

Residential Tenancies Amendment Act 2018
No. 45 of 2018

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Victoria

Residential Tenancies Amendment Act 2018[†]

No. 45 of 2018

[Assented to 18 September 2018]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

- (a) to amend the **Residential Tenancies Act 1997**—
 - (i) to change terminology used under the Act in respect of landlords, rooming house owners, tenants and tenancy agreements; and

- (ii) to make further provision about notices to vacate and notices of intention to vacate; and
- (iii) to prohibit false, misleading or deceptive representations about premises and misleading or deceptive inducements to enter residential rental agreements by residential rental providers or the providers' agents; and
- (iv) to amend provisions relating to modifications of premises, bonds and payment of rent; and
- (v) to provide for fixed term rooming house agreements; and
- (vi) to provide for a rental non-compliance register of residential rental providers and their agents; and
- (vii) to provide renters certain protections against unlawful discrimination; and
- (viii) to provide for the circumstances under which a renter is permitted to keep a pet at rented premises; and
- (ix) to require a residential rental provider to provide and maintain premises that meet certain rental minimum standards; and
- (x) to provide for compensation to be payable on the closure of caravan parks and Part 4A parks, as determined by the Tribunal; and

- (xi) to provide for a civil pecuniary penalty regime in respect of certain offences under that Act; and
 - (xii) to provide further protections in relation to family violence; and
 - (xiii) to make other amendments relating to the operation of that Act; and
- (b) to make consequential amendments to that Act and various other Acts.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 July 2020, it comes into operation on that day.

3 Principal Act

In this Act, the **Residential Tenancies Act 1997** is called the Principal Act.

Part 2—Amendments relating to definitions and application of Principal Act

4 Purposes of Principal Act amended

In section 1 of the Principal Act—

- (a) in paragraph (a), for "landlords and tenants" **substitute** "residential rental providers and renters";
- (b) in paragraph (b), for "owners" **substitute** "operators".

5 Definitions

- (1) In section 3(1) of the Principal Act **insert** the following definitions—

breach of duty notice means a notice served under section 208;

condition report means—

- (a) for the purposes of Part 2, a condition report provided under section 35;
- (b) for the purposes of Part 3, a condition report provided under section 97;
- (c) for the purposes of Part 4, a condition report provided under section 148;
- (d) for the purposes of Part 4A, a condition report provided under section 206O;

deadlock means a deadlatch with at least one cylinder;

Director's guidelines means any guidelines issued by the Director under section 486;

duty provision means—

- (a) in relation to rented premises—
 - (i) section 89; or
 - (ii) any provision of Division 5 of Part 2, except sections 59, 62, 66 and 71; or
- (b) in relation to a rooming house—
 - (i) section 140; or
 - (ii) any provision of Division 5 of Part 3, except section 111, 126 or 128; or
- (c) in relation to a caravan park—
 - (i) section 204; or
 - (ii) any provision of Division 5 of Part 4, except section 168; or
- (d) in relation to a Part 4A park—
 - (i) section 206ZZM; or
 - (ii) any provision of Division 5 or Division 6 of Part 4A;

efficiency rating system means a system of rating the efficiency of any appliances, fixtures and fittings prescribed for the purposes of section 54(1), 69, 72(3), 181 or 206ZZAA;

embedded electricity network means a privately owned electricity network—

- (a) that serves more than one customer;
and
- (b) that connects to a distribution or transmission system in the national electronic grid through a parent connection point;

fair wear and tear means deterioration of the condition of premises caused by—

- (a) reasonable use of the premises by a renter or a visitor; and
- (b) natural environmental forces;

family member has the same meaning as in the **Family Violence Protection Act 2008**;

family violence has the same meaning as in the **Family Violence Protection Act 2008**;

family violence intervention order has the same meaning as in the **Family Violence Protection Act 2008**;

family violence safety notice has the same meaning as in the **Family Violence Protection Act 2008**;

fixed term residential rental agreement means a residential rental agreement for a fixed term including, in the case of a fixed term residential rental agreement for more than 5 years, any extension of that residential rental agreement exercised in accordance with a term permitting the extension of that residential rental agreement at the end of the fixed term;

fixed term rooming house agreement means an agreement under section 93A;

information provider means a person who carries on a business of providing information and includes—

