travelling allowances, travelling expenses, and fees at the rate for the time being prescribed, except that, in any particular case, the Tribunal may disallow the whole or any part of that sum if it considers it just to do so.
- (5) The allowances, travelling expenses, and fees payable to a witness pursuant to subsection (4) shall be paid by such party or parties to the proceedings as the Tribunal shall order or, if the Tribunal so decides, shall be paid out of money appropriated by Parliament for the purpose.
- (6) A witness summons may be set aside by the Tribunal or by the Principal Tenancy Adjudicator if the Tribunal or the Principal Tenancy Adjudicator considers that the summons relates to documents in respect of which any person may have a claim of privilege against disclosure, or that the summons is oppressive, whether because it is too wide or too uncertain or because of lack of time for the person served with the summons to have a reasonable opportunity to comply with it, or for any other reason.
- (6A) A witness summons must be in a form approved by the chief executive of the Ministry of Justice after consulting the Principal Tenancy Adjudicator.
- (7) Every witness summons shall include a statement informing the person summoned of the right to apply to the Tribunal under subsection (6) to have the summons set aside on the ground that it relates to privileged documents or that compliance with it would be oppressive to that person.

Section 98(6A): inserted, on 29 October 2019, by section 262 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

98A Other witness expenses

- (1) The Tribunal may order that a witness attending a hearing of the Tribunal (other than a witness attending pursuant to a witness summons) shall be entitled to a sum for that witness's travelling allowances, travelling expenses, and fees as prescribed by any rules made under section 116.
- (2) The allowances, travelling expenses, and fees payable to a witness pursuant to subsection (1) shall be paid by such party or parties to the proceedings as the Tribunal shall order or, if the Tribunal so decides, shall be met from any appropriation by Parliament for that purpose.

Section 98A: inserted, on 1 May 1996, by section 39 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

99 Tribunal may require inquiry and report by Tenancy Mediator or suitable person

- (1) The Tribunal may, at any stage of any proceedings before it, require a Tenancy Mediator (not being one who has acted in any mediation of the dispute to which the proceedings relate) to inquire into, and report in writing to the Tribunal upon, any matter of fact having a bearing upon the proceedings, and may give to the Tenancy Mediator all such directions as to the nature, scope, and conduct of the inquiry as the Tribunal thinks fit.
- (2) Without limiting subsection (1), where, during any proceedings before it, the Tribunal is satisfied that the parties may be brought to an agreed settlement in respect of any matter in issue with the assistance of independent mediation, the Tribunal may refer the matter in dispute to a Tenancy Mediator accordingly; and the provisions of subsections (2) to (7) of section 88, with any necessary modifications, shall apply, except that, if an agreed settlement is not reached the Tenancy Mediator shall report to the Registrar rather than to the chief executive.
- (3) The Tribunal may, instead of appointing a Tenancy Mediator under subsection (1), appoint a person who, in the opinion of the Tribunal, is suitably qualified or experienced, and on such an appointment—
 - (a) the person appointed is deemed to be a Tenancy Mediator for the purpose of the appointment; and
 - (b) has, for that purpose, all the functions, duties, and powers of a Tenancy Mediator.
- (4) A person appointed under subsection (3) may be a natural person or a body corporate.

Section 99 heading: amended, on 1 October 2010, by section 67(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 99(2): amended, on 1 October 2010, by section 67(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 99(3): inserted, on 1 October 2010, by section 67(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 99(4): inserted, on 1 July 2016, by section 33 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

100 Tenancy Mediator or Tribunal may require valuer's report in certain proceedings

- (1) A Tenancy Mediator or the Tribunal may, at any stage of any proceedings under section 25, require the chief executive to obtain and submit to the Tenancy Mediator or the Tribunal a report by a registered valuer.
- (2) In any case where the Crown or any instrument of the Crown is a party, the registered valuer shall not be an employee of the Crown.

Section 100: replaced, on 1 May 1996, by section 40(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

101 Protection of persons appearing, etc

- (1) All parties, counsel, representatives, and witnesses in any proceedings before the Tribunal shall have and enjoy the same privileges and immunities as they would have had if the proceedings were held in a court.
- (2) The privileges and immunities referred to in subsection (1) shall extend and apply to—
 - (a) every Tenancy Mediator in the exercise of any power or jurisdiction under any of the provisions of this Act; and
 - (b) any other person in respect of any dealings with any Tenancy Mediator.
- (3) In relation to a Tenancy Mediator that is a body corporate, subsection (2)(a) also applies to any officer or employee of the body corporate through whom the body corporate is exercising any power or jurisdiction under any of the provisions of this Act in accordance with section 76(1B).

Section 101(3): inserted, on 1 July 2016, by section 34 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

102 Costs

- (1) Except in a case to which any of subsections (2), (4), or (5) apply, the Tribunal shall have no power to award costs to or against any party to proceedings before it.
- (2) The Tribunal may make an order of a kind referred to in subsection (3) in any of the following cases:
 - (a) where, in the opinion of the Tribunal, the proceedings are frivolous or vexatious or ought not to have been brought:
 - (b) where any of the parties was represented by counsel:
 - (c) where, in the opinion of the Tribunal, the matter in dispute ought reasonably to have been settled before the Tenancy Mediator but that the party against whom the order is to be made refused, without reasonable excuse, to take part in proceedings before a Tenancy Mediator or acted in any such proceedings in a contemptuous or improper manner:
 - (d) where any applicant to the Tribunal, after receiving notice of the hearing, fails to attend the hearing without good cause.
- (3) In any case to which subsection (2) applies, the Tribunal may order a party to pay—
 - (a) to the Crown, any 1 or more of the following:
 - (i) the reasonable costs of the Tribunal hearing:
 - (ii) the fees and expenses of any witness that have been paid or are payable by the Crown:
 - (iii) the reasonable fees and expenses of any Tenancy Mediator in relation to the preparation of a report under section 99:

- (iv) the reasonable fees and expenses of any valuer in relation to the preparation of a report under section 100; or
 - (b) to another party, the reasonable costs of that other party in connection with the proceedings.
- (4) If the applicant—
 - (a) has been wholly successful in his or her claim, the Tribunal must order that the respondent pay the applicant the filing fee paid for the application:
 - (b) has been partly successful in his or her claim, the Tribunal may order that the respondent pay the applicant the filing fee paid for the application.
- (5) The Tribunal may make an order to give effect, in whole or in part, to a provision in a tenancy agreement requiring one party (the **debtor**) to reimburse the other party (the **creditor**) for any reasonable expenses or commissions paid or incurred by the creditor in recovering, or attempting to recover, any overdue payment that the debtor owes to the creditor under an order of the Tribunal.

Section 102(1): amended, on 1 October 2010, by section 68(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 102(2)(a): amended, on 1 May 1996, by section 41(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 102(2)(d): inserted, on 1 May 1996, by section 41(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 102(3)(a): replaced, on 1 May 1996, by section 41(3) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 102(4): inserted, on 1 October 2010, by section 68(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 102(5): inserted, on 1 October 2010, by section 68(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

103 Reference of questions of law to High Court

The Tribunal may state a case for the opinion of the High Court on any question as to the jurisdiction of the Tribunal or on any question of law arising in proceedings before it; and for that purpose the Tribunal may either conclude the proceedings subject to that opinion, or adjourn the proceedings until after that opinion is given.

104 Decision of Tribunal

- (1) The Tribunal shall give its final decision in any proceedings, together with its reasons for the decision, in writing.
- (2) The Tribunal shall provide both parties to the proceedings with a copy of its decision and its reasons for the decision, and with written notice of the rights of appeal (if any) against its decision, including any time limits on those rights.

105 Rehearings

- (1) The Tribunal shall in all proceedings have the power to order a rehearing of the whole or any part of the proceedings on the ground that a substantial wrong or miscarriage of justice has or may have occurred or is likely to occur.
- (2) An application for a rehearing shall be lodged with the appropriate Registrar of the Tribunal within 5 working days after the date of the decision, or within such further time as the Tribunal may allow.
- (3) A copy of an application for a rehearing under this section shall be sent by the Tribunal to the other party to the proceedings as soon as practicable after it has been lodged with the Tribunal.
- (4) An application for a rehearing under this section shall not operate as a stay of proceedings unless the Tribunal so orders.
- (5) The Tribunal may grant an application for a rehearing under this section on such terms as it thinks fit, and may in the meantime stay proceedings.
- (6) Nothing in this section shall apply to proceedings under section 25.

*Enforcement and offences***106 Enforcement of possession orders**

- (1) Every possession order shall, on being filed in the appropriate office of the District Court, have effect as if it were a warrant for the recovery of land issued by the Registrar of the court under the District Court Act 2016.
- (2) Where any such order is filed in the District Court, section 138(1) of the District Court Act 2016 applies as if the reference to a District Court Judge were a reference to a Tenancy Adjudicator.

Section 106(1): amended, on 14 November 2018, by section 263(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 106(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 106(2): amended, on 14 November 2018, by section 263(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 106(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

107 Enforcement of orders other than possession orders and work orders

- (1) Every order made by the Tribunal other than a possession order or a work order shall be deemed to be an order of the District Court, and, subject to this section, may be enforced accordingly.
- (2) Where application is made to the District Court for the issue of any process to enforce an order provided for by subsection (2) or subsection (2A) of section 78 (requiring a party to pay money to another as an alternative to compliance with a work order or an order other than a monetary order), the Registrar shall

give written notice of the application to the party against whom enforcement is sought.

- (3) If that party does not file in the court, within 10 working days after receiving notice of the application, a notice of objection, the order may, after the expiry of that period, be enforced pursuant to subsection (1).
- (4) The notice referred to in subsection (3) may be given only on the ground that it is the belief of the party giving it that the order of the Tribunal has been fully complied with and that the party therefore disputes the entitlement of the applicant to enforce it.
- (5) If the party against whom enforcement is sought files the notice referred to in subsection (3) within the prescribed time, the Registrar shall refer the matter to the Tribunal to be heard and determined under section 108(2).
- (6) The chief executive may advance to any person who seeks to enforce an order pursuant to subsection (1) the amount of any filing fee payable by that person; and, where the chief executive does make any such advance, the amount of the advance shall be recoverable from the other party as a debt due to the Crown.

Section 107(2): replaced, on 1 May 1996, by section 42 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 107(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 107(3): amended, on 1 October 2010, by section 69 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 107(6): replaced, on 18 August 1992, by section 8 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

108 Enforcement of work orders

- (1) Where—
 - (a) a party in whose favour a work order has been made considers that the work order has not been complied with by the other party; and
 - (b) that other party has not complied with the alternative money order provided for by section 78(2) (if any),—the party in whose favour the work order was made may, instead of applying to the District Court for the issue of a process of enforcement pursuant to section 107(1), lodge with the Tribunal an application for the enforcement of the work order.
- (2) Subsequent proceedings shall be taken on an application for enforcement under subsection (1), and on a notice under section 107(5), as if such application or notice were an application filed under section 86; and, upon the hearing of the matter, the Tribunal may—
 - (a) vary the work order, or make a further work order or any other order that is authorised by section 78 (or 78A, if that section applies); or

- (b) grant leave to the party in whose favour the work order was made to enforce the alternative money order provided for by section 78(2) (if any), or so much of that order as the Tribunal may allow, without compliance with the provisions of section 107(2); or
 - (c) (except in the case of a section 78A work order) make an order empowering the party in whose favour the work order was made to undertake the necessary work and to charge the cost of doing so (up to the amount specified by the Tribunal) to the other party; or
 - (d) discharge or amend any order previously made by the Tribunal.
- (2A) A person who, without reasonable excuse, breaches a work order commits an unlawful act.
- (2B) A person commits an offence if—
 - (a) the person intentionally fails to comply with a work order under section 78 or 78A; and
 - (b) the failure to comply creates or increases a risk to the health or safety of any person living at the premises to which the work order relates.
- (2C) A person who commits an offence under subsection (2B) is liable on conviction to a fine not exceeding \$3,600.
- (3) Where any order is made under subsection (2)(c)—
 - (a) in favour of the landlord, the cost incurred by the landlord in undertaking the work (up to the amount specified by the Tribunal) shall be deemed to be rent in arrear and enforceable accordingly; or
 - (b) in favour of the tenant, the tenant may set off the cost incurred in undertaking the work (up to the amount specified by the Tribunal) against rent payable by the tenant.
- (4) Without limiting subsection (3)(b), where any order is made under subsection (2)(c), the tenant may pay to the chief executive any sum that would otherwise be payable by way of rent, up to the amount specified by the Tribunal, until sufficient has been accumulated to enable the tenant to undertake the work.
- (5) Where any sum is paid to the chief executive under subsection (4), the chief executive shall give to the tenant a receipt showing the particulars of the payment, and shall send a copy of the receipt to the landlord.
- (6) Any money paid to the chief executive under subsection (4) shall be paid by the chief executive into the Residential Tenancies Trust Account, and shall be paid out of that Account by the chief executive to the tenant if the chief executive is satisfied that the money is to be applied by the tenant to meet the cost of the work.
- (7) After the expiration of 12 months from the date of a work order, it shall not be enforced without the leave of the Tribunal.

Section 108(1)(b): amended, on 1 July 2016, by section 35(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 108(2)(a): amended, on 27 August 2019, by section 20(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 108(2)(b): amended, on 1 July 2016, by section 35(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 108(2)(c): amended, on 27 August 2019, by section 20(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 108(2A): inserted, on 1 October 2010, by section 70 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 108(2A): amended, on 1 July 2016, by section 35(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 108(2B): inserted, on 11 February 2021, by section 56 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 108(2C): inserted, on 11 February 2021, by section 56 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 108(4): amended, on 18 August 1992, by section 9(1) of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 108(5): amended, on 18 August 1992, by section 9(2) of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 108(6): replaced, on 18 August 1992, by section 9(3) of the Residential Tenancies Amendment Act 1992 (1992 No 79).

109 Unlawful acts

- (1) Any of the following persons (**A**) may apply to the Tribunal for an order requiring any other person (**B**) to pay to A an amount in the nature of exemplary damages on the ground that B has committed an unlawful act:
 - (a) a landlord:
 - (b) a tenant:
 - (c) the chief executive acting as the person responsible for the general administration of this Act or in the place of a landlord or a tenant under section 124A.
- (2) A landlord or a tenant may not apply under subsection (1) later than—
 - (a) 12 months after the termination of the tenancy in the case of—
 - (i) an unlawful act to which section 19(2) refers; or
 - (ii) a failure to keep records in respect of bonds that is an unlawful act to which section 30(2) refers; or
 - (b) 12 months after the date of commission of the unlawful act in the case of any other unlawful act.
- (2A) The chief executive may not apply under subsection (1) (whether acting as the person responsible for the general administration of this Act or in the place of a landlord or a tenant) later than 12 months after the date on which the chief executive first became aware of the unlawful act.

- (3) If, on an application under subsection (1) (other than one referred to in subsection (3A)), the Tribunal is satisfied that the person against whom the order is sought committed the unlawful act intentionally, and that, having regard to—
- (a) the intent of that person in committing the unlawful act; and
 - (b) the effect of the unlawful act; and
 - (c) the interests of the landlord or the tenant against whom the unlawful act was committed; and
 - (d) the public interest,—
- it would be just to require the person against whom the order is sought to pay a sum in the nature of exemplary damages, the Tribunal may make an order accordingly.
- (3A) In the case of an application in respect of an unlawful act under section 54(3), the Tribunal may order the landlord to pay a sum in the nature of exemplary damages if the Tribunal is satisfied that it is just to do so having regard to the matters referred to in subsection (3)(b) to (d).
- (4) The maximum amount that a person may be ordered to pay under this section for any unlawful act referred to in any section shown in column 1 of Schedule 1A is the amount shown opposite that section in column 3 of that schedule.
- (4A) The Tribunal may make an order against a person on the ground that the person committed an unlawful act even though the conduct that formed part of that act also formed part of an offence or an alleged offence against section 109A(4) in respect of which the person has been charged, convicted, or acquitted.
- (5) Any amount ordered by the Tribunal to be paid under this section on the application of a landlord or a tenant, or on the application of the chief executive acting in place of a landlord or a tenant, shall be paid to that landlord or that tenant, and shall be in addition to any sum payable to that landlord or that tenant by way of compensation in respect of the unlawful act.
- (6) Any amount ordered by the Tribunal to be paid under this section on the application of the chief executive acting as the person responsible for the general administration of this Act shall be paid to the Crown.
- (7) *[Repealed]*
- Section 109(1): replaced, on 11 February 2021, by section 57(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).
- Section 109(2): replaced, on 1 May 1996, by section 43(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).
- Section 109(2): amended, on 11 February 2021, by section 57(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).
- Section 109(2A): inserted, on 11 February 2021, by section 57(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).
- Section 109(3): amended, on 11 February 2021, by section 57(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 109(3): amended, on 1 July 2016, by section 36(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 109(3A): inserted, on 1 July 2016, by section 36(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 109(4): replaced, on 1 October 2010, by section 71 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 109(4): amended, on 11 February 2021, by section 57(5)(a) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 109(4): amended, on 11 February 2021, by section 57(5)(b) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 109(4A): inserted, on 1 October 2010, by section 71 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 109(5): amended, on 11 February 2021, by section 57(6) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 109(5): amended, on 18 August 1992, by section 10(2) of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 109(6): replaced, on 18 August 1992, by section 10(3) of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 109(7): inserted, on 1 May 1996, by section 43(3) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 109(7): repealed, on 11 February 2021, by section 57(7) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

109A Tribunal may restrain further commissions of unlawful acts

- (1) If the Tribunal makes an order against a person under section 109 on the ground that the person has committed an unlawful act, the Tribunal may, if satisfied that it is in the public interest to do so, make an order restraining the person from committing a further act of the same kind.
- (2) The Tribunal may make an order under subsection (1) on its own initiative or on the application of the applicant who applied for the order, under section 109, against the person sought to be restrained.
- (3) The Tribunal must specify the term of the order, which may not exceed 6 years.
- (4) Every person commits an offence who, being subject to an order under this section, intentionally contravenes the order.
- (5) A person who commits an offence against subsection (4) is liable on conviction to a fine not exceeding \$3,600.

Section 109A: inserted, on 1 October 2010, by section 72 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 109A(5): amended, on 11 February 2021, by section 58 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 109A(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

109B Tribunal may make pecuniary penalty orders

- (1) The Tribunal may, on the application of the chief executive, order a landlord to pay to the Crown the pecuniary penalty that the Tribunal determines to be appropriate if the Tribunal is satisfied that,—
- (a) at the time of committing the unlawful act, the landlord was—
 - (i) a landlord of 6 or more tenancies (*see* section 2(2B) to (2D)); or
 - (ii) a landlord of a boarding house; and
 - (b) the landlord intentionally committed an unlawful act under any of the following provisions:
 - (i) section 45(1A) or 66I(4) (landlord's responsibilities: cleanliness, maintenance, smoke alarms, healthy homes standards, and buildings, health, and safety requirements):
 - (ii) section 45(1AB) or 66I(5) (landlord's responsibilities: contaminated premises):
 - (iii) section 54(3) (retaliatory notice of termination):
 - (iv) section 60AA (acting to terminate without grounds):
 - (v) section 137(2) (contracting to contravene or evade the provisions of this Act).
- (2) The chief executive may not make an application under subsection (1) later than 12 months from the date on which the chief executive first became aware of the unlawful act.

Section 109B: inserted, on 11 February 2021, by section 59 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

109C Maximum amount of pecuniary penalty

The maximum amount of pecuniary penalty for an unlawful act referred to in section 109B is \$50,000.

Section 109C: inserted, on 11 February 2021, by section 59 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

109D Considerations for Tribunal in determining pecuniary penalty

In determining an appropriate pecuniary penalty, the Tribunal must have regard to all relevant matters, including—

- (a) the nature and extent of the unlawful act; and
- (b) the nature and extent of any loss or damage suffered by any person because of the unlawful act; and
- (c) any gains made or losses avoided by the landlord in the unlawful act; and
- (d) the circumstances in which the unlawful act took place.

Section 109D: inserted, on 11 February 2021, by section 59 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

109E Only 1 pecuniary penalty order may be made for same conduct

If conduct by a landlord constitutes an unlawful act under 2 or more provisions, proceedings may be brought against that landlord for the unlawful act under any 1 or more of the provisions, but no landlord is liable to more than 1 pecuniary penalty order for the same conduct.

Section 109E: inserted, on 11 February 2021, by section 59 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

110 Failing to answer witness summons

- (1) Every person commits an offence and is liable on conviction to a fine not exceeding \$3,600 who, having been summoned to attend to give evidence before the Tribunal or to produce to the Tribunal any document or thing, without reasonable cause,—
 - (a) fails to attend in accordance with the summons; or
 - (b) refuses to promise to tell the truth, or refuses to give evidence, or refuses to answer any question that the person is lawfully required by the Tribunal to answer concerning the subject of the proceedings; or
 - (c) fails to produce any such document or thing lawfully required to be produced.
- (2) No person who is summoned shall be convicted of an offence against subsection (1) unless at the time of the service of the summons, or at some other reasonable time before the date on which that person was required to attend, there has been paid or tendered to that person a sum for travelling expenses according to the scale for the time being prescribed.

Section 110(1): amended, on 11 February 2021, by section 60 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 110(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

111 Giving false evidence

Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 years who, after promising to tell the truth pursuant to section 97(2), makes any assertion as to a matter of fact, opinion, belief, or knowledge knowing that assertion to be false and intending thereby to mislead the Tribunal.

Section 111: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

111A Offence of breaching suppression order

A person who breaches an order made under section 95A is liable on conviction to a fine not exceeding \$3,000.

Section 111A: inserted, on 14 November 2018, by section 264 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 111A: amended, on 11 February 2021, by section 61 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

112 Contempt

- (1) Every person commits an offence and is liable on conviction to a fine not exceeding \$2,000 who—
 - (a) wilfully insults, or obstructs a Tenancy Adjudicator, or any witness or any officer of the Tribunal during a sitting of the Tribunal or while a Tenancy Adjudicator, a witness, or an officer of the Tribunal is going to, or returning from, a sitting of the Tribunal; or
 - (b) wilfully insults, or obstructs any person in attendance at a sitting of the Tribunal; or
 - (c) wilfully interrupts, or otherwise misbehaves at, a sitting of a Tribunal; or
 - (d) wilfully and without lawful excuse disobeys any order or direction of the Tribunal (other than an order mentioned in section 78, 78A, or 108(2)) in the course of any hearing of any proceedings.
- (2) A Tenancy Adjudicator may order the exclusion from a sitting of the Tribunal of any person whose behaviour, in the opinion of the Tenancy Adjudicator, constitutes an offence against subsection (1), whether or not such person is charged with the offence; and any Registrar, or other officer under a Registrar's control, or constable may take such steps as are reasonably necessary to enforce such exclusion.
- (3) Notwithstanding anything in section 93, where any party to the proceedings is removed under this section the proceedings may be continued in the absence of that party.

Compare: 1988 No 110 s 56

Section 112: replaced, on 1 May 1996, by section 44 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 112(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 112(1): amended, on 1 October 2010, by section 74 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 112(1)(a): amended, on 14 November 2018, by section 265(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 112(1)(b): amended, on 14 November 2018, by section 265(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 112(1)(d): amended, on 27 August 2019, by section 21 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Contact information for enforcement purposes

Heading: inserted, on 1 October 2010, by section 75 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

112A Interpretation

In this section and in sections 112B to 112F,—

contact information means information that is—

- (a) held or supplied by a specified agency; and
- (b) about a judgment debtor named in a Tribunal order; and
- (c) of a type that the Secretary for Justice has, by notice in the *Gazette*, identified as being information that is likely to assist in locating judgment debtors for the purpose of enforcing Tribunal orders

judgment debtor means a person who is required under a Tribunal order to pay money to the **judgment creditor** named in the order

specified agency means any of the following:

- (a) the department:
- (b) the Ministry of Social Development:
- (c) the Ministry of Justice

specified database means a database operated by a specified agency and prescribed by regulation as a specified database for the purposes of section 112C(2).

Section 112A: inserted, on 1 October 2010, by section 75 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

112B Application for contact information

- (1) The judgment creditor named in a Tribunal order may apply to the chief executive for contact information about a judgment debtor named in the order to be made available to the court in which enforcement proceedings against the judgment debtor have been, or may be, commenced.
- (2) The application must—
 - (a) be on a form approved for the purpose by the chief executive; and
 - (b) be accompanied by any prescribed fee; and
 - (c) have a copy of the relevant Tribunal order attached.
- (3) The applicant must supply the following information in the application:
 - (a) the full name of the judgment debtor:
 - (b) the number of the Tribunal order:
 - (c) the judgment debtor's last known address, to the best of the applicant's knowledge:

- (d) the date on which the applicant believes the judgment debtor last lived at the last known address:
 - (e) any other information known to the applicant that is likely to assist in a search by a specified agency for contact information about the judgment debtor, such as date of birth and any other names by which the judgment debtor is known:
 - (f) the steps taken by the applicant to find any contact information about the judgment debtor.
- (4) If a judgment creditor is entitled under an enactment to recover any costs relating to the enforcement of an order, then the prescribed fee paid by an applicant under this section is to be treated as a cost that is recoverable, unless the judgment debtor proves that the information was publicly available at the time the applicant applied for the information.

Section 112B: inserted, on 1 October 2010, by section 75 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

112C Application referred to specified agency

- (1) The chief executive must refer an application under section 112B to a specified agency if—
- (a) the application is properly completed, any prescribed fee is paid, and a copy of the relevant order is attached; and
 - (b) the chief executive is satisfied that the applicant has, before making the application, made reasonable efforts to find contact information about the judgment debtor; and
 - (c) the chief executive believes on reasonable grounds that a search by a specified agency may find contact information about the judgment debtor that may assist in the enforcement of the Tribunal order.
- (2) A specified agency that receives an application forwarded by the chief executive must search its specified databases in order to find contact information that relates to the judgment debtor identified in the application.
- (3) After searching its specified databases, the specified agency must,—
- (a) if it finds contact information about the judgment debtor, forward it to the chief executive; or
 - (b) if it does not find contact information about the judgment debtor, or if it believes that the judgment debtor is dead, advise the chief executive of that fact.

Section 112C: inserted, on 1 October 2010, by section 75 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

112D Response to applicant

- (1) If the chief executive receives contact information from a specified agency in response to an application, the chief executive must—

- (a) forward the contact information to the Secretary for Justice; and
 - (b) advise the applicant that information has been forwarded to the Secretary for Justice.
- (2) If the chief executive receives advice that the specified agency has not found contact information about the judgment debtor, the chief executive must—
 - (a) advise the applicant accordingly; or
 - (b) if the chief executive believes on reasonable grounds that another specified agency may hold contact information about the judgment debtor, forward the application to that specified agency, in which case section 112C(2) and (3) and this section apply again.
- (3) If the chief executive receives advice that the specified agency believes the judgment debtor is dead, the chief executive must advise the applicant accordingly.
- (4) If the chief executive does not advise the applicant under any of subsections (1) to (3) within 30 days of receipt of the application, the chief executive must write to the applicant explaining the reason for the delay.

Section 112D: inserted, on 1 October 2010, by section 75 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

112E Specified information sent to District Court

When the Secretary for Justice receives contact information from the chief executive, he or she must—

- (a) determine in which office of the District Court enforcement proceedings should be commenced; and
- (b) send the contact information to the Registrar for that office of the District Court; and
- (c) advise the applicant—
 - (i) that the information has been sent to the Registrar for that office of the District Court; and
 - (ii) that enforcement proceedings may be commenced in that office of the District Court or, if they have already been commenced in that or any other office of the District Court, that enforcement proceedings may now continue in, or be transferred to, the office of the District Court in which the proceedings were, or should have been, commenced.

Section 112E: replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

112F Non-disclosure of contact information

- (1) If contact information has been sent to the Registrar of the District Court in connection with enforcement proceedings relating to a Tribunal order, neither the Registrar nor the court staff may disclose the contact information unless the

disclosure is necessary for the purpose of enforcing the order or for determining any proceedings associated with enforcement of the order.

- (2) No person may search, inspect, or copy any court file that contains contact information, unless a Judge directs otherwise.
- (3) A Judge may make a direction under subsection (2) only if satisfied that the contact information contained on the file is—
 - (a) already known to the person seeking to search, inspect, or copy the record; or
 - (b) no longer current.

Section 112F: inserted, on 1 October 2010, by section 75 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 112F(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Miscellaneous provisions

113 Chief executive to provide assistance

The chief executive must ensure that assistance is reasonably available from his or her staff to any person who seeks it in completing any forms required by this Act or any rules made under section 116, or in doing anything in relation to the filing of an application or an appeal against an order of the Tribunal, or the enforcement of an order of the Tribunal.

Section 113: replaced, on 1 October 2010, by section 76 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

114 Powers of entry of Tenancy Mediators

- (1) Subject to the succeeding provisions of this section, every Tenancy Mediator who is a natural person shall, in the performance of his or her functions under section 99(1) in relation to any dispute, have power at any reasonable time to enter the residential premises to which the dispute relates and to inspect those premises and any fixtures, fittings, and chattels in those premises.
- (2) In respect of premises in any defence area (within the meaning of the Defence Act 1990), the exercise by a Tenancy Mediator of the power conferred by subsection (1) shall be subject to such conditions relating to security as the officer in charge of the defence area may require.
- (3) Except with the written authority of the Tribunal given in any particular case, no Tenancy Mediator shall exercise the power conferred by subsection (1) without first giving to each party to the dispute at least 24 hours' written notice of intention to do so.
- (4) Every notice given under subsection (3) shall state—
 - (a) that it is given pursuant to this section; and
 - (b) the address of the premises to which it relates; and

- (c) the time at which and the date on which the Tenancy Mediator proposes to inspect the premises.
- (5) Any party to the dispute shall be entitled to accompany, or have an agent accompany, the Tenancy Mediator while the Tenancy Mediator is inspecting the premises, whether or not that party would otherwise be entitled to enter or be in the premises.
- (6) A Tenancy Mediator who enters any premises under this section must,—
 - (a) on initial entry, produce evidence of his or her identity; and
 - (b) while subsequently on the premises, produce that evidence to any person who reasonably requests to see it.
- (7) Every person commits an offence and is liable on conviction to a fine not exceeding \$3,000 who, without reasonable excuse, obstructs or hinders any Tenancy Mediator in the exercise of the power conferred by subsection (1).

Section 114(1): amended, on 1 July 2016, by section 37 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 114(2): amended, on 1 April 1990, pursuant to section 105(2) of the Defence Act 1990 (1990 No 28).

Section 114(6): replaced, on 1 October 2010, by section 77(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 114(7): amended, on 11 February 2021, by section 62 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 114(7): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

115 Principal Tenancy Adjudicator may issue practice directions

For the purpose of ensuring that the application and administration of this Act is consistent throughout New Zealand, the Principal Tenancy Adjudicator may from time to time issue, for the guidance of other Tenancy Adjudicators, officers of the Tribunal, and parties before the Tribunal, any directions, notes, guidelines, or suggestions (not being inconsistent with this Act or any rules made under section 116) that the Principal Tenancy Adjudicator considers necessary or desirable.

115A Online publication of information about procedures, time frames, and progress of decisions

The following information must be published on an Internet site maintained by or on behalf of the chief executive of the Ministry of Justice:

- (a) information about the purpose of the Tribunal and how to commence a proceeding;
- (b) any requirements that must be met to bring a proceeding;
- (c) guidelines on how and when parties may obtain information on the progress of their case and when a decision may be expected.

Section 115A: inserted, on 29 October 2019, by section 266 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

115B Online publication of final written decisions

- (1) Every final written decision of the Tribunal must be published on an Internet site as soon as practicable unless there is good reason not to publish it.
- (2) A final written decision may be published in part if there is good reason for not publishing the full decision.
- (3) *[Repealed]*
- (4) Good reason not to publish a decision, or part of it, includes the following:
 - (a) non-publication is necessary because of a suppression order or statutory requirement that affects publication or continued publication:
 - (b) the decision falls into a category of decisions that are of limited public value:
 - (c) taking into account the presumption in subsection (1) in favour of publication, the Tribunal nevertheless determines that the decision or any part of it should not be published because publication or the effect of publication would be contrary to the interests of justice.
- (5) In this section, **final written decision** means a written decision that determines, or substantially determines, the outcome of proceedings in the Tribunal and is either of the following:
 - (a) a written reserved decision following an oral hearing:
 - (b) a written decision in any case considered on the papers.

Section 115B: inserted, on 29 October 2019, by section 266 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 115B(3): repealed, on 11 February 2021, by section 63 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

116 Rules of procedure

- (1) The Governor-General may from time to time, by Order in Council, make rules for all or any of the following purposes:
 - (a) regulating the practice and procedure of the Tribunal:
 - (b) prescribing such things (including fees) as are required by this Act to be prescribed:
 - (c) prescribing such other matters as are necessary or desirable for carrying out the provisions of this Part.
- (2) Without limiting the generality of subsection (1), rules may be made providing for the following:
 - (a) the keeping of records by the Tribunal and the form of such records:
 - (b) the form of documents to be issued by the Tribunal and the sealing of its documents:

- (c) the form and content of documents to be used by parties and intending parties, and the service of documents and the giving of notices by such persons:
 - (d) the duties, functions, and powers of the Tribunal, Registrars, and chief executive in relation to—
 - (i) the service of documents and the giving of notices:
 - (ii) the enlargement of dates of hearing:
 - (iii) the adjournment of proceedings:
 - (iv) the reports of Tenancy Mediators:
 - (e) the withdrawal and amendment of applications:
 - (f) the summoning of witnesses, and the payment of witnesses from public funds or otherwise:
 - (g) the duties, functions, and powers of the chief executive and Tenancy Mediators:
 - (h) the transfers of proceedings from the Tribunal to the District Court:
 - (i) the filing of orders of the Tribunal in the District Court for enforcement:
 - (j) the searching of the records of the Tribunal.
- (3) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 116(2)(d): amended, on 1 October 2010, by section 78 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 116(2)(g): amended, on 1 October 2010, by section 78 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 116(2)(h): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 116(2)(i): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 116(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

*Appeals***117 Appeal to District Court**

- (1) Subject to subsection (2), any party to any proceedings before the Tribunal who is dissatisfied with the decision of the Tribunal in the proceedings may appeal to the District Court against that decision.
- (1A) A decision referred to in subsection (1) includes the decision to grant, or refuse to grant, an application under section 105 for a rehearing.
- (2) No appeal shall lie—
 - (a) against an interim order made under section 79; or
 - (b) against an order, or the failure to make an order, for the payment of money where the amount that would be in dispute on appeal is less than \$1,000; or
 - (c) against a work order, or the failure to make a work order, where the value of the work that would be in dispute on appeal is less than \$1,000.
- (3) The District Court has jurisdiction to hear and determine an appeal under this section notwithstanding any limits imposed on such courts in their ordinary civil jurisdiction by sections 74 to 79 of the District Court Act 2016.
- (4) The provisions of section 85, with any necessary modifications, shall apply in respect of the hearing and determination by the District Court of an appeal brought under this section.
- (5) An appeal under this section shall be brought by the filing of a notice of appeal in the District Court nearest to the place at which the Tribunal sat in the proceedings to which the appeal relates.
- (6) Every such notice of appeal shall be filed within 10 working days after the date of the decision to which the appeal relates.
- (7) As soon as practicable after a notice of appeal has been filed under this section, the Registrar of the court shall cause a copy of the notice to be lodged with the Tribunal's records relating to the proceedings to which the appeal relates, and, on receipt of that copy, the Registrar of the Tribunal shall send the Tribunal's file on the matter to the court.
- (8) The Registrar of the court shall fix the time and place for the hearing of the appeal and shall notify the appellant.
- (9) A copy of every notice of appeal together with a notice of the time and place for hearing the appeal shall be served by the Registrar on the other party to the proceedings before the Tribunal, and that party may appear and be heard.
- (10) The filing of a notice of appeal under this section shall not operate as a stay of proceedings, unless the Tribunal or a District Court Judge, on application, so determines.