- (a) the holder of a licence granted under the Broadcasting Services Act 1992 of the Commonwealth;
- (b) a person who is the provider of a broadcasting service under a class licence under that Act;
- (c) the holder of a licence continued in force by section 5(1) of the Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992 of the Commonwealth;
- (d) the Australian Broadcasting Corporation;
- (e) the Special Broadcasting Service Corporation;

notice of intention to vacate means—

- (a) in relation to rented premises, a notice of intention to vacate under Division 9 of Part 2;
- (b) in relation to a rooming house, a notice of intention to vacate under Division 10 of Part 3;
- (c) in relation to a residency right in respect of a site or a caravan in a

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Part 2—Amendments relating to definitions and application of Principal Act

caravan park, a notice of intention to vacate under Division 9 of Part 4;

- (d) in relation to a site agreement or a Part 4A site, a notice of intention to vacate under Division 11 of Part 4A;

notice to vacate means—

- (a) in relation to rented premises, a notice to vacate under Division 9 of Part 2;
- (b) in relation to a rooming house, a notice to vacate under Division 10 of Part 3;
- (c) in relation to a residency right in respect of a site or a caravan in a caravan park, a notice to vacate under Division 9 of Part 4;
- (d) in relation to a site agreement or a Part 4A site, a notice to vacate under Division 11 of Part 4A;

occupation fee means the following—

- (a) a fee an owner of premises may require under section 388;
- (b) a fee ordered by the Tribunal under section 401(b);

owners corporation has the same meaning as in section 3 of the **Owners Corporations Act 2006**;

pecuniary penalty provision means a provision set out in Schedule 1A;

periodic residential rental agreement means a residential rental agreement other than a fixed term residential rental agreement;

personal information, other than in Part 10A, has the same meaning as in the **Privacy and Data Protection Act 2014**;

personal violence means the following—

- (a) prohibited behaviour within the meaning of the **Personal Safety Intervention Orders Act 2010**;
- (b) stalking within the meaning of the **Personal Safety Intervention Orders Act 2010**;

pet means any animal other than an assistance dog within the meaning of the **Equal Opportunity Act 2010**;

prohibited term means a term referred to in section 26A(1)(a), 27B, 94AC, 94AD, 144AA, 144AB or 206FA;

protected person means—

- (a) in relation to a family violence safety notice, a protected person within the meaning of the **Family Violence Protection Act 2008**;
- (b) in relation to a family violence intervention order, a protected person within the meaning of the **Family Violence Protection Act 2008**;
- (c) in relation to a recognised non-local DVO, a protected person within the

meaning of the **National Domestic Violence Order Scheme Act 2016**;

- (d) in relation to a personal safety intervention order, a protected person within the meaning of the **Personal Safety Intervention Orders Act 2010**;

recognised non-local DVO means non-local DVO that is a recognised DVO under the **National Domestic Violence Order Scheme Act 2016**;

registered housing agency means—

- (a) a participating registered agency within the meaning of the **Housing Act 1983**;
or
(b) a registered agency within the meaning of the **Housing Act 1983**;

rental minimum standards means the standards prescribed under section 65A;

Rental Non-compliance Register means the register established under section 439P;

renter means—

- (a) the person to whom premises are let under a residential rental agreement; or
(b) the person to whom premises are to be let under a proposed residential rental agreement;

required time means—

- (a) in relation to rented premises—
(i) for a duty under section 60 or 67, 7 days; or

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Part 2—Amendments relating to definitions and application of Principal Act

- (ii) for a duty under section 89 in relation to a right of entry for a purpose set out in section 86(1)(a), (c) or (f), 14 days; or
 - (iii) for a duty under section 89 in relation to a right of entry for a purpose set out in section 86(1)(b), (d) or (e), 3 days; or
 - (iv) for any other duty under Division 5 or 5A of Part 2, 14 days; or
- (b) in relation to a rooming house, for a duty under section 140 or Division 5 of Part 3, 3 days; or
- (c) in relation to a caravan park—
- (i) for a duty under section 204 in relation to a right of entry for a purpose set out in section 201(a), (c) or (e), 7 days; or
 - (ii) for a duty under section 204 in relation to a right of entry for a purpose set out in section 201(b) or (d), 3 days; or
 - (iii) for any other duty under Division 5 of Part 4, 7 days; or
- (d) in relation to a Part 4A site—
- (i) for a duty under section 206ZZM in relation to a right of entry for a purpose set out in section 206ZZJ(a), (c) or (e), 14 days; or