- (11) Where the appeal relates to an order terminating the tenancy made on the ground of non-payment of rent, a stay of proceedings shall not be granted unless the application for stay is supported by a receipt or other written evidence tending to show that the rent was not in fact in arrear at the date of the hearing before the Tribunal.

Section 117(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 117(1A): inserted, on 1 October 2010, by section 79(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 117(2)(b): replaced, on 1 May 1996, by section 45 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 117(2)(c): inserted, on 1 May 1996, by section 45 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 117(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 117(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 117(5): amended, on 1 October 2010, by section 79(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

118 Powers of District Court Judge on appeal

- (1) On the hearing of an appeal under section 117, a District Court Judge may—
- (a) quash the order of the Tribunal and order a rehearing of the claim by the Tribunal on such terms as the Judge thinks fit; or
 - (b) quash the order, and substitute for it any other order or orders that the Tribunal could have made in respect of the original proceedings; or
 - (c) dismiss the appeal.
- (2) In ordering a rehearing under subsection (1)(a), the District Court Judge may give to the Tribunal such directions as the Judge thinks fit as to the conduct of the rehearing.
- (3) The procedure at an appeal under this section shall be such as the Judge may determine.

119 Appeal on questions of law to High Court

- (1) Any party to an appeal under section 117 who is dissatisfied with the decision of the District Court Judge as being erroneous in point of law may appeal to the High Court on that question of law.
- (2) Every appeal under this section shall be dealt with in accordance with the High Court Rules 2016.

Section 119(2): amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

120 Further appeal to Court of Appeal

- (1) Any party to an appeal under section 119 may, with the leave of the High Court or (if that leave is refused) with special leave of the Court of Appeal, appeal to the Court of Appeal against the determination of the High Court.
- (2) An application to the High Court for leave to appeal to the Court of Appeal under this section shall be brought, in accordance with the rules of court, within 15 working days after the determination of the High Court, or within such further time as the High Court may allow; and the High Court may grant leave accordingly if, in its opinion, the appeal involves a question of law that, because of its general or public importance or for any other reasons, ought to be submitted to the Court of Appeal for decision.
- (3) Where the High Court refuses leave to any party to appeal to the Court of Appeal under this section, that party may, within 15 working days after the refusal of the High Court or within such further time as the Court of Appeal may allow, apply to the Court of Appeal, in accordance with the rules of that court, for special leave to appeal to that court, and the Court of Appeal may grant leave accordingly if, in its opinion, the appeal involves a question of law that, because of its general or public importance or for any other reason, ought to be submitted to the Court of Appeal for decision.
- (4) On any appeal to the Court of Appeal under this section, the Court of Appeal shall have the same power to adjudicate on the proceedings as the High Court had.
- (5) The decision of the Court of Appeal on any appeal under this section shall be final; and the same judgment shall be entered in the High Court, and the same consequences and proceedings shall follow thereon, as if the decision of the Court of Appeal had been given in the High Court.
- (6) The decision of the Court of Appeal on any application to that court for leave to appeal shall be final.

Part 4 Administration

Functions and powers of chief executive

Heading: replaced, on 18 August 1992, by section 11 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

121 Chief executive responsible for administration of Act

The chief executive is responsible for the general administration of this Act.

Section 121: replaced, on 18 August 1992, by section 11 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

122 Director-General may delegate powers

[Repealed]

Section 122: repealed, on 18 August 1992, by section 12 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

123 General functions and powers of chief executive

- (1) For the purposes of this Act, the chief executive may perform and exercise the following functions and powers:
 - (a) the investigation of, and the conduct of research into, any matters generally affecting or that may affect the interests of parties to tenancy agreements, or any such matters arising in any particular case:
 - (b) the publication of reports, the dissemination of information, and the taking of such steps as the chief executive thinks proper for informing members of the public of the rights and obligations of parties to tenancy agreements and of the general operation of this Act:
 - (c) the giving of opinions and advice to persons on any provisions of this Act or of any other enactment or rule of law relating to tenancy agreements:
 - (ca) the monitoring and assessment of compliance by landlords with the healthy homes standards:
 - (cb) the monitoring and assessing of compliance by landlords with this Act:
 - (d) the investigation, whether on the complaint of a party or not, of any alleged breach of this Act, or of any tenancy agreement, and the taking of such action, whether involving prosecution or other proceedings, negotiation, or arbitration, as the chief executive thinks proper:
 - (da) to supervise the operations of the office of the Tribunal and to work in close co-operation with the Registrar to ensure that disputes arising within the jurisdiction of the Tribunal are dealt with efficiently and expeditiously:
 - (db) the publication of comments about particular persons who are, or have been, landlords:
 - (e) the making of reports to the Minister on any matter relating to residential tenancies that the Minister may require, or that the chief executive thinks should be drawn to the attention of the Minister.
- (2) Except as required by the Minister under paragraph (e) of subsection (1), whether or not to perform or exercise any of the functions and powers specified in that subsection in any particular case shall be a matter for the chief executive's discretion, and in no circumstances shall the chief executive be obliged to perform or exercise any such function or power.

Compare: Residential Tenancies Act 1978–1981 s 11(1) (SA)

Section 123(1) heading: amended, on 18 August 1992, pursuant to section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 123(1): amended, on 18 August 1992, by section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 123(1)(b): amended, on 18 August 1992, by section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 123(1)(ca): inserted, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 123(1)(cb): inserted, on 11 February 2021, by section 64 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 123(1)(d): amended, on 18 August 1992, by section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 123(1)(da): inserted, on 1 October 2010, by section 80 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 123(1)(db): inserted, on 1 July 2016, by section 38 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 123(1)(e): amended, on 18 August 1992, by section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 123(2): amended, on 18 August 1992, by section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

123A Documents to be retained by landlord and produced to chief executive if required

- (1) A landlord must retain the following documents (or copies of them) during, and for 12 months after the termination of, the tenancy:
 - (a) the tenancy agreement and any variations or renewals of it;
 - (b) any reports of inspections of the premises carried out by or for the landlord during the tenancy;
 - (c) records of any building work for which a building consent is required, prescribed electrical work, sanitary plumbing, gasfitting, or other maintenance or repair work carried out at the premises by or for the landlord during the tenancy;
 - (d) any reports or assessments by a professional tradesperson of work that is carried out or is required in relation to a premises that relates to the landlord's compliance with section 45 or 66I;
 - (e) the records or other documents that relate to the landlord's compliance with the healthy homes standards and that are prescribed by regulations under section 138B(5);
 - (f) any advertisement for the tenancy (including an advertisement from before the commencement of the tenancy);
 - (g) any notices or correspondence between a landlord (or a person acting on the landlord's behalf) and—
 - (i) a tenant (or a person acting on the tenant's behalf) in relation to the tenancy;

- (ii) a prospective tenant (or a person acting on the prospective tenant's behalf) in relation to the tenancy.
- (2) The chief executive may by notice in writing require a landlord to produce to the chief executive any specified documents, or any documents of a specified class, that the landlord is required to retain under subsection (1)(b) to (g) or under section 30 (relating to rent and bond records).
- (3) A notice under subsection (2)—
 - (a) may be given only if the chief executive reasonably requires the documents for the purposes of the chief executive's functions or powers under this Act; and
 - (b) may not be given any later than 12 months after the termination of the tenancy; and
 - (c) must specify the way in which the documents must be produced to the chief executive.
- (4) A landlord who receives a notice under subsection (2) must, within 10 working days of receiving the notice, produce the documents to the chief executive in the way specified in the notice.
- (5) A landlord who, without reasonable excuse, fails to comply with subsection (4)—
 - (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in Schedule 1B.
- (6) In this section,—

building consent and **building work** have the same meanings as in section 7 of the Building Act 2004

gasfitting has the same meaning as in section 5 of the Plumbers, Gasfitters, and Drainlayers Act 2006

prescribed electrical work has the same meaning as in section 2(1) of the Electricity Act 1992

professional tradesperson means a person whose occupation includes carrying out building work, prescribed electrical work, sanitary plumbing, gasfitting, or other maintenance or repair work

sanitary plumbing has the same meaning as in section 6 of the Plumbers, Gasfitters, and Drainlayers Act 2006.

Section 123A: inserted, on 1 July 2016, by section 39 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 123A(1): replaced, on 11 February 2021, by section 65(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 123A(1)(ca): inserted, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 123A(2): amended, on 11 February 2021, by section 65(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 123A(4): replaced, on 11 February 2021, by section 65(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 123A(5): inserted, on 11 February 2021, by section 65(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 123A(6): inserted, on 11 February 2021, by section 65(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

123B Documents to be produced by tenant to chief executive if required

- (1) The chief executive may by notice in writing require a tenant to produce to the chief executive any specified documents, or any documents of a specified class, that—
 - (a) fall within section 123A(1)(a) to (d); and
 - (b) are in the tenant's possession or under the tenant's control.
- (2) A notice under subsection (1)—
 - (a) may be given only if the chief executive reasonably requires the documents for the purposes of the chief executive's functions or powers under this Act; and
 - (b) may not be given any later than 12 months after the termination of the tenancy; and
 - (c) must specify the way in which the documents must be produced to the chief executive.

Section 123B: inserted, on 1 July 2016, by section 39 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

123C Chief executive's powers in relation to produced documents

If a document is produced to the chief executive under section 123A or 123B, the chief executive may—

- (a) inspect and make records of the document; and
- (b) take copies of the document or extracts from it.

Section 123C: inserted, on 1 July 2016, by section 39 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

123CA Programmes of inspections to monitor and assess compliance with healthy homes standards

The chief executive may, for the purposes of the chief executive's function under section 123(1)(ca), prepare and implement programmes for inspecting premises (including fixtures, fittings, and chattels in them) or facilities.

Section 123CA: inserted, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

123D Power of entry to inspect premises

- (1) An authorised person may, at any reasonable time, enter any premises that are the subject of a tenancy to inspect the premises, and any fixtures, fittings, and chattels in the premises, if—
 - (a) the inspection is authorised by an order of the Tribunal under section 123E and is carried out in accordance with any conditions set out in that order; and
 - (b) the authorised person gives both the landlord and the tenant at least 24 hours' written notice of the authorised person's intention to enter the premises.
- (2) A notice under subsection (1)(b) must—
 - (a) state that it is given under this section; and
 - (b) state the address of the premises to which it relates; and
 - (c) state the time at which, and the date on which, the authorised person proposes to inspect the premises; and
 - (d) include a copy, sealed with the Tribunal's seal, of the Tribunal's order under section 123E.
- (3) The authorised person's power to inspect includes the power to do any of the following:
 - (a) to bring onto, and operate on, the premises any equipment (and to use electricity from the electricity supply at the premises for the purpose of operating the equipment);
 - (b) to take or make photographs, sound or video recordings, measurements, or drawings;
 - (c) to take samples of things for analysis;
 - (d) to test things.
- (4) The landlord or the tenant (as the case may be) must provide the authorised person with all assistance that the authorised person reasonably requests from the landlord or the tenant in relation to the inspection, including (for example) assistance reasonably requested for the purpose of enabling the authorised person to enter the premises or to access any part of the premises.
- (5) Both the landlord and the tenant may accompany, or have a person acting on behalf of the landlord or the tenant accompany, the authorised person while the authorised person is inspecting the premises.
- (6) A person (A) may accompany the authorised person under subsection (5) whether or not A would otherwise be entitled to enter or be in the premises.
- (7) An authorised person who enters any premises under this section must,—
 - (a) on initial entry, produce evidence of the authorised person's identity; and

- (b) while subsequently on the premises, produce that evidence to any person who reasonably requests to see it.
- (8) In respect of any premises in any defence area (within the meaning of the Defence Act 1990), an authorised person must exercise the authorised person's powers under this section subject to any conditions relating to security that the officer in charge of the defence area imposes.
- (9) A person commits an offence and is liable on conviction to a fine not exceeding \$3,000 if the person, without reasonable excuse,—
 - (a) fails to comply with subsection (4); or
 - (b) obstructs or hinders an authorised person in the exercise of the authorised person's powers under this section.
- (10) Sections 166 and 167 of the Search and Surveillance Act 2012 apply (with any necessary modifications) in relation to the powers of an authorised person under this section.
- (11) In this section, **authorised person** means an officer of the department, or any other person, who is authorised by the chief executive to enter premises under this section.
- (12) The chief executive may authorise a person for the purposes of subsection (11) only if the chief executive is satisfied that the person is properly qualified or trained to exercise the powers of an authorised person under this section.
- (13) This section does not affect any power or right that a person has apart from this section to enter any premises or to do anything on any premises.

Section 123D: inserted, on 1 July 2016, by section 39 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 123D(9): amended, on 11 February 2021, by section 66 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

123E Tribunal may authorise inspection

- (1) The chief executive may, in relation to a tenancy, apply to the Tribunal for an order authorising an inspection under section 123D.
- (2) The Tribunal may make an order authorising the inspection if it is satisfied that the chief executive has reasonable grounds for believing—
 - (a) that there has been a breach of the tenancy agreement or a breach of this Act in relation to the tenancy; and
 - (b) that the inspection is reasonably necessary for the purposes of the chief executive's functions or powers under this Act in relation to the breach.
- (2A) The chief executive may, for the purpose of implementing a programme of inspections prepared under section 123CA, apply to the Tribunal for an order authorising an inspection under section 123D.

- (2B) The Tribunal may make an order authorising the inspection if it is satisfied that the chief executive has reasonable grounds for believing that the order is reasonably necessary for the purpose of implementing the programme.
- (3) The Tribunal's authorisation under subsection (2) or (2B) may be given subject to conditions, which must be set out in the order.

Section 123E: inserted, on 1 July 2016, by section 39 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 123E(2A): inserted, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 123E(2B): inserted, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 123E(3): amended, on 1 July 2019, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

124 Chief executive may take or defend proceedings on behalf of any party

[Repealed]

Section 124: repealed, on 11 February 2021, by section 67 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

124A Chief executive may take proceedings in place of tenant or landlord

- (1) The chief executive may, if satisfied that it is in the public interest to do so on any of the grounds listed in subsection (2), do any of the following in relation to a tenancy as if the chief executive were a party to the tenancy:
- (a) initiate any proceedings in the Tribunal or a court that could be brought by the party:
 - (b) defend any proceedings in the Tribunal or a court that are brought against the party:
 - (c) assume the conduct of any proceedings in the Tribunal or a court brought by or against the party:
 - (d) take any steps that are necessary to enforce or protect the rights of the party in relation to any infringement or suspected infringement of any of those rights under the tenancy agreement or this Act.
- (2) The grounds referred to in subsection (1) are as follows:
- (a) in the chief executive's opinion, the condition of the premises, or the condition of any premises in relation to which the landlord is the landlord under another tenancy, poses a significant risk to the health or safety of any person:
 - (b) in the chief executive's opinion, the tenant or the landlord has committed a serious breach of this Act, or has persistently breached this Act, in relation to the tenancy or otherwise:
 - (c) in the chief executive's opinion, any conduct of the tenant or the landlord in relation to the tenancy or otherwise risks undermining public confidence in the administration of this Act:

- (d) any other ground that the chief executive considers appropriate.
- (3) The chief executive may act in the place of a party under subsection (1)—
 - (a) without the consent of the party;
 - (b) despite the party's refusal to consent;
 - (c) even if the tenancy has terminated.
- (4) If the tenancy has terminated,—
 - (a) any application for a work order that is made, or the conduct of which is assumed, by the chief executive must be dealt with (or continue to be dealt with after the termination) as if the tenancy were still in force; and
 - (b) any work order granted on an application that was made, or the conduct of which was assumed, by the chief executive must be complied with, and may be enforced by the chief executive, despite the tenancy's termination.

Section 124A: inserted, on 1 July 2016, by section 40 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 124A heading: amended, on 11 February 2021, by section 68(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124A(1): replaced, on 11 February 2021, by section 68(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124A(2)(b): amended, on 11 February 2021, by section 68(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124A(2)(c): amended, on 11 February 2021, by section 68(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124A(3): replaced, on 11 February 2021, by section 68(5) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

124B Supplementary provision to section 124A

- (1) The chief executive may not initiate any proceedings under section 124A(1) any later than 12 months after the date on which the chief executive becomes aware of the matters on which the proceedings are based.
- (2) If the chief executive acts in the place of a party (A) under section 124A(1), the following provisions apply in relation to the proceedings in question:
 - (a) the chief executive has the same rights and remedies as A, including the right to settle the proceedings;
 - (b) the chief executive may do anything in relation to the proceedings that A could do and, as between the chief executive and A, has control of the proceedings;
 - (c) if the proceedings have already commenced, the Tribunal or court must substitute the chief executive for A as a party to the proceedings;
 - (d) the Tribunal must, on the chief executive's application, order that any other claim by or against A be dealt with in separate proceedings brought by the claimant against A (and not against the chief executive):

- (e) any order or judgment may be enforced by the chief executive as if the chief executive were A:
 - (f) any money (excluding costs) recovered by the chief executive must, without any deduction, be paid by the chief executive to A:
 - (g) A must reasonably co-operate with the chief executive.
- (3) In subsection (2)(d), **claim** means a claim for money, a possession order, a work order, or anything else, whether under the tenancy agreement, this Act, or otherwise.
- (4) If a person is the landlord under 2 or more tenancies and the chief executive acts under section 124A(1) in relation to 2 or more of those tenancies, the Tribunal or any court may allow any of the proceedings in question that are before it to be consolidated with 1 or more of any of the other proceedings in question that are before it.
- (5) Any certificate given by the chief executive relating to the chief executive's powers under section 124A or this section is, in the absence of proof to the contrary, sufficient evidence of the matters referred to in the certificate.