- (ii) for a duty under section 206ZZM in relation to a right of entry for a purpose set out in section 206ZZJ(b) or (d), 3 days; or
- (iii) for a duty under section 206ZL or 206ZU, 7 days; or
- (iv) for any other duty under Division 5 or Division 6 of Part 4A, 14 days;

residential rental agreement means an agreement, whether or not in writing and whether express or implied, under which a person lets premises as a residence (but does not include an SDA residency agreement) and includes a fixed term residential rental agreement and a periodic residential rental agreement;

residential rental provider means—

- (a) the person by whom premises are let under a residential rental agreement; or
- (b) the person by whom the premises are to be let under a proposed residential rental agreement;

residential rights contravention means—

- (a) a contravention of a pecuniary penalty provision; or
- (b) conduct in relation to a pecuniary penalty provision that is referred to in section 498AD(1)(b) to (g);

rooming house operator has the same meaning as in section 3(1) of the **Rooming House Operators Act 2016**;

serious defect, in respect of a caravan and a Part 4A dwelling, means—

- (a) the caravan or dwelling, including the exterior of the caravan or dwelling, is not in a reasonable state of cleanliness or repair; and
- (b) the condition of the caravan or dwelling poses a significant health or safety risk;

standard form, except in Part 12, means the form prescribed for the purposes of section 26(1) or (1A)(b);

substantiation notice means a notice given under section 510L(2);

suitably qualified person includes a tradesperson who is registered or licensed in respect of relevant work to be undertaken, if that work requires a person to be so registered or licensed;

Uniform Capital Allowance System means the Uniform Capital Allowance System in the publication known as the Australian Taxation Office Guide to Depreciating Assets 2017, issued in respect of Division 40 of Part 2–10 of the Income Tax Assessment Act 1997 of the Commonwealth, as in force from time to time;

urgent site repairs means any work prescribed as urgent repairs to—

- (a) a site or a Part 4A site; or

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- (b) in the case of a caravan park, any structure or fixture owned by a caravan park owner on a site; or
 - (c) in the case of a Part 4A park, any structure or fixture owned by a site owner on a site; or
 - (d) any damage of a prescribed class;"
- (2) In section 3(1) of the Principal Act the definitions of *family violence intervention order*, *family violence safety notice*, *fixed term tenancy agreement*, *landlord*, *periodic tenancy agreement*, *prescribed rating system*, *rooming house owner*, *standard form tenancy agreement*, *tenancy agreement* and *tenant* are repealed.
- (3) In section 3(1) of the Principal Act—
- (a) in the definition of *bond*, in paragraph (a)—
 - (i) for "tenant" **substitute** "renter";
 - (ii) for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement";
 - (b) in the definition of *common area*, for "tenants" (where first occurring) **substitute** "renters";
 - (c) in the definition of *exclusion condition*, in paragraph (c), for "non-local DVO that is a recognised DVO" **substitute** "recognised non-local DVO";

- (d) in the definition of *facilities*—
 - (i) in paragraph (l), for "tenants" (where first occurring) **substitute** "renters";
 - (ii) for "tenant" (where first occurring) **substitute** "renter";
- (e) in the definition of *health or residential service*, for paragraph (e) **substitute**—
"(e) premises where specialist disability accommodation is provided; or";
- (f) for paragraph (a) of the definition of *rent* **substitute**—
"(a) in relation to a residential rental agreement, the amount paid to a residential rental provider by a renter to occupy rented premises and use facilities and services; or";
- (g) in the definition of *rent*—
 - (i) in paragraph (b), for "owner" **substitute** "operator";
 - (ii) for "tenant or resident" **substitute** "renter, resident or site tenant";
- (h) in the definition of *rented premises*, for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement";
- (i) in the definition of *resident*—
 - (i) in paragraph (a), for "owner" **substitute** "operator";