Section 124B: inserted, on 1 July 2016, by section 40 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 124B(1): amended, on 11 February 2021, by section 69(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124B(2): amended, on 11 February 2021, by section 69(2)(a) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124B(2)(a): amended, on 11 February 2021, by section 69(2)(b) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124B(2)(b): amended, on 11 February 2021, by section 69(2)(b) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124B(2)(c): amended, on 11 February 2021, by section 69(2)(b) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124B(2)(d): replaced, on 11 February 2021, by section 69(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124B(2)(e): amended, on 11 February 2021, by section 69(2)(b) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124B(2)(f): amended, on 11 February 2021, by section 69(2)(b) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 124B(2)(g): amended, on 11 February 2021, by section 69(2)(b) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

125 Immunities

No personal liability shall attach to the chief executive or to any delegate of the chief executive for any act or omission by the chief executive or the delegate made in good faith and in the exercise, or purported exercise, of all or any of the functions or powers of the chief executive under this Act, or in the discharge, or purported discharge, of all or any of the chief executive's duties

under this Act, but without prejudice to any liability that the Crown may incur for the acts or omissions of any employee or agent of the Crown.

Compare: Residential Tenancies Act 1978–1981 s 12 (SA)

Section 125: amended, on 18 August 1992, by section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

126 Annual report

- (1) The chief executive shall, as soon as practicable after 30 June in each year, submit to the Minister a report on the administration of this Act during the year ending on that day; and shall include that report in the annual report of the department prepared pursuant to section 43 of the Public Finance Act 1989.
- (2) The report shall show separately—
 - (a) the audited consolidated financial statements for the Residential Tenancies Trust Account for the year to which the report relates, consisting of such statements as may be necessary to show the financial position of that Account and the financial results of the operation of the Account during that year; and
 - (b) the auditor's report on those financial statements.

Section 126: replaced, on 18 August 1992, by section 13(1) of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 126(1): amended, on 1 October 2010, by section 81 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 126(1): amended, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

Section 126(2): replaced, on 1 May 1996, by section 47 of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Infringement offences

Heading: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126A Interpretation

In this Act,—

infringement fee, in relation to an infringement offence, means the infringement fee for the offence prescribed in accordance with clause 2 of Schedule 1B or in regulations made under this Act

infringement offence means an offence identified, in this Act or in regulations made under this Act, as being an infringement offence.

Section 126A: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126B Proceedings for infringement offences

- (1) A person who is alleged to have committed an infringement offence may—

- (a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or
 - (b) be issued with an infringement notice under section 126C.
- (2) Proceedings commenced in the way described in subsection (1)(a) do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.
- (3) See section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.

Section 126B: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126C When infringement notice may be issued

The chief executive may issue an infringement notice to a person if the chief executive believes on reasonable grounds that the person is committing, or has committed, an infringement offence.

Section 126C: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126D Infringement notice may be revoked

- (1) The chief executive may revoke an infringement notice before the infringement fee is paid, or an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.
- (2) An infringement notice is revoked by giving written notice to the person to whom it was issued that the notice is revoked.
- (3) The revocation of an infringement notice under this section is not a bar to any other enforcement action against the person to whom the notice was issued in respect of the same matter.

Section 126D: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126E What infringement notice must contain

An infringement notice must be in the form prescribed in regulations and must contain the following particulars:

- (a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence:
- (b) the amount of the infringement fee:
- (c) the address of the department:
- (d) how the infringement fee may be paid:
- (e) the time within which the infringement fee must be paid:
- (f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:

- (g) a statement that the person served with the notice has a right to request a hearing;
- (h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing;
- (i) any other matters prescribed in regulations.

Section 126E: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126F How infringement notice may be served

- (1) An infringement notice may be served on the person who the chief executive believes is committing or has committed the infringement offence by—
 - (a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or
 - (b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or
 - (c) leaving it for the person at the person's place of business or work with another person; or
 - (d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or
 - (e) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand.
- (2) Unless the contrary is shown,—
 - (a) an infringement notice (or a copy of it) sent by prepaid post to a person under subsection (1) is to be treated as having been served on that person on the fifth working day after the date on which it was posted;
 - (b) an infringement notice sent to a valid electronic address is to be treated as having been served at the time the electronic communication first enters an information system that is outside the control of the chief executive.

Section 126F: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126G Payment of infringement fees

All infringement fees paid in respect of infringement offences must be paid into a Crown Bank Account.

Section 126G: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Improvement notices

Heading: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126H Power to issue improvement notices

- (1) This section applies if the chief executive reasonably believes that a person—
 - (a) is contravening a provision of this Act, of regulations made under this Act, or of a tenancy agreement; or
 - (b) is likely to contravene a provision of this Act, of regulations made under this Act, or of a tenancy agreement.
- (2) The chief executive may issue an improvement notice requiring the person to—
 - (a) remedy the contravention; or
 - (b) prevent a likely contravention from occurring; or
 - (c) remedy the things or activities causing the contravention or likely to cause a contravention.

Compare: 2015 No 70 s 101

Section 126H: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126I Content of improvement notices

- (1) An improvement notice must state—
 - (a) that the chief executive believes the person—
 - (i) is contravening a provision of this Act, of regulations made under this Act, or of a tenancy agreement; or
 - (ii) is likely to contravene a provision of this Act, of regulations made under this Act, or of a tenancy agreement; and
 - (b) the provision the chief executive believes is being, or is likely to be, contravened; and
 - (c) briefly, how the provision is being, or is likely to be, contravened; and
 - (d) a reasonable period within which the person is required to remedy—
 - (i) the contravention or likely contravention; or
 - (ii) the things or activities causing the contravention or likely to cause a contravention.
- (2) An improvement notice may include recommendations concerning—
 - (a) the measures that could be taken to remedy the contravention, or prevent the likely contravention, to which the notice relates:
 - (b) the things or activities causing the contravention, or likely to cause a contravention, to which the notice relates.

Compare: 2015 No 70 s 102

Section 126I: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126J Compliance with improvement notice

- (1) A failure to comply with an improvement notice is an unlawful act.
- (2) It is not an unlawful act to fail to comply with recommendations in an improvement notice.

Compare: 2015 No 70 s 103

Section 126J: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126K Extension of time for compliance with improvement notices

- (1) This section applies if a person has been issued with an improvement notice.
- (2) The chief executive may, by written notice given to the person, extend the compliance period for the improvement notice.
- (3) However, the chief executive may extend the compliance period only if the period has not ended.
- (4) In this section, **compliance period**—
 - (a) means the period stated in the improvement notice under section 126I(1); and
 - (b) includes any extension of that period under this section.

Compare: 2015 No 70 s 104

Section 126K: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126L Chief executive may withdraw improvement notice

- (1) The chief executive may withdraw an improvement notice.
- (2) The withdrawal of an improvement notice does not prevent another improvement notice from being served in relation to the same matter.

Compare: 2000 No 24 s 223G

Section 126L: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126M Objection to improvement notice

- (1) A person who has been issued with an improvement notice may file an objection with the Tribunal.
- (2) An objection must be filed with the Tribunal within 28 days after the date on which the improvement notice was served on the person.
- (3) In determining the objection, the Tribunal must consider—
 - (a) whether the person has failed, or is likely to fail, to comply with a specified provision of this Act, of regulations made under this Act, or of a tenancy agreement; and

- (b) the nature and extent of the failure or likely failure to comply with the provision; and
 - (c) the nature and extent of any loss suffered by any other party to the tenancy agreement as a result of the failure or likely failure to comply with the provision.
- (4) The Tribunal may confirm, vary, or rescind the improvement notice as the Tribunal thinks fit.

Compare: 2000 No 24 s 223E

Section 126M: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Enforceable undertakings

Heading: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126N Chief executive may accept enforceable undertakings

- (1) The chief executive and a party to a tenancy may agree in writing that the party will undertake by a specified date (an **enforceable undertaking**) to—
 - (a) rectify the breach of any provision of this Act, of regulations made under this Act, or of a tenancy agreement; or
 - (b) pay money owed to another party to the tenancy under this Act, of regulations made under this Act, or of a tenancy agreement; or
 - (c) take any other action that the chief executive determines is appropriate, having regard to the nature of the breach.
- (2) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention or alleged contravention to which the undertaking relates.

Section 126N: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126O When enforceable undertaking is enforceable

An enforceable undertaking takes effect and becomes enforceable when the chief executive's decision to accept the undertaking is given to the person who made the undertaking, or at any later date specified by the chief executive.

Compare: 2015 No 70 s 125

Section 126O: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126P Compliance with enforceable undertaking

- (1) A person must not contravene an enforceable undertaking given by that person that is in force.
- (2) A person who contravenes subsection (1) commits an unlawful act.

Compare: 2015 No 70 s 126

Section 126P: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126Q Withdrawal or variation of enforceable undertaking

- (1) A person who has given an enforceable undertaking may at any time, with the written agreement of the chief executive,—
 - (a) withdraw the undertaking; or
 - (b) vary the undertaking.
- (2) However, the provisions of the undertaking cannot be varied to provide for a different alleged contravention of this Act, the regulations, or the tenancy agreement.

Compare: 2015 No 70 s 128

Section 126Q: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

126R Proceedings for alleged contravention

- (1) Subject to this section, no proceedings (whether civil or criminal) for a contravention or an alleged contravention of this Act, the regulations, or a tenancy agreement may be brought against a person if an enforceable undertaking is in effect in relation to that contravention.
- (2) No proceedings may be brought for a contravention or an alleged contravention of this Act, the regulations, or a tenancy agreement against a person who—
 - (a) has made an enforceable undertaking in relation to that contravention; and
 - (b) has completely discharged the enforceable undertaking.
- (3) The chief executive may accept an enforceable undertaking in relation to a contravention or an alleged contravention before proceedings in relation to that contravention have been completed.
- (4) If the chief executive accepts an enforceable undertaking before the proceedings are completed, the chief executive must take all reasonable steps to have the proceedings discontinued as soon as practicable.

Compare: 2015 No 70 s 129

Section 126R: inserted, on 11 February 2021, by section 70 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Residential Tenancies Trust Account

Heading: replaced, on 18 August 1992, by section 14 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

127 Residential Tenancies Trust Account

- (1) The following sums shall be deemed to be trust money for the purposes of Part 7 of the Public Finance Act 1989:

- (a) all sums paid to the chief executive by way of bond under section 20 or section 21, as the case may be;
 - (b) all rent money that is, by virtue of any of the provisions of this Act or of any order of the Tribunal, to be paid into the Residential Tenancies Trust Account;
 - (c) any other money that, by virtue of any such provision or any such order, is to be or may be credited to that Account,—
- and shall be paid into a Trust Bank Account called the Residential Tenancies Trust Account under that Part of that Act.
- (2) Subject to subsection (3), the trust money in the Residential Tenancies Trust Account shall be managed and invested in accordance with Part 7 of the Public Finance Act 1989.
 - (3) Nothing in subsection (2) of section 68, and sections 69 and 70 of the Public Finance Act 1989 applies in respect of the Residential Tenancies Trust Account.
 - (4) Subject to sections 22 to 22D and to subsection (5), no money shall be paid out of the Residential Tenancies Trust Account except—
 - (a) pursuant to an order of the Tribunal; or
 - (b) with the chief executive's prior written consent.
 - (5) If, in respect of any sum of money that is credited to the Residential Tenancies Trust Account, the chief executive is uncertain who is entitled to it, or whether or not any such sum should be paid out of that Account to any person, the chief executive may apply to the Tribunal for an order determining who is so entitled or whether or not any such sum should be so paid out.
 - (6) Where any money is paid out of the Residential Tenancies Trust Account in conformity with any such order of the Tribunal, neither the Crown nor the chief executive shall incur any liability in respect of the payment.
 - (7) All interest, dividends, and other gains (whether in the nature of income or capital, and whether in money or otherwise, and whether realised or not) arising from any investment of money in the Residential Tenancies Trust Account shall belong to the Crown and be treated as departmental revenue.
 - (7A) All money paid into the Residential Tenancies Trust Account as bond money belongs to the Crown and must be paid into a Crown Bank Account if the money—
 - (a) is not claimed within 6 years of the end of the tenancy to which the bond relates; or
 - (b) is to be refunded under an approval given by the chief executive, but has not been collected within 6 years of the date of that approval.

- (7B) Despite subsection (7A), during the first year after the commencement of this section, payment of money into a Crown Bank Account may be delayed to enable the chief executive to exercise the powers under section 22D.
- (8) All money credited to Part A of the Residential Tenancies Fund immediately before the commencement of the Residential Tenancies Amendment Act 1992 shall be deemed to be credited to the Residential Tenancies Trust Account.
- (9) All money credited to Part B of the Residential Tenancies Fund immediately before the commencement of the Residential Tenancies Amendment Act 1992 shall be deemed to be the property of the Crown.

Section 127: replaced, on 18 August 1992, by section 14 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 127(4): amended, on 1 October 2010, by section 82(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 127(7A): inserted, on 1 October 2010, by section 82(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 127(7B): inserted, on 1 October 2010, by section 82(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

128 Auditor-General to be auditor of Residential Tenancies Trust Account

- (1) The Residential Tenancies Trust Account is to be treated as a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.
- (2) Without limiting subsection (1), the chief executive may, after consultation with the Auditor-General, appoint a person or firm that is qualified for appointment as an auditor to be an additional auditor of the Residential Tenancies Trust Account.

Section 128: replaced, on 1 July 2001, by section 53 of the Public Audit Act 2001 (2001 No 10).

129 Part B of the Fund

[Repealed]

Section 129: repealed, on 18 August 1992, by section 15 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

130 Corporation may make money available

[Repealed]

Section 130: repealed, on 18 August 1992, by section 15 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

131 Corporation may borrow

[Repealed]

Section 131: repealed, on 18 August 1992, by section 15 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

132 No execution

No money from time to time standing to the credit of the Residential Tenancies Trust Account shall be taken in or be subject to execution, whether by way of garnishee or otherwise, without the written consent of the chief executive.

Section 132: replaced, on 18 August 1992, by section 16 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Part 5

Miscellaneous provisions

133 Tribunal or chief executive may require terms of tenancy agreements

- (1) The Tribunal or the chief executive may, by notice in writing, require a landlord to inform the Tribunal or the chief executive of the provisions of any specified tenancy agreement or agreements, or of all tenancy agreements to which the landlord is a party, that—
 - (a) are current; or
 - (b) that terminated during the 12 months before the date on which the notice is given.
- (1A) A notice under subsection (1) may require the landlord to produce to the Tribunal or the chief executive, in the way specified in the notice, each tenancy agreement and any variations or renewals of it (or copies), and the Tribunal or the chief executive may—
 - (a) inspect and make records of any document that is produced; and
 - (b) take copies of the document or extracts from it.
- (2) Every person who, without reasonable excuse, fails to comply with a notice under subsection (1) within 10 working days after receiving it commits an offence and is liable on conviction to a fine not exceeding \$3,600.

Section 133 heading: amended, on 11 February 2021, by section 71(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 133 heading: amended, on 18 August 1992, pursuant to section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 133(1): replaced, on 11 February 2021, by section 71(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 133(1A): inserted, on 1 July 2016, by section 41(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 133(1A): amended, on 11 February 2021, by section 71(3) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 133(2): amended, on 11 February 2021, by section 71(4) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 133(2): amended, on 1 July 2016, by section 41(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 133(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

134 Waiver by landlord of breach by tenant

A waiver by the landlord of any breach by the tenant, or a failure by the landlord to enforce any obligation by the tenant, shall not,—

- (a) where the breach is of a continuing nature, prevent the landlord from enforcing the obligation in future; or
- (b) where the breach is not of a continuing nature, prevent the landlord from exercising any remedy in the event of a subsequent breach by the tenant;—

but any such waiver or failure to enforce may be taken into consideration by the Tribunal if the landlord subsequently applies to the Tribunal for an order terminating the tenancy.

134A Method of payment

Any amount that is, by virtue of any provision of this Act or of any order of the Tribunal, to be paid to the chief executive shall be paid by such method as may be prescribed by regulations made under section 140.

Section 134A: inserted, on 1 May 1996, by section 49(1) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

135 Recovery of money paid by mistake

- (1) Subject to subsection (2), where one party to a tenancy agreement pays any amount to the other party under a mistake of law or fact relating to the agreement, that party may, upon application to the Tribunal, recover that amount from the other party.
- (2) In any case to which subsection (1) applies, the Tribunal may decline to order the repayment of the amount in question, in whole or in part, if the Tribunal is satisfied that the person who received the money did so in good faith, and has so altered his or her position in reliance on the validity of the payment that, in the opinion of the Tribunal, having regard to all possible implications in respect of other persons, it would be unfair to order the repayment of the whole or any part of that amount.

Compare: Residential Tenancies Act 1978–1981 s 90 (SA)

136 Service of documents

- (1) Where any notice or other document is required or authorised by this Act to be given to or served on a landlord or a tenant, it shall be sufficient if it is given or served in any of the following ways:
 - (a) it may be given to or served on the landlord or the tenant personally;
 - (b) it may be sent by post addressed to the landlord or the tenant at the address or the Post Office box given by the landlord or the tenant as an address for service in accordance with this Act;

- (ba) if the landlord is a company, it may be sent by post addressed to the landlord at the address of the landlord's registered office:
 - (c) it may be delivered to the premises to which any address for service relates, and either placed in the mailbox or attached to the door in a prominent position:
 - (ca) if the landlord is a company, it may be delivered to the landlord's registered office, and either placed in the mailbox or attached to the door in a prominent position:
 - (d) it may be transmitted to the email address or facsimile number given by the landlord or the tenant as an address for service.
- (2) Without limiting the provisions of subsection (1), any notice or other document required or authorised by this Act to be given to or served upon any tenant may be served on a tenant:
 - (a) at the premises to which the tenancy agreement relates, if the tenant resides at those premises, as follows:
 - (i) by posting it addressed to the tenant at those premises; or
 - (ii) by delivering it to those premises and either placing it in the mailbox or attaching it to the door of those premises in a prominent position; or
 - (iii) by giving it to any person appearing to have attained the age of 16 years and to be residing at those premises; or
 - (b) at any other place of residence of the tenant, by giving it to any person appearing to have attained the age of 16 years and to be residing at those premises and who confirms that the tenant resides at the premises; or
 - (c) at the premises to which any address for service given by the tenant relates, by giving it to any person appearing to have attained the age of 16 years and to be residing at those premises; or
 - (d) by giving it to the person who ordinarily pays the rent under the tenancy agreement; or
 - (e) by giving it to any solicitor or other agent of the tenant duly authorised by the tenant to receive the same.
- (2A) Section 91A overrides subsections (1) and (2) in relation to service on tenants in the circumstances set out in that section.
- (3) Without limiting the provisions of subsection (1), any notice or other document required or authorised by this Act to be given to or served upon any landlord shall be deemed to have been duly given or served if it is given—
 - (a) to any person appearing to have attained the age of 16 years and to be residing at the place of residence of the landlord; or
 - (b) to the person (not being a bank or similar institution) who ordinarily receives the rent payable under the agreement; or

- (c) to any solicitor or other agent of the landlord duly authorised by the landlord to receive the same.
- (4) Where 2 or more persons are landlords or tenants under a residential tenancy agreement, it shall be sufficient compliance with a provision of this Act requiring or authorising a notice or other document to be given to or served upon the landlord or the tenant if the notice or other document is given or served, in accordance with this Act, to or upon any one of the landlords or any one of the tenants.
- (5) A witness summons may be served on the witness—
 - (a) personally; or
 - (b) by sending it by post addressed to the witness at the witness's last-known place of residence or business.
- (6) Where any document is sent by post in accordance with any of the foregoing provisions of this section, it shall be deemed, in the absence of evidence to the contrary, to have been given or served on the fourth working day after the date on which it was posted; and, in proving service, it shall be sufficient to prove that the letter was properly addressed and posted.
- (7) Where any document is delivered to any address in accordance with any of the foregoing provisions of this section, it shall be deemed, in the absence of evidence to the contrary, to have been given or served on the second working day after the date on which it was delivered; and, in proving service, it shall be sufficient to prove that the letter was properly addressed and delivered.
- (7A) Section 56C overrides subsections (6) and (7) in relation to the giving of a notice of withdrawal under section 56B(1) and (3)(c) and accompanying qualifying evidence under section 56B(1)(a).
- (8) Where any document is transmitted by facsimile in accordance with this section after 5 pm on any day, it shall be deemed, in the absence of evidence to the contrary, to have been given or served on the next working day after the date on which it was transmitted; and, in proving service, it shall be sufficient to prove that the document was properly transmitted by facsimile machine to the person concerned.
- (9) Where any document is transmitted by email in accordance with this section after 5 pm on any day, it is to be treated, in the absence of evidence to the contrary, to have been given or served on the next working day after the date on which it was transmitted.
- (10) In proving service of a document transmitted by email, it is sufficient to prove that the email was—
 - (a) properly addressed to the email address in question; and
 - (b) properly transmitted with the document to that email address.

- (11) Nothing in this section applies to the service of infringement notices (*see* section 126F).

Compare: Residential Tenancies Act 1978–1981 s 93 (SA)

Section 136(1)(b): replaced, on 1 October 2010, by section 84(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 136(1)(ba): inserted, on 1 July 2016, by section 42(1) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 136(1)(c): replaced, on 1 October 2010, by section 84(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 136(1)(ca): inserted, on 1 July 2016, by section 42(2) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 136(1)(d): replaced, on 1 October 2010, by section 84(1) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 136(2): replaced, on 1 May 1996, by section 50(3) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 136(2)(c): replaced, on 1 October 2010, by section 84(2) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 136(2A): inserted, on 1 October 2010, by section 84(3) of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 136(3): amended, on 1 May 1996, by section 50(4) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 136(4): amended, on 1 May 1996, by section 50(5) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 136(7): amended, on 1 May 1996, by section 50(6) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 136(7A): inserted, on 11 August 2021, by section 72(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 136(8): inserted, on 1 May 1996, by section 50(7) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 136(9): inserted, on 1 July 2016, by section 42(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 136(10): inserted, on 1 July 2016, by section 42(3) of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 136(11): inserted, on 11 February 2021, by section 72(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

136A Calculation of periods

Where this Act requires notice to be given of any thing and prescribes a following period within which, or on the expiry of which, a thing is required or permitted to be done, or a change in the parties' rights, obligations, interests, or status is to take effect, the period—

- (a) commences on the first day after the notice is given or deemed to be given under section 136; and
- (b) ends with the close of the last day of the period.

Section 136A: inserted, on 1 October 2010, by section 85 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

137 Prohibited transactions

- (1) No person shall—
 - (a) enter into any transaction, or make any contract or arrangement, purporting to do, whether presently or at some future time or upon the happening of any event or contingency, anything that contravenes or will contravene any of the provisions of this Act; or
 - (b) enter into any transaction or make any contract or arrangement, whether orally or in writing, or do anything, for the purpose of or having the effect of, in any way, whether directly or indirectly, defeating, evading, or preventing the operation of any of the provisions of this Act.
- (2) Requiring any person to enter into any transaction, or to make any contract or arrangement, in contravention of subsection (1) is hereby declared to be an unlawful act.
- (3) Subject to subsection (4), any provision of any transaction, contract, or arrangement entered into in contravention of subsection (1) that would have the effect of, in any way, whether directly or indirectly, defeating, evading, or preventing the operation of any of the provisions of this Act shall be of no effect.
- (4) All money paid and the value of any other consideration for the tenancy provided by the tenant (not being rent lawfully recoverable by the landlord) or, where the transaction takes the form of an option to purchase the premises to which the transaction relates, by the person on whom the option to purchase is conferred, shall be recoverable as a debt due to the tenant or prospective purchaser by the landlord.

Compare: Residential Tenancies Act 1978–1981 s 89(3) (SA)

137A Only 1 penalty type for same conduct

- (1) If a type of penalty described in subsection (2) is imposed on a person in relation to conduct relating to a tenancy, the other type of penalties described in that subsection cannot be imposed on the person in relation to the same conduct.
- (2) The types of penalty are—
 - (a) a fine, an infringement fee, or a term of imprisonment under this Act or any other Act;
 - (b) an order to pay a pecuniary penalty under this Act;
 - (c) an order to pay an amount in the nature of exemplary damages under this Act.
- (3) The imposition of a penalty described in subsection (2) on a person does not affect or limit the person's liability to pay damages or compensation (other than an amount in the nature of exemplary damages) in relation to the same conduct.

Section 137A: inserted, on 11 February 2021, by section 73 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

138 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 12 months after the date on which the offence was committed.

Section 138: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

138A Regulations in respect of smoke alarms

- (1) The Governor-General may, by Order in Council, make regulations imposing on landlords or tenants requirements in respect of smoke alarms for the purposes of section 40(1)(ca), 45(1)(ba), 66I(1)(ba), or 66K(1)(ca).
- (2) Regulations under this section may do the following:
 - (a) impose different requirements for different descriptions of landlords or tenants, premises, areas in New Zealand, or other circumstances:
 - (b) impose requirements on all landlords or tenants or requirements that apply only for particular descriptions of landlords or tenants, premises, areas in New Zealand, or other circumstances:
 - (c) impose requirements that are subject to exceptions.
- (3) The requirements that may be imposed by regulations under this section include the following (for example):
 - (a) requirements that smoke alarms be installed at premises:
 - (b) requirements about the inspection, maintenance, or replacement of smoke alarms that are installed at premises:
 - (c) requirements about the numbers, locations, condition, types, or technical specifications of smoke alarms that are installed at premises and requirements about methods of installation.
- (4) However, the requirements that may be imposed on tenants by regulations under this section are limited to requirements in respect of the replacement of worn-out batteries contained in smoke alarms.
- (5) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 138A: inserted, on 3 June 2016, by section 43 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Section 138A(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

138B Healthy homes standards

- (1) The Governor-General may, by Order in Council, make regulations that provide for, in accordance with this section, standards (the **healthy homes standards**) with which landlords must comply for the purposes of section 45(1)(bb) or 66I(1)(bb).
- (2) The healthy homes standards may include any of the following:
 - (a) standards about the indoor temperatures that must be capable of being achieved in the premises:
 - (b) standards about other outcomes (for example, levels of moisture or humidity) that must be capable of being achieved in the premises and that may be affected by any of the things referred to in paragraph (c)(i) to (vii):
 - (c) standards imposing requirements in relation to any of the following:
 - (i) heating:
 - (ii) insulation:
 - (iii) ventilation:
 - (iv) moisture ingress:
 - (v) draught stopping:
 - (vi) drainage:
 - (vii) any material or other thing relating to a thing referred to in subparagraphs (i) to (vi).
- (3) The requirements that may be imposed by standards under subsection (2)(c) include the following (for example):
 - (a) requirements that things be installed or provided at the premises:
 - (b) requirements about the inspection, maintenance, or replacement of things that are installed or provided at the premises:
 - (c) requirements about the quantities, locations, condition, types, or technical specifications of things that are installed or provided at the premises:

ises and requirements about methods of installing or providing things at the premises.

- (4) Regulations under subsection (1) may—
- (a) specify methods for determining whether standards have been complied with (including any assumptions that may be made for the purpose):
 - (b) include exceptions to standards.
- (5) The Governor-General may, by Order in Council, make regulations—
- (a) prescribing information relating to the healthy homes standards that must be included in a landlord's statement for the purposes of section 13A(1CA)(b) or (1CB)(b):
 - (b) prescribing the records or other documents that must be retained by a landlord for the purposes of section 123A(1)(ca) (which may include records or other documents relating to work or other things done before the commencement of the tenancy).
- (6) Regulations under this section may—
- (a) make different provisions for different descriptions of landlords, premises, areas in New Zealand, or other circumstances:
 - (b) make provisions applying to all landlords or provisions that apply only to particular descriptions of landlords, premises, areas in New Zealand, or other circumstances.
- (7) In this section, **premises**, in relation to a tenancy that is not a boarding house tenancy, includes facilities.
- (8) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 138B: replaced, on 1 July 2019, by section 6 of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 138B(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

138C Regulations in respect of contaminants and contaminated premises

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing substances, or classes of substances, as contaminants for the purposes of this Act.

- (2) Before making a recommendation for the purposes of subsection (1), the Minister must be satisfied that the substance may be harmful to the health of persons.
- (3) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
 - (a) prescribing maximum acceptable levels, or a means of calculating maximum acceptable levels, of contaminants for premises for the purposes of the definition of contaminated:
 - (b) prescribing maximum inhabitable levels of contaminants for premises for the purpose of section 59B:
 - (c) imposing on landlords requirements in respect of contaminants for the purposes of section 45(1)(bd) or 66I(1)(bc):
 - (d) prescribing methods for carrying out tests for the presence of contaminants in premises (including for testing premises, taking samples for testing, testing of samples, establishing levels of contaminants present in premises, and who is authorised to carry out the tests or parts of the tests):
 - (e) prescribing decontamination processes (which may extend to pre-decontamination and post-decontamination assessment, sampling, and testing, and may include who is authorised to carry out processes or parts of processes):
 - (f) prescribing, for the purposes of section 45(1AAB)(b) or 66I(1B)(b), additional rules about how decontamination of premises is to be carried out while the landlord continues to provide the premises to the tenant (for example, periods (or means of calculating periods) within which processes or parts of processes must be begun or completed):
 - (g) prescribing processes and duties for the purposes of section 62(3A) (which relates to abandoned goods on contaminated premises).
- (4) Regulations under this section may make different provision for different cases on any differential basis, including—
 - (a) contaminants or classes of contaminants:
 - (b) spaces, materials, or other aspects of premises or goods, or for different descriptions of premises or goods:
 - (c) levels of contamination:
 - (d) without limiting paragraph (b), ways in which premises or goods, or spaces or materials or other aspects (for example, surfaces) of premises or goods, may have or may become contaminated.
- (5) The requirements that may be imposed by regulations under subsection (3)(c) include the following (for example):

- (a) requirements to test premises for the presence of contaminants in certain circumstances;
 - (b) requirements to use the methods prescribed, or parts of those prescribed methods, for carrying out tests or parts of tests for the presence of contaminants in premises, in all or in certain circumstances;
 - (c) requirements to use prescribed decontamination processes if decontaminating premises.
- (6) Requirements under subsection (5)(a) may apply to, or may be different for, different stages of tenancies (for example, at the commencement of or during a tenancy).
- (7) Regulations under this section, including requirements imposed by regulations under this section, may be subject to exceptions.
- (8) Regulations under subsection (3)(g) may—
- (a) require compliance with, or otherwise incorporate, sections 62(3) and 62A to 62D—
 - (i) in whole or in part; and
 - (ii) with modifications, additions, or variations specified in the regulations; and
 - (b) without limiting the generality of the above, permit the landlord to decontaminate abandoned goods and deduct from the proceeds of sale the costs of decontaminating the goods that were reasonably incurred by the landlord.
- (9) In this section, **premises** includes facilities.
- (10) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 138C: replaced, on 31 July 2019, by section 47 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 138C(10): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

138D Powers to make regulations under sections 138A to 138C not limited by other enactments, etc

- (1) To avoid doubt, nothing in the Building Act 2004, or in any other enactment relating to buildings, health, or safety, limits the provision that may be made by regulations under section 138A, 138B, or 138C.

- (2) Regulations under section 138B(1) may provide that a provision of any regulations in force under section 120C of the Health Act 1956 that relates to any matter referred to in section 138B(2) does not apply in relation to premises (read in accordance with section 138B(7)) that are subject to tenancies.

Section 138D: inserted, on 31 July 2019, by section 47 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

138E Regulations relating to termination of tenancy for physical assault by tenant

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing all or any of the following matters:
- (a) information to be included in a notice under section 55AA(3)(a):
 - (b) persons, or classes of persons, whose declarations are qualifying evidence for the purposes of section 55AA(6):
 - (c) types of qualifying evidence for the purposes of section 55AA(6).
- (2) The Minister must consult the Minister of Justice before recommending the making of regulations under this section.
- (3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 138E: inserted, on 12 August 2020, by section 74 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 138E(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

138F Regulations relating to withdrawal from tenancy following family violence

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing all or any of the following matters:
- (a) information to be included in a notice under section 56B(1)(b):
 - (b) persons, or classes of persons, whose declarations are qualifying evidence for the purposes of section 56B(8):
 - (c) types of qualifying evidence under section 56B(8):
 - (d) PACHMA tenancies, or classes of PACHMA tenancies, in relation to which rent is not to be reduced under section 56B(3)(d) and (5):

- (e) other tenancies, or other classes of tenancies, in relation to which rent is not to be reduced under section 56B(3)(d) and (5):
 - (f) landlords, or classes of landlords, in relation to whose tenancies rent is not to be reduced under section 56B(3)(d) and (5):
 - (g) types of permitted disclosure, or circumstances in which disclosure is permitted, under section 56E.
- (2) The Minister must consult the Minister of Justice before recommending the making of regulations under this section.
- (3) The Minister must not recommend the making of regulations under subsection (1)(e) unless satisfied that, following any withdrawal under section 56B from tenancies, or classes of tenancies, prescribed by those regulations,—
 - (a) the landlords of those tenancies will reduce the rent for which any remaining tenants under that section are liable; and
 - (b) the reduction will be the same or substantially the same as, or greater than, the reduction that would otherwise have applied under section 56B(3)(d) and (5).
- (4) The Minister must not recommend the making of regulations under subsection (1)(f) unless satisfied that, following any withdrawal under section 56B from tenancies of the landlords, or classes of landlords, prescribed by those regulations,—
 - (a) those landlords, or classes of landlords, will reduce the rent for which any remaining tenants under that section are liable; and
 - (b) the reduction will be the same or substantially the same as, or greater than, the reduction that would otherwise have applied under section 56B(3)(d) and (5).
- (5) Regulations under this section may make different provision for different classes of persons, premises, or tenancies.
- (6) In this section, **PACHMA tenancy** has the meaning given to it by section 56B(8).
- (7) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 138F: inserted, on 12 August 2020, by section 74 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 138F(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

139 Regulations relating to accommodation brokers

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
 - (a) providing for the registering, licensing, or approval of accommodation brokers, including the qualifications required of, and the conditions to be met by, persons intending to set up business as accommodation brokers, and for the disciplining of accommodation brokers who are so registered, licensed, or approved:
 - (b) requiring persons carrying on or intending to carry on business as accommodation brokers to provide bonds to secure the proper conduct of their businesses:
 - (c) conferring on the Tribunal jurisdiction in respect of all or any of the matters referred to in paragraphs (a) and (b):
 - (d) regulating the conduct of business by accommodation brokers, including advertising carried on in the course of, or in relation to, such business:
 - (e) conferring on the chief executive in respect of any disputes and proceedings arising under the regulations all or any of the powers conferred on the chief executive by section 124 in respect of proceedings under this Act:
 - (f) prescribing fees payable in respect of any matters under any regulations made under this section:
 - (g) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this section, and the amounts of fines that may be imposed in respect of any such offences, which fines shall be an amount not exceeding \$5,000, and, where the offence is a continuing one, a further amount not exceeding \$500 for every day or part of a day during which the offence has continued.
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 139(1)(e): amended, on 18 August 1992, by section 19 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 139(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

139A Regulations relating to infringement offences

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations—
 - (a) specifying offences in this Act that are infringement offences, and prescribing infringement fees not exceeding \$500 for those offences:
 - (b) specifying offences in regulations made under this Act that are infringement offences, and prescribing infringement fees not exceeding \$500 for those offences.
 - (2) Before making a recommendation for the purposes of subsection (1), the Minister must consult the Minister of Justice in relation to the proposed regulations.
 - (3) Regulations under this section that prescribe infringement fees may prescribe different infringement fees to apply in respect of different classes of persons.
 - (4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
-

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 139A: inserted, on 12 August 2020, by section 75 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 139A(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

140 Regulations relating to other matters

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
 - (a) prescribing forms to be used for any purposes under this Act:

- (b) prescribing fees to be paid in respect of any matter under this Act, and specifying the circumstances in which any such fee may be waived or remitted in whole or in part:
 - (c) requiring the provision of specified information by the landlord to the tenant at the commencement of a tenancy agreement:
 - (d) providing for the payment of bonds by instalments; and providing for a landlord to be indemnified or protected in some other way from any loss arising out of the failure by the tenant to pay all the required instalments:
 - (da) prescribing the method by which payments are to be made to the chief executive:
 - (e) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act, and the amounts of fines that may be imposed in respect of any such offences, which fines shall be an amount not exceeding \$1,000:
 - (eaa) prescribing persons or classes of persons for the purposes of section 5(1)(y)(ii):
 - (ea) prescribing specified databases for the purposes of section 112C(2):
 - (f) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.
- (2) Regulations under this section that prescribe the circumstances in which a fee may be waived or remitted in whole or in part may specify, as circumstances in which fees payable by landlords and tenants may be waived or remitted in whole or in part,—
- (a) the fact that a bond of not less than a prescribed number of weeks' rent has been paid in accordance with section 19 or section 21, as the case may be:
 - (b) the fact that an address for service has been notified under section 15 or section 16, as the case may be.
- (3) Nothing in subsection (2)(a) limits or affects section 18(1).
- (4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: Residential Tenancies Act 1978–1981 s 95 (SA)

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 140(1)(da): inserted, on 1 May 1996, by section 49(2) of the Residential Tenancies Amendment Act 1996 (1996 No 7).