- (ii) in paragraph (b)(ii), after "days"
insert "other than an occupant under an occupancy agreement which is expressed to be for holidaying or non-residential purposes for a period of 60 days or more";
 - (j) in the definition of *rooming house provisions*, for "owner" **substitute** "operator";
 - (k) in the definition of *services*, for "owner" **substitute** "operator";
 - (l) for the definition of *temporary crisis accommodation* **substitute**—
"temporary crisis accommodation means accommodation provided—
 - (a) for a prescribed period; and
 - (b) on a non-permanent basis; and
 - (c) on a non-profit basis; and
 - (d) which is prescribed to be temporary crisis accommodation;"
 - (m) in paragraph (a) of the definition of *visitor*, for "tenant" (where twice occurring) **substitute** "renter".
- (4) In section 3(1) of the Principal Act, in the definition of *urgent repairs*—
- (a) in paragraphs (h)(i) and (j), for "landlord" **substitute** "residential rental provider";
 - (b) in paragraph (h)(ii), for "owner" **substitute** "operator";

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- (c) after paragraph (i) **insert**—
- "(ia) a failure or breakdown of any cooling appliance or cooling service provided by a residential rental provider, rooming house operator, caravan park owner or caravan owner; or
 - (ib) a failure to comply with any rental minimum standards; or
 - (ic) a failure or breakdown of any safety-related devices, including a smoke alarm or pool fence; or";
- (d) for paragraph (k) **substitute**—
- "(k) any fault or damage that makes rented premises, a rooming house, a room, a caravan or an SDA enrolled dwelling unsafe or insecure, including—
 - (i) a pest infestation; or
 - (ii) the presence of mould or damp caused by or related to the building structure; or";
- (e) in paragraph (j), for "rooming house owner" **substitute** "rooming house operator".
- (5) In section 3(2) of the Principal Act—
- (a) for "landlord" (where twice occurring) **substitute** "residential rental provider";
 - (b) for "tenant" (where twice occurring) **substitute** "renter";
 - (c) for "tenancy agreement" **substitute** "residential rental agreement".

(6) In section 3(1) of the Principal Act **insert** the following definitions—

"eligible resident means a resident of a caravan park who owns a dwelling affixed to a site in the caravan park other than an annexe but does not include a resident who only owns a registrable movable dwelling;

eligible site tenant means a site tenant who owns a Part 4A dwelling;

park closure compensation order means an order made by the Tribunal under section 215B;".

6 New sections 3A and 3B inserted

After section 3 of the Principal Act **insert**—

"3A Objectives of this Act

The objectives of this Act are to facilitate—

- (a) clarity and certainty as to the rights and responsibilities of the following—
 - (i) residential rental providers and renters under residential rental agreements;
 - (ii) rooming house operators and residents in relation to residency rights in rooming houses;
 - (iii) caravan park owners, caravan owners and residents in relation to residency rights and agreements in respect of those rights;

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- (iv) site owners and site tenants under site agreements; and
- (b) the provision of appropriate security of tenure and safe and habitable premises to renters, residents of rooming houses and caravan parks and site tenants; and
- (c) a regulatory framework that enables residential rental providers, rooming house operators, caravan park owners, caravan owners and site owners to receive a fair return for providing safe and habitable premises, rooms and sites and Part 4A sites; and
- (d) the provision to residential rental providers, rooming house operators, caravan park owners, caravan owners, site owners, renters, residents and site tenants of—
 - (i) effective mechanisms to resolve disputes; and
 - (ii) the ability to enforce rights under residential rental agreements, residency rights, site agreements and under this Act; and
- (e) residential rental providers, rooming house operators, caravan park owners, caravan owners, site owners, renters, residents and site tenants—
 - (i) to meet their obligations, even if there are changed circumstances; and

- (ii) to take a responsible approach to their obligations to each other and to visitors and neighbours at premises, rooming houses, caravan parks and Part 4A parks.

3B References to landlords, tenants and tenancy agreements

- (1) For the purposes of this Act—
 - (a) a reference to a residential rental provider includes a landlord; and
 - (b) a