Section 140(1)(e): amended, on 12 August 2020, by section 76(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 140(1)(eaa): inserted, on 12 August 2020, by section 76(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Section 140(1)(ea): inserted, on 1 October 2010, by section 86 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Section 140(2): inserted, on 18 August 1992, by section 17 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 140(3): inserted, on 18 August 1992, by section 17 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

Section 140(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

141 Schedule 1 may be amended by Order in Council

[Repealed]

Section 141: repealed, on 1 October 2010, by section 87 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

142 Non-application of Part 4 of Property Law Act 2007

- (1) Nothing in Part 4 of the Property Law Act 2007 applies to a tenancy to which this Act applies.

- (2) *[Repealed]*

Section 142: replaced, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Section 142 heading: amended, on 27 August 2019, by section 22(1) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Section 142(2): repealed, on 27 August 2019, by section 22(2) of the Residential Tenancies Amendment Act 2019 (2019 No 37).

143 Housing Corporation Act 1974 amended

[Repealed]

Section 143: repealed, on 18 August 1992, by section 18 of the Residential Tenancies Amendment Act 1992 (1992 No 79).

144 Repeals, revocations, and amendments

- (1) The enactments specified in Schedule 2 are hereby repealed.
- (2) The regulations specified in Schedule 3 are hereby revoked.

- (3) The enactments specified in Schedule 4 are hereby amended in the manner indicated in that schedule.

145 Provisions relating to outbreak of COVID-19

The provisions of Schedule 5 have effect according to their terms.

Section 145: inserted, on 26 March 2020, by section 14 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

Schedule 1AA

Transitional, savings, and related provisions

s 2A

Schedule 1AA: inserted, on 3 June 2016, by section 45 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

Part 1

Provisions relating to Residential Tenancies Amendment Act 2016

Schedule 1AA Part 1: inserted, on 3 June 2016, by section 45 of the Residential Tenancies Amendment Act 2016 (2016 No 26).

1 Interpretation

In this Part,—

amendment means an amendment to this Act made by a provision of the Amendment Act

Amendment Act means the Residential Tenancies Amendment Act 2016

commencement date, in relation to an amendment, means the date on which the provision of the Amendment Act that makes the amendment comes into force.

2 Existing tenancies, etc

- (1) An amendment applies to a tenancy whether the tenancy commences before, on, or after the commencement date.
- (2) Without limiting the generality of subclause (1), an amendment made to a provision referred to in section 90(2) of the Residential Tenancies Amendment Act 2010 amends that provision as it applies in accordance with section 90(1) of that Act.
- (3) This clause is subject to clause 3.

3 Application of amendments to sections 13A, 15, 16, 16A, and 43 (contents of tenancy agreement, etc)

An amendment made by section 6, 7, 8, 9, or 13 of the Amendment Act applies to a tenancy only if the tenancy agreement is made on or after the commencement date.

4 Application of amendment to section 30 (landlord to keep records)

The amendment made by section 10 of the Amendment Act does not apply to records in respect of times before the commencement date.

5 Application of amendments to section 54 (Tribunal may declare retaliatory notice of no effect)

An amendment made by section 16 of the Amendment Act applies only if the notice terminating the tenancy is given on or after the commencement date.

6 Application of amendments to sections 61, 76, 78, 86, 87, 88, 91, 99, 101, and 114 and new section 91AA (abandonment applications, Tenancy Mediators, etc)

An amendment made by section 17, 23, 25, 26, 27, 28(1), 29, 30, 33, 34, or 37 of the Amendment Act does not apply to proceedings commenced before the Tribunal before the commencement date.

7 Application of amendments to section 108 and Schedule 1A (enforcement of work orders)

An amendment made by section 35(2) or 46(6) of the Amendment Act applies only if the work order is made on or after the commencement date.

8 Application of new section 123A (documents to be retained by landlord and produced to chief executive if required)

- (1) The amendment made by section 39 of the Amendment Act applies subject to subclauses (2) and (3) of this clause.
- (2) A landlord is not required under section 123A(1)(a) to (d) (as inserted by the amendment) to retain any of the following (or copies of any of the following):
 - (a) a tenancy agreement, or a variation or renewal of a tenancy agreement, made before the commencement date;
 - (b) reports of inspections carried out before the commencement date;
 - (c) records of maintenance or repair work carried out before the commencement date;
 - (d) notices given, or letters, emails, or other forms of correspondence sent, before the commencement date.
- (3) A notice under section 123A(2) (as inserted by the amendment) may require a landlord to produce to the chief executive any document covered by subclause (2)(b) to (d) of this clause that, at the time the landlord receives the notice, is in the landlord's possession or under the landlord's control.

9 Application of amendments to section 133 (Tribunal or chief executive may require terms of tenancy agreement)

- (1) The amendment made by section 41(1) of the Amendment Act applies to a tenancy agreement, or a variation or renewal of a tenancy agreement, made before the commencement date only if, at the time the landlord receives the notice under section 133(1), the tenancy agreement or the variation or renewal (or a copy) is in the landlord's possession or under the landlord's control.

- (2) The amendment made by section 41(3) of the Amendment Act applies only to offences committed on or after the commencement date.

10 Application of amendments to Schedule 1A (amounts for unlawful acts)

- (1) The amendments made by section 46(1) of the Amendment Act in relation to sections 30(2) and 48(4)(b) of this Act apply only to unlawful acts that occur on or after the commencement date.
- (2) The amendments made by section 46(3) and (5) of the Amendment Act apply only to unlawful acts that occur on or after the commencement date.

Part 2

Provisions relating to Healthy Homes Guarantee Act 2017

Schedule 1AA Part 2: inserted, on 5 December 2017, by section 8(1) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

11 Interpretation

In this Part, **HHG Act** means the Healthy Homes Guarantee Act 2017.

12 Application of HHG Act

General

- (1) An amendment made by the HHG Act applies to a tenancy whether the tenancy commences before, on, or after the date on which the amendment comes into force.

Landlords' statements

- (2) Subclauses (3) and (4) apply to a tenancy agreement that is made before 1 July 2019.
- (3) Section 13A(1CA), as inserted by section 4(2) of the HHG Act, does not apply to the tenancy agreement.
- (4) Section 13A(1CB), as inserted by section 4(2) of the HHG Act, applies to the tenancy agreement only if the written variation or renewal is signed by the landlord on or after 1 July 2019.

Application of sections 45(1)(bb) and 66I(1)(bb) (compliance with healthy homes standards)

- (5) If a tenancy commences before 1 July 2019, section 45(1)(bb) or 66I(1)(bb), as replaced by section 5(1) or 8(1) of the HHG Act, applies to the landlord only at and after the prescribed time (which may be the beginning of 1 July 2019 but must be no later than the beginning of 1 July 2024).
- (6) If a tenancy commences on or after 1 July 2019 but before 1 July 2024, section 45(1)(bb) or 66I(1)(bb), as replaced by section 5(1) or 8(1) of the HHG Act, applies to the landlord only at and after the prescribed time (which may be the

commencement of the tenancy but must be no later than the beginning of 1 July 2024).

- (7) In subclauses (5) and (6), **prescribed** means prescribed by, or determined in accordance with, regulations under subsection (1) of section 138B, as replaced by section 6 of the HHG Act, and regulations under that subsection may include provision as contemplated by this subclause accordingly.
- (8) Without limiting subsection (6) of section 138B, as replaced by section 6 of the HHG Act, different times may be prescribed in relation to different standards included in the healthy homes standards.

Other provisions

- (9) The following apply before 1 July 2019 as if they were in force:
 - (a) the definition of healthy homes standards in section 2(1), as inserted by section 8(1) of the HHG Act;
 - (b) sections 48(2)(cb) and 66S(1)(cb), as inserted by section 8(1) of the HHG Act;
 - (c) the powers to make regulations (including to amend and revoke regulations made) under section 138B, as replaced by section 6 of the HHG Act.
- (10) Sections 48(2)(ca) and 66S(1)(ca), as in force on the date this subclause comes into force, apply before 1 July 2019 in relation to insulation disregarding the HHG Act.

13 Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016

- (1) Regulations under subsection (1) of section 138B, as replaced by section 6 of the HHG Act, may—
 - (a) revoke the 2016 insulation regulations at the beginning of 1 July 2019; or
 - (b) provide for the 2016 insulation regulations to continue in force on and after 1 July 2019, and (as applicable) to come into force on or after that date, as if they had been made under subsection (1) of section 138B, as replaced by section 6 of the HHG Act.
- (2) If provision is made under subclause (1)(b), the 2016 insulation regulations—
 - (a) are, accordingly, standards included in the healthy homes standards; and
 - (b) may be amended or revoked accordingly by regulations under subsection (1) of section 138B, as replaced by section 6 of the HHG Act.
- (3) In this clause, **2016 insulation regulations** means the Residential Tenancies (Smoke Alarms and Insulation) Regulations 2016 to the extent that those regulations are regulations under section 138B disregarding the HHG Act.

Part 3

Provision relating to Residential Tenancies (Prohibiting Letting Fees) Amendment Act 2018

Schedule 1AA Part 3: inserted, on 12 December 2018, by section 9 of the Residential Tenancies (Prohibiting Letting Fees) Amendment Act 2018 (2018 No 44).

14 Application of section 17A (Requiring letting fee prohibited)

Section 17A does not apply to—

- (a) any fee or charge paid or payable before the date of commencement of that section; or
- (b) any tenancy agreement entered into before that date (whether the tenancy agreement took effect before or takes effect on or after that date); or
- (c) any assignment or subletting if the landlord consented to the assignment or subletting before that date (whether the assignment or subletting took effect before or takes effect on or after that date); or
- (d) any amount that is charged in relation to a subletting, if the Tribunal consented to the charge before that date.

Part 4

Provisions relating to Residential Tenancies Amendment Act 2019

Schedule 1AA Part 4: inserted, on 31 July 2019, by section 23 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

15 Interpretation

In this Part,—

2019 Amendment Act means the Residential Tenancies Amendment Act 2019
amendment means an amendment to this Act made by a provision of the 2019 Amendment Act

commencement date, in relation to an amendment, means the date on which the provision of the 2019 Amendment Act that makes the amendment comes into force

tenancy includes a tenancy to which this Act applies as a result of section 4(2) of the 2019 Amendment Act (which replaces the definition of residential premises in section 2(1)) and that subsists on the date on which that amendment came into force.

Schedule 1AA clause 15: inserted, on 31 July 2019, by section 23 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

16 Existing tenancies, etc

- (1) An amendment applies to a tenancy whether the tenancy commences before, on, or after the commencement date.
- (2) This clause is subject to clause 19.

Schedule 1AA clause 16: inserted, on 31 July 2019, by section 23 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

17 New unlawful acts

An amendment that creates a new unlawful act does not apply to acts or omissions before the commencement date.

Schedule 1AA clause 17: inserted, on 31 July 2019, by section 23 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

18 Proceedings that have commenced

An amendment does not apply to proceedings commenced before the Tribunal before the commencement date.

Schedule 1AA clause 18: inserted, on 31 July 2019, by section 23 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

19 Application of insurance and tenant liability provisions to social housing provider tenancies under existing Property Law Act 2007 leases

- (1) This clause applies only in circumstances where—
 - (a) Housing New Zealand Corporation or a registered community housing provider (a **housing provider**) is the landlord of residential premises that are the subject of a tenancy agreement; and
 - (b) the housing provider is a lessee of those premises under a lease—
 - (i) to which the Property Law Act 2007 applies; and
 - (ii) that was entered into before the date on which section 5 of the 2019 Amendment Act came into force (and including any renewal term commencing on or after that date if the right of renewal existed in the lease before that date); and
 - (c) the housing provider has no legally enforceable right to require the lessor under that lease to provide the housing provider with the information that the housing provider would need to possess in order to be able to comply with the insurance information sections.
- (2) If this clause applies,—
 - (a) the insurance information sections do not apply to the housing provider; and
 - (b) for the purpose of determining the tenant's liability under section 49B(2), the premises are treated as not insured against the destruction or damage (so that the applicable limit in section 49B(3)(b) applies).
- (3) In this clause,—

insurance information sections means—

- (a) section 13A(2) to (4) (as inserted by section 5 of the 2019 Amendment Act); and
- (b) section 45(2B) to (2D) (as inserted by section 7 of the 2019 Amendment Act); and
- (c) section 66J(5) to (7) (as inserted by section 15 of the 2019 Amendment Act)

registered community housing provider has the same meaning as in section 2(1) of the Public and Community Housing Management Act 1992.

Schedule 1AA clause 19: inserted, on 31 July 2019, by section 23 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

20 Transitional provision for continuing tenancy agreement when circumstances in clause 19 cease applying

- (1) This clause applies if clause 19 ceases to apply but the tenancy agreement is continuing, and the tenancy agreement was entered into on or after the date on which section 13A(2) (as inserted by section 5 of the 2019 Amendment Act) came into force.
- (2) For the purpose of section 13A(3), the tenancy agreement is treated as having been entered into before section 13A(2) came into force.

Schedule 1AA clause 20: inserted, on 31 July 2019, by section 23 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

21 Application of section 56A(1) to existing tenancies

Section 56A(1) (as inserted by section 12 of the 2019 Amendment Act) applies to a tenant of a tenancy of premises that are unlawful residential premises immediately after the commencement of section 56A(1) as if the tenancy had started on commencement of that section.

Schedule 1AA clause 21: inserted, on 31 July 2019, by section 23 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

22 Application of section 78A to certain work orders

Section 78A (as inserted by section 19 of the 2019 Amendment Act) does not apply to subsequent proceedings taken for enforcement of a work order made in a matter for which proceedings commenced before the Tribunal before the date on which that section comes into force.

Schedule 1AA clause 22: inserted, on 31 July 2019, by section 23 of the Residential Tenancies Amendment Act 2019 (2019 No 37).

Part 5

Provisions relating to Residential Tenancies Amendment Act 2020

Schedule 1AA Part 5: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

23 Interpretation

In this Part,—

2020 Act means the Residential Tenancies Amendment Act 2020

amendment means an amendment to this Act made by a provision of the 2020 Act

commencement date, in relation to an amendment, means the date on which the provision of the 2020 Act that makes the amendment comes into force.

Schedule 1AA clause 23: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

24 Existing tenancies, etc

- (1) An amendment applies to a tenancy whether the tenancy commences before, on, or after the commencement date.

- (2) This clause is subject to clauses 25 to 37.

Schedule 1AA clause 24: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

25 New unlawful acts and pecuniary penalties

An amendment that creates a new unlawful act or confers a power to impose pecuniary penalties does not apply to acts or omissions before the commencement date.

Schedule 1AA clause 25: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

26 Proceedings that have commenced

An amendment does not apply to proceedings commenced before the Tribunal before the commencement date.

Schedule 1AA clause 26: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

27 Notices to terminate, renew, or extend tenancies

- (1) An amendment made by any of sections 4(3), 32 to 34, and 36 of the 2020 Act does not apply to the termination of a tenancy by notice if the notice is given before the commencement date.
- (2) The amendments made by section 42 of the 2020 Act do not apply to the exercise of a right to renew or extend a tenancy unless the date on which the tenancy would otherwise expire is 28 or more days after the commencement date.

Schedule 1AA clause 27: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

28 Notice to increase rent

- (1) An amendment made by section 19 or 78 of the 2020 Act does not apply to an increase of rent by notice given under section 24 of this Act if the notice is given before the commencement date for those amendments and relates to an increase with effect on or after 26 September 2020.

- (2) *See* clauses 2 and 11 to 13 of Schedule 5.

Schedule 1AA clause 28: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

29 Assignment by tenant

Section 43A of this Act (as inserted by section 24 of the 2020 Act) does not apply to a tenancy granted before the commencement date.

Schedule 1AA clause 29: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

30 Documents to be retained and produced by landlord

- (1) The amendment made by section 27 of the 2020 Act applies to any information retained by the landlord on or after the commencement date, whether the information came into the landlord's possession or control before, on, or after that date.
- (2) Any new requirement imposed on a landlord by an amendment made by section 65 of the 2020 Act applies to any documents (or copies of them) in the landlord's possession or control on or after the commencement date, whether the documents (or copies) were created before, on, or after that date.

Schedule 1AA clause 30: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

31 Termination for physical assault by tenant

The amendment made by section 37 of the 2020 Act does not apply in relation to a physical assault that occurred before the commencement date.

Schedule 1AA clause 31: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

32 Rent arrears and anti-social behaviour

- (1) The amendment made by section 36 of the 2020 Act does not apply to rent arrears incurred before the commencement date.
- (2) Section 55A of this Act (as inserted by section 38 of the 2020 Act) does not apply to anti-social behaviour engaged in before the commencement date.

Schedule 1AA clause 32: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

33 Withdrawal following family violence

The amendment made by section 39 of the 2020 Act applies whether the family violence occurred before, on, or after the commencement date.

Schedule 1AA clause 33: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

34 Continuation of existing fixed-term tenancies as periodic

The amendment made by section 41 of the 2020 Act does not apply to tenancies granted before the commencement date.

Schedule 1AA clause 34: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

35 Abandonment of premises

The amendment made by section 43 of the 2020 Act does not apply to the abandonment of premises if the date determined by the Tribunal under section 61(2) of this Act in relation to the abandonment is before the commencement date.

Schedule 1AA clause 35: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

36 Enforceable undertakings

Sections 126N to 126R of this Act (as inserted by section 70 of the 2020 Act) relate to any enforceable undertaking given on or after the commencement date, whether the contravention or alleged contravention to which the undertaking relates occurred or is alleged to have occurred on, before, or after that date.

Schedule 1AA clause 36: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

37 Only 1 penalty type for same conduct

The amendment made by section 73 of the 2020 Act applies to conduct whether the conduct is engaged in before, on, or after the commencement date.

Schedule 1AA clause 37: inserted, on 12 August 2020, by section 77 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Schedule 1

Clauses for rent increases in fixed-term tenancy agreements

s 24(1A)

Schedule 1: replaced, on 1 October 2010, by section 88 of the Residential Tenancies Amendment Act 2010 (2010 No 95).

Select one of the following:

Provision A

The landlord may review the rent from time to time and may increase the rent in accordance with section 24 of the Residential Tenancies Act 1986. No increase will take effect within 12 months after the date of the commencement of the tenancy or within 12 months after the date on which the last increase took effect.

Provision B

The rent will be reviewed from time to time and may be increased once in each year to take effect on *[date]* if prior notice of the increase has been given in accordance with section 24(1)(a) to (c) of the Residential Tenancies Act 1986.

Provision C

The rent will increase by \$*[amount]* on *[date]*, being a date that is at least 12 months after the commencement of the tenancy, and will then increase by the same amount on *[date/dates]*, being *[a date that is]* *[dates that in each case are]* at least 12 months after the previous rent increase.

Schedule 1: amended, on 12 August 2020, by section 78 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Schedule 1A

Amounts for unlawful acts

s 109(4)

Schedule 1A: replaced, on 11 February 2021, by section 79(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Column 1	Column 2	Column 3
Section	Description of unlawful act	Amount (\$)
12(1)	Unlawful discrimination	6,500
13(4)	Landlord failing to ensure tenancy agreement in writing, signed, and provided to tenant	750
13A(1AAA)	Landlord failing to ensure tenancy agreement includes certain information specified in section 13A(1)	750
13A(1F)(a)	Landlord failing to comply with section 13A(1A), (1CA), (1CB), (2), (3), or (4)	750
13A(1F)(b)	Landlord providing false or misleading statement or information under section 13A(1A), (1CA), (1CB), (2), (3), or (4)	900
15(2)	Successor landlord or tenant failing to give notice	750
16(2)	Failing to notify change of name or address	750
16A(6)	Landlord failing to appoint agent when outside New Zealand for longer than 21 consecutive days	1,500
17(3)	Requiring key money	1,500
17A(3)	Requiring letting fee	1,500
18(4)(a)	Landlord requiring bond greater than amount permitted	1,500
18A(2)(a)	Landlord requiring unauthorised form of security	1,500
19(2)	Breaching duties on receipt of bond	1,500
22F(3)(a)	Landlord failing to state amount of rent when offering tenancy	1,500
22G(3)	Landlord inviting or encouraging bids for rent	1,500
23(4)(a)	Landlord requiring rent more than 2 weeks in advance or before rent already paid expires	1,500
27(2)	Landlord requiring rent in excess of market rent order	350
29(5)	Failing to give receipt for rent	350
30(2)(a)	Landlord failing to keep records	350
33(2)	Landlord seizing or disposing of tenant's goods	3,000
38(3)	Interference with privacy of tenant	3,000
40(3A)(a)	Tenant failing, without reasonable excuse, to quit premises upon termination	1,500
40(3A)(b)	Tenant's interference, etc, with means of escape from fire	4,000
40(3A)(c)	Tenant using or permitting premises to be used for unlawful purpose	1,800
40(3A)(d)	Tenant's harassment of other tenant or neighbour	3,000

Column 1	Column 2	Column 3
Section	Description of unlawful act	Amount (\$)
40(3A)(e)	Tenant failing to ensure number of residents does not exceed maximum allowed	1,000
42A(7)	Landlord failing to respond to written request seeking consent for fixtures, etc	1,500
42B(3)	Landlord failing to consent to request for minor change	1,500
42B(6)	Tenant failing to reinstate premises at end of tenancy following minor change	1,500
43B(3)	Tenant assigning tenancy without the landlord's written consent or when prohibited to do so	750
43B(5)	Landlord failing to respond to written request for consent to assignment	1,500
44(2A)	Tenant subletting or parting with possession when prohibited to do so or without the landlord's written consent	1,500
44A(3)(a)	Landlord failing to itemise expenses incurred on assignment, subletting, parting with possession, or termination by consent	750
45(1A)	Landlord failing to meet obligations in respect of cleanliness, maintenance, smoke alarms, the healthy homes standards, or buildings, health, and safety requirements	7,200
45(1AB)	Landlord providing premises, or continuing to provide premises, despite landlord's knowledge of contamination of premises	4,000
45(1AD)(a)	Landlord failing to provide healthy homes information	750
45(2A)	Landlord interfering with supply of services to premises	1,800
45(2D)	Landlord failing to meet obligations to provide insurance policy or to correct information provided	900
45B(6)	Landlord failing to take all reasonable steps to facilitate installation of fibre connection or to respond to request	1,500
46(3)	Landlord failing to provide locks or landlord or tenant altering locks without consent of other party	1,500
47(3)	Landlord failing to give notice that premises are on the market	1,800
48(4)(a)	Unlawful entry by landlord	1,500
48(4)(b)	Tenant failing to allow landlord to enter upon premises in circumstances where landlord entitled to enter	1,500
48(4)(c)	Landlord failing to notify tenant of results of contamination test	1,000
49D	Unlawful acts of landlord related to tenant's liability under section 49B	1,800
54(3)	Landlord giving retaliatory notice of termination	6,500
56E(3)	Disclosing notice of withdrawal or accompanying qualifying evidence of family violence	3,000
60AA	Landlord acting to terminate tenancy without grounds	6,500
61(5)	Tenant abandoning premises without reasonable excuse	1,500
66G(4)	Harassment of tenant in boarding house	3,000

Column 1	Column 2	Column 3
Section	Description of unlawful act	Amount (\$)
66I(4)	Landlord of boarding house failing to meet obligations in respect of cleanliness, maintenance, smoke alarms, the healthy homes standards, or buildings, health, and safety requirements	7,200
66I(5)	Landlord of boarding house providing, or continuing to provide, boarding room despite landlord's knowledge of contamination of boarding room or facilities	4,000
66I(7)	Landlord failing to provide healthy homes information	750
66J(2B)	Landlord of boarding house interfering with services or failing to advise that premises on market	1,800
66J(4)	Landlord of boarding house failing to notify results of contamination test (relating to boarding house facilities)	1,000
66J(7)	Landlord of boarding house failing to meet obligations to provide insurance policy or to correct information provided	900
66K(4)(a)	Tenant of boarding house interfering, etc, with means of escape from fire	4,000
66K(4)(b)	Tenant using or permitting boarding room to be used for unlawful purposes	1,500
66K(4)(c)	Tenant of boarding house harassing neighbour	3,000
66P(4)	Landlord of boarding house failing to comply with order relating to house rules	3,000
66T(1)(a) to (c)	Contraventions relating to entry, or attempted entry, of tenant's boarding room	1,500
66T(1)(d)	Landlord of boarding house failing to notify results of contamination test (relating to boarding room)	1,000
66X(5)	Tenant of boarding house abandoning premises without reasonable excuse	1,500
108(2A)	Breach of work order (other than section 78A work order)	5,000
108(2A)	Landlord breaching section 78A work order	5,000
123A(5)(a)	Landlord failing to produce documents to chief executive	1,500
126J(1)	Failing to comply with improvement notice	3,000
126P(2)	Breaching an enforceable undertaking	1,000
137(2)	Contracting to contravene or evade the provisions of this Act	1,800

Schedule 1A: amended, on 11 August 2021, by section 79(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Schedule 1B

Fines and fees for infringement offences

s 126A

Schedule 1B: inserted, on 11 February 2021, by section 80 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

1 Maximum fine for infringement offences

The maximum fine for an infringement offence specified in column 1 of the table in clause 4 is an amount not exceeding,—

- (a) if the landlord has 6 or more tenancies or is the landlord of a boarding house when they commit the offence, the corresponding amount in column 3 of the table; and
- (b) in any other case, the corresponding amount in column 4 of the table.

Schedule 1B clause 1: inserted, on 11 February 2021, by section 80 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

2 Infringement fee for infringement offences

The infringement fee for an infringement offence specified in column 1 of the table in clause 4 is,—

- (a) if the landlord has 6 or more tenancies or is the landlord of a boarding house when they commit the offence, the corresponding amount in column 5 of the table; and
- (b) in any other case, the corresponding amount in column 6 of the table.

Schedule 1B clause 2: inserted, on 11 February 2021, by section 80 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

3 Infringement notice not invalid if higher fee applies

An infringement notice served on a landlord that has 6 or more tenancies or that is the landlord of a boarding house is not invalid merely because the notice imposes the fee for the offence that is in column 6 of the table in clause 4.

Schedule 1B clause 3: inserted, on 11 February 2021, by section 80 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

4 Table of fines and fees for infringement offences

The following table sets out the fines and fees for infringement offences under this Act:

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
		Fine (cl 1(a)) (\$)	Fine (cl 1(b)) (\$)	Fee (cl 2(a)) (\$)	Fee (cl 2(b)) (\$)
Section	Description of offence				
13(4)(b)	Failing to ensure tenancy agreement in writing, signed, and provided to tenant	2,000	1,000	1,000	500

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Section	Description of offence	Fine (cl 1(a)) (\$)	Fine (cl 1(b)) (\$)	Fee (cl 2(a)) (\$)	Fee (cl 2(b)) (\$)
13A(1G)	Failing to comply with section 13A(1A), (1CA), (1CB), or (2)	2,000	1,000	1,000	500
15(3)	Failing to give notice as successor	2,000	1,000	1,000	500
16(2A)	Failing to notify change of name or address	2,000	1,000	1,000	500
16A(6)(b)	Failing to appoint agent when outside New Zealand for longer than 21 consecutive days	3,000	1,500	1,000	500
17(3A)	Requiring key money	3,000	1,500	1,000	500
17A(4)	Requiring letting fee	3,000	1,500	1,000	500
18(4)(b)	Requiring bond greater than amount permitted	3,000	1,500	1,000	500
18A(2)(b)	Requiring unauthorised form of security	3,000	1,500	1,000	500
19(3)	Breaching duties on receipt of bond	3,000	1,500	1,000	500
22F(3)(b)	Failing to state amount of rent in advertisement or offer	2,000	1,000	1,000	500
23(4)(b)	Requiring rent more than 2 weeks in advance or before rent already paid expires	3,000	1,500	1,000	500
29(6)	Failing to give receipt for rent	2,000	1,000	1,000	500
30(2)(b)	Failing to keep records	2,000	1,000	1,000	500
44A(3)(b)	Failing to itemise expenses incurred on assignment, subletting, parting with possession, or termination by consent	2,000	1,000	1,000	500
45(1AD)(b)	Failing to provide healthy homes information	2,000	1,000	1,000	500
47(4)	Failing to inform prospective tenants that premises on the market	3,000	1,500	1,000	500
48(4A)	Failing to notify tenant of results of test for contaminants	2,000	1,000	1,000	500

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Section	Description of offence	Fine (cl 1(a)) (\$)	Fine (cl 1(b)) (\$)	Fee (cl 2(a)) (\$)	Fee (cl 2(b)) (\$)
66I(7)	Failing to provide healthy homes information	2,000	1,000	1,000	500
66J(2B)(b)	Failing to inform prospective tenants that boarding house premises on the market	3,000	1,500	1,000	500
66J(4)(b)	Failing to notify tenant of results of test for contaminants (relating to boarding house facilities)	2,000	1,000	1,000	500
66T(1A)	Failing to notify tenant of results of test for contaminants (relating to boarding room)	2,000	1,000	1,000	500
123A(5)(b)	Failing to produce documents to chief executive	3,000	1,500	1,000	500

Schedule 1B clause 4: inserted, on 11 February 2021, by section 80 of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Schedule 2

Enactments repealed

s 144(1)

Rent Appeal Act 1973 (1973 No 26)

Rent Appeal Amendment Act 1977 (1977 No 57)

Tenancy Act 1955 (1955 No 50) (RS Vol 11 p 471)

Tenancy Amendment Act 1964 (1964 No 23) (RS Vol 11 p 516)

Tenancy Amendment Act 1968 (1968 No 122) (RS Vol 11 p 524)

Tenancy Amendment Act 1977 (1977 No 56) (RS Vol 11 p 527)

Schedule 3
Regulations revoked

s 144(2)

Emergency Forces Tenancy Regulations 1950 (SR 1950/229)

Rent Appeal Act Commencement Order 1974 (SR 1974/14)

Rent Appeal (Fee) Regulations 1978 (SR 1978/126)

Rent Limitations Regulations 1984 (SR 1984/17)

Rent Limitations Regulations 1984, Amendment No 1 (SR 1984/92)

Rent Limitations Regulations 1984, Amendment No 2 (SR 1984/243)

Tenancy Regulations 1956 (SR 1956/187)

Schedule 4

Enactments amended

s 144(3)

Housing Act 1955 (1955 No 51) (RS Vol 7, p 297)*Amendment(s) incorporated in the Act(s).***Legal Aid Act 1969 (1969 No 47) (Reprinted 1975, Vol 3, p 2111)***Amendment(s) incorporated in the Act(s).***Public Trust Office Act 1957 (1957 No 36) (Reprinted 1976, Vol 5, p 4361)***Amendment(s) incorporated in the Act(s).***Summary Proceedings Act 1957 (1957 No 87) (RS Vol 9, p 583)***Amendment(s) incorporated in the Act(s).*

Schedule 5

Provisions relating to outbreak of COVID-19

s 145

Schedule 5: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

1 Interpretation

In this schedule,—

commencement date means the date on which this schedule comes into force

initial period means the period described in clause 3(1)(a).

Schedule 5 clause 1: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

2 Schedule applies despite any other provision of Act, etc

This schedule applies—

- (a) to a tenancy to which this Act applies; and
- (b) despite any other provision in this Act or any other enactment, or any rule of law or agreement.

Schedule 5 clause 2: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

Termination of tenancies

Heading: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

3 Application of clauses 4 to 8

(1) Clauses 4 to 8 apply—

- (a) for a period of 3 months starting on the commencement date;
- (b) if extended by Order in Council under subclause (2), for a further period of up to 3 months starting immediately after the conclusion of the initial period.

(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, extend the application of clauses 4 to 8 for a period of up to 3 months after the initial period.

(3) The period may be extended under this clause only once.

(4) The Minister must not recommend the making of an order under subclause (2) unless the Minister is satisfied that it is necessary or desirable to support measures taken to contain or mitigate the outbreak of COVID-19 or its effects.

(5) The Minister's reasons for making the recommendation (including why the order is necessary or desirable) must be published together with the order.

- (6) An order made under this clause must be published under the Legislation Act 2019 at least 7 days before the conclusion of the initial period.
- (7) An order under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this clause

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 5 clause 3: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

Schedule 5 clause 3(6): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 5 clause 3(7): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

4 Restrictions on termination of tenancy

- (1) No tenancy terminates, and every fixed-term tenancy that expires continues under section 60A(1) as a periodic tenancy, unless—
 - (a) the tenancy is terminated, or the tenancy is not continued as a periodic tenancy, on the initiative of the tenant in accordance with a provision of this Act (including by a notice given, or an application made, before, on, or after the commencement date); or
 - (b) the tenancy is terminated with the written agreement of the landlord and the tenant or section 60A(2)(a) applies; or
 - (c) the termination is in accordance with section 50A, 55, 59A, 61, 66U(1)(a) or (b), or 66W (but *see* subclause (3)); or
 - (d) the termination is in accordance with clause 5 (anti-social behaviour).
- (2) Subclause (1) applies to a fixed-term tenancy of 90 days or less as if it were a fixed-term tenancy of more than 90 days.
- (3) For the purposes of subclause (1)(c),—
 - (a) section 55(1)(a) must be treated as if it referred to rent being at least 60 days in arrear (rather than at least 21 days in arrear):
 - (b) on an application referred to in section 55(1)(a), the Tribunal may refuse to make an order, if—
 - (i) satisfied that the tenant is making reasonable endeavours to pay rent; and
 - (ii) after balancing the interests of the tenant and landlord, the Tribunal considers that an order terminating the tenancy is not justified:

- (c) a landlord seeking to terminate a boarding house tenancy under section 66U(1)(a) or (b)(ii) must give at least 28 days' notice:
 - (d) a landlord seeking to terminate a boarding house tenancy under section 66U(1)(b)(i) must apply to the Tribunal for an order terminating the tenancy and, for the purposes of the application, section 55 applies (as modified by paragraphs (a) and (b)) as if the boarding house tenancy were not a boarding house tenancy.
- (4) Subclause (3) does not apply for the purposes of clause 9 or 10.
 - (5) A landlord must not give a notice or make an application for termination of a tenancy except in accordance with a provision specified in subclause (1)(c) or in accordance with clause 5.

Schedule 5 clause 4: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

5 Termination for anti-social behaviour

- (1) A landlord may apply to the Tribunal for an order terminating a tenancy on the ground of anti-social behaviour.
- (2) The Tribunal may make the order if satisfied that the tenant, or a person in the premises with the tenant's permission (other than the landlord or a person acting on the landlord's behalf or with the landlord's authority), has engaged in anti-social behaviour in connection with the tenancy.
- (3) However, the Tribunal must not make the order if satisfied that—
 - (a) doing so would be unfair because of the circumstances in which the behaviour occurred or the impact that terminating the tenancy would have on the tenant; or
 - (b) in making the application, the landlord was motivated wholly or partly by the exercise or proposed exercise by the tenant of any right, power, authority, or remedy conferred on the tenant by the tenancy agreement or by this or any other Act or any complaint by the tenant against the landlord relating to the tenancy (unless the Tribunal is satisfied that the purported exercise or the complaint was or would be vexatious or frivolous to such an extent that the landlord was justified in making the application).
- (4) In deciding whether to make an order under subclause (2), the Tribunal must take into account the impact that terminating the tenancy would have on the tenant.
- (5) For the purposes of subclause (2), if a tenant is in the premises at the time that the other person engages in the anti-social behaviour, the tenant is presumed to have permitted the person to be in the premises unless the tenant proves that they took all reasonable steps to prevent the person from entering the premises or to eject the person from the premises.
- (6) In this clause, **anti-social behaviour** means—

- (a) harassment; or
- (b) any intentional act that reasonably causes significant alarm, distress, or nuisance.

Schedule 5 clause 5: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

6 Taking steps to terminate tenancy without grounds an unlawful act

- (1) A landlord commits an unlawful act if they give or purport to give a notice to terminate to the tenant or apply or purport to apply to the Tribunal for an order terminating the tenancy knowing that they are not entitled, under this Act,—
 - (a) to give the notice; or
 - (b) to make the application.
- (2) The maximum amount that a person may be ordered to pay under section 109 for the unlawful act is \$6,500.

Schedule 5 clause 6: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

7 Tenant may choose to remain in premises despite having given notice or obtained order for termination or agreed to termination

- (1) Subclause (2) applies if,—
 - (a) before the commencement date, a tenant gave a notice to terminate a tenancy under a provision of this Act (a **termination notice**); and
 - (b) the tenancy has not yet terminated under the termination notice.
- (2) The tenant may give the landlord written notice of their intention to remain in the premises, in which case the tenancy continues as if the termination notice had not been given.
- (3) Subclause (4) applies if,—
 - (a) before the commencement date, a tenant made an application for and was granted an order providing for the termination of the tenancy; and
 - (b) the tenancy has not yet terminated under that order.
- (4) The tenant may give the landlord written notice of their intention to remain in the premises, in which case the order is of no effect and the tenancy continues as if the order had not been made.
- (5) Subclause (6) applies if,—
 - (a) before the commencement date, the tenant and the landlord agreed to terminate the tenancy with effect on or after the commencement date; and
 - (b) the tenancy has not yet terminated under that agreement.
- (6) The tenant may give the landlord written notice of their intention to remain in the premises, in which case the agreement is of no effect and the tenancy continues as if the agreement had not been entered into.

Schedule 5 clause 7: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

8 Consequences of tenant remaining in premises

- (1) If, as a consequence of a notice under clause 7(2), (4), or (6), vacant possession of a premises cannot be delivered up to an incoming or prospective tenant,—
 - (a) the incoming or prospective tenant has no right to occupy the premises; and
 - (b) the landlord and the incoming or prospective tenant are released from any obligations owed to each other in relation to the tenancy (except as provided in subclause (2)).
- (2) A landlord that receives a notice under clause 7(2), (4), or (6) must, as soon as practicable, advise any incoming or prospective tenant that the premises are no longer available.

Schedule 5 clause 8: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

9 Certain notices to terminate given before commencement date of no effect

- (1) Subclause (2) applies if,—
 - (a) before the commencement date, a landlord gave notice to terminate a tenancy, or notice under section 60A(2)(b) of the landlord's intention not to continue with the tenancy; and
 - (b) the notice was given under a provision of the Act other than a provision specified in clause 4(1)(c); and
 - (c) on the commencement date, the tenant is still residing in the premises.
- (2) The notice is of no effect.

Schedule 5 clause 9: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

10 Certain tribunal orders for termination made before commencement date suspended until clauses 4 to 8 no longer apply

- (1) Subclause (2) applies if,—
 - (a) before the commencement date, the Tribunal made an order terminating a tenancy with effect on or after the commencement date (whether or not the order also covers any other matter); and
 - (b) the order was made other than under a provision specified in clause 4(1)(c); and
 - (c) on the commencement date, the tenant is still residing in the premises.
- (2) The order is suspended until the 15th day after the end of the period in which clauses 4 to 8 apply.
- (3) The order takes effect on that date—

- (a) as if the order had provided for the termination to occur on that date; and
 - (b) with any other necessary modifications.
- (4) This clause does not limit clause 4 (for example, the parties could agree to terminate the tenancy rather than wait for the order to take effect).

Schedule 5 clause 10: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

Rent increases

Heading: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

11 Application of clauses 12 and 13

Clauses 12 and 13 apply for a period of 6 months starting on the commencement date.

Schedule 5 clause 11: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

12 Rent increases

- (1) The rent payable in respect of any tenancy may not be increased.
- (2) If a notice to increase rent was given in accordance with this Act before the commencement date, and the rent increase has not taken effect before the commencement date, the notice is of no effect.

Schedule 5 clause 12: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

13 Increasing rent an unlawful act

- (1) A landlord commits an unlawful act if they increase or purport to increase rent knowing they are not entitled under this Act to increase the rent.
- (2) The maximum amount that a person may be ordered to pay under section 109 for the unlawful act is \$6,500.

Schedule 5 clause 13: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

Tribunal proceedings

Heading: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

14 Application of clause 15

- (1) Clause 15(1) and (2) applies for a period of 12 months starting on the commencement date (the **12-month period**).
- (2) Clause 15(3) to (6) applies for the part (if any) of the 12-month period during which section 56B (as inserted by section 39 of the Residential Tenancies Amendment Act 2020) is in force.

Schedule 5 clause 14: replaced, on 12 August 2020, by section 81(1) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

15 Tribunal proceedings

- (1) The Tribunal may conduct its proceedings (whether they relate to this schedule or otherwise) as it sees fit, including on the papers.
- (2) If the Tribunal decides to hold a hearing, it may hold the hearing in any manner that the Tribunal thinks fit (including by telephone or video conference).
- (3) In relation to any proceedings that relate to withdrawal from a tenancy under section 56B, subclauses (1) and (2) are subject to subclauses (4) to (6).
- (4) If the Tribunal decides to hold a hearing, it must order that the whole of the hearing be held in private.
- (5) The Tribunal must, on the application of any party to the proceedings, permit the party's evidence to be given remotely if the necessary facilities are available.
- (6) If evidence is to be given remotely under subclause (5), the Tenancy Adjudicator conducting the hearing or a Registrar of the Tribunal may determine which 1 or more of the following are to be used:
 - (a) telephone:
 - (b) audiovisual link:
 - (c) any other remote access facility that the Tenancy Adjudicator or Registrar considers appropriate.

Schedule 5 clause 15: inserted, on 26 March 2020, by section 15 of the COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9).

Schedule 5 clause 15(3): inserted, on 12 August 2020, by section 81(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Schedule 5 clause 15(4): inserted, on 12 August 2020, by section 81(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Schedule 5 clause 15(5): inserted, on 12 August 2020, by section 81(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Schedule 5 clause 15(6): inserted, on 12 August 2020, by section 81(2) of the Residential Tenancies Amendment Act 2020 (2020 No 59).

Residential Tenancies Amendment Act 1996

Public Act	1996 No 7
Date of assent	13 March 1996
Commencement	see section 1(2)

1 Short Title and commencement

- (1) This Act may be cited as the Residential Tenancies Amendment Act 1996, and shall be read together with and deemed part of the Residential Tenancies Act 1986 (hereinafter referred to as the **principal Act**).
- (2) Except as provided in sections 3, 4, 6, 7, and 17 of this Act, this Act shall come into force on 1 May 1996.

4 Long fixed-term tenancies

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) Section 6 of the principal Act shall, notwithstanding its repeal by subsection (1) of this section, continue to apply to any tenancy that commenced before 1 December 1996.
- (3) This section shall come into force on 1 December 1996.

6 New sections relating to tenancy agreements substituted

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) Section 13 of the principal Act (as in force immediately before the commencement of this section) shall, notwithstanding its repeal by subsection (1) of this section, continue to apply, as if this section had not been enacted, to any tenancy that commenced before 1 December 1996 until the termination or renewal of the tenancy.
- (3) Sections 13 to 13D of the principal Act (as substituted by subsection (1) of this section) shall apply to any grant, variation, or renewal of a tenancy on or after 1 December 1996.
- (4) This section shall come into force on 1 December 1996.

7 New sections relating to notification of new particulars

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) Sections 15 and 16 of the principal Act (as in force immediately before the commencement of this section) shall, notwithstanding their repeal by subsection (1) of this section, continue to apply, as if this section had not been enacted, to any tenancy that commenced before 1 December 1996.
- (3) Sections 15 and 16 of the principal Act (as substituted by subsection (1) of this section) shall apply to any tenancy that was granted on or after 1 December 1996.

- (4) This section shall come into force on 1 December 1996.

Residential Tenancies Amendment Act 2010

Public Act	2010 No 95
Date of assent	22 July 2010
Commencement	see section 2

1 Title

This Act is the Residential Tenancies Amendment Act 2010.

2 Commencement

This Act comes into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more orders may be made bringing different provisions into force on different dates.

Section 2: this Act brought into force, on 1 October 2010, by clause 2 of the Residential Tenancies Amendment Act 2010 Commencement Order 2010 (SR 2010/258).

3 Principal Act amended

This Act amends the Residential Tenancies Act 1986.

Part 2 Transitional provisions

89 Existing tenancies

- (1) In this Part,—

boarding house tenancy has the same meaning as in section 66B of the principal Act

existing tenancy, in relation to a provision of the principal Act amended, substituted, or inserted by this Act, means a tenancy (including a boarding house tenancy) that—

- (a) was granted before the commencement of the provision of this Act that made the amendment, substitution, or insertion; and
 - (b) subsisted immediately before that commencement.
- (2) A provision of the principal Act as amended, substituted, or inserted by this Act, so far as it is applicable to any tenancy, applies to the tenancy even if the tenancy is an existing tenancy.

90 Existing tenancies not affected by certain amendments

- (1) A provision of the principal Act that is listed in subsection (2), so far as it is applicable to an existing tenancy, applies to the tenancy in the way the provision read immediately before the amendment or substitution of the provision by this Act came into force.
- (2) The provisions are as follows:

- (a) the definition of **service tenancy** in section 2(1) of the principal Act:
 - (b) section 7 of the principal Act (which relates to short fixed-term tenancies):
 - (c) section 25 of the principal Act (which relates to market rent):
 - (d) section 39 of the principal Act (which relates to outgoings):
 - (e) section 48 of the principal Act (which relates to the landlord's right of entry):
 - (f) section 51 of the principal Act (which relates to termination by notice):
 - (g) section 53 of the principal Act (which relates to the termination of service tenancies):
 - (h) section 58 of the principal Act (which relates to a mortgagee or other person becoming entitled to possession):
 - (i) section 66 of the principal Act (which relates to the reduction of fixed-term tenancies).
- (3) The following sections of the principal Act as inserted by this Act do not apply to existing tenancies:
- (a) section 16B (which deems body corporate rules to be part of tenancy agreements):
 - (b) section 18A (which prohibits the requiring of certain securities):
 - (c) section 53A (which relates to the termination of certain student tenancies).
- (4) This section overrides section 89.

91 Application of certain provisions to existing tenancies deferred

- (1) During the period of 6 months after the commencement of section 13 of this Act, section 16A of the principal Act (which requires a landlord to have an agent if out of New Zealand for longer than 21 consecutive days) does not apply to existing tenancies, but applies to those tenancies after the expiry of that period.
- (2) During the period of 12 months after the commencement of section 42 of this Act, sections 60A to 60C of the principal Act (which relate to the circumstances in which fixed-term tenancies become periodic tenancies) do not apply to existing tenancies, but apply to those tenancies after the expiry of that period.
- (3) This section overrides section 89.

92 Goods abandoned in case of tenancies terminated before relevant commencement

- (1) This section applies to goods left on the premises by a tenant under a tenancy that is terminated before the commencement of section 44 of this Act.

- (2) The principal Act applies to the goods as if sections 24 and 44 of this Act had not been enacted.

93 Boarding house tenancies

- (1) This section applies to boarding house tenancies.
- (2) If, on the commencement of Part 2A of the principal Act, a landlord, or any person on behalf of the landlord, holds a bond paid in respect of an existing tenancy, the following provisions apply:
 - (a) in the case of a bond of more than 1 week's rent, section 19(1) of the principal Act must be complied with within 23 working days of the commencement of Part 2A of the principal Act:
 - (b) in the case of a bond of 1 week's rent or less, section 66D(1)(b) of the principal Act must be complied with within 5 working days of the commencement of Part 2A of the principal Act.
- (3) Sections 13, 13A, and 66C of the principal Act (which relate to the form and content of boarding house tenancy agreements) do not apply to existing tenancies.
- (4) Section 66E of the principal Act (which relates to outgoings) does not apply to existing tenancies.
- (5) Section 9(2) and (3) of the principal Act (which are transitional provisions) apply to existing tenancies as if the references in those provisions to the commencement of this Act were references to the commencement of Part 2A of the principal Act.

94 References to Part 2A to be disregarded before its commencement

- (1) Until the commencement of Part 2A of the principal Act, section 50(ab) of the principal Act must be read as if it did not refer to a sole tenant under a boarding house tenancy agreement or to section 66W of the principal Act.
- (2) Until the commencement of Part 2A of the principal Act, Schedule 1A of the principal Act must be read as if it did not contain the items that relate to sections located in Part 2A of the principal Act.

95 References to Unit Titles Act 2010 before operation of that Act

- (1) Until the commencement of the Unit Titles Act 2010, the references in sections 16B(1), 25(2A), and 66(4) of the principal Act to a stratum estate under the Unit Titles Act 2010 must be read as references to a stratum estate under the Unit Titles Act 1972.
- (2) Until section 37 of the Unit Titles Act 1972 ceases, by operation of sections 218, 220, and 221 of the Unit Titles Act 2010, to be in force in respect of any premises held in a stratum estate, the references in sections 16B(2), 25(2A), and 66(4) of the principal Act to body corporate operational rules must be read

as references to rules prescribed by or under section 37 of the Unit Titles Act 1972.

96 Bond refund applications

If an application for payment of a bond under section 22 of the principal Act (as in force before the commencement of this section) is received by the chief executive and appears to have been posted or lodged before that commencement, then the application must be dealt with under the principal Act as in force before that commencement.

97 Proceedings before Tribunal

- (1) Every application filed with the Tribunal under section 86 of the principal Act before the commencement of this section must be dealt with under the principal Act as in force before that commencement.
- (2) The Tribunal may not determine or otherwise deal with any dispute that arose before the commencement of this Act unless the Tribunal could have determined or otherwise dealt with that dispute at the time it arose.
- (3) The Tribunal may not make any order in respect of a matter that arose before the commencement of this Act unless the Tribunal could have made that order at the time the matter arose.

98 Unlawful acts

Whenever a question arises whether an act or omission constitutes an unlawful act under the principal Act, the question must be determined in accordance with the principal Act as it read at the time of the act or the omission.

Notes**1 *General***

This is a consolidation of the Residential Tenancies Act 1986 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3

Residential Tenancies Amendment Act 2020 (2020 No 59)

Public Service Act 2020 (2020 No 40): section 135

Education and Training Act 2020 (2020 No 38): section 668

Privacy Act 2020 (2020 No 31): section 217

COVID-19 Response (Urgent Management Measures) Legislation Act 2020 (2020 No 9): Part 5

Kāinga Ora–Homes and Communities Act 2019 (2019 No 50): section 33

Residential Tenancies Amendment Act 2019 (2019 No 37)

Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51): Part 1 subpart 17

Residential Tenancies (Prohibiting Letting Fees) Amendment Act 2018 (2018 No 44)

Social Security Act 2018 (2018 No 32): section 459

Healthy Homes Guarantee Act 2017 (2017 No 46)

Contract and Commercial Law Act 2017 (2017 No 5): section 347

District Court Act 2016 (2016 No 49): section 261

Senior Courts Act 2016 (2016 No 48): section 183(c)

Residential Tenancies Amendment Act 2016 (2016 No 26)

Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (2013 No 97): section 25

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Sale and Supply of Alcohol Act 2012 (2012 No 120): section 417(1)
Residential Tenancies Amendment Act 2012 (2012 No 113)
Criminal Procedure Act 2011 (2011 No 81): section 413
Residential Tenancies Amendment Act 2011 (2011 No 46)
Residential Tenancies Amendment Act 2010 (2010 No 95)
Unit Titles Act 2010 (2010 No 22): section 233(1)
Property Law Act 2007 (2007 No 91): section 364(1)
Relationships (Statutory References) Act 2005 (2005 No 3): section 7
Public Finance Amendment Act 2004 (2004 No 113): section 37(1)
Corrections Act 2004 (2004 No 50): section 206
Human Rights Amendment Act 2001 (2001 No 96): sections 70(1), 71(1)
Public Audit Act 2001 (2001 No 10): section 53
Housing Restructuring (Income-Related Rents) Amendment Act 2000 (2000 No 22): section 7(1)
Residential Tenancies Amendment Act 1996 (1996 No 7)
Department of Justice (Restructuring) Act 1995 (1995 No 39): section 10(1)
Residential Tenancies Amendment Act 1992 (1992 No 79)
Defence Act 1990 (1990 No 28): section 105(2)
Sale of Liquor Act 1989 (1989 No 63): section 230(1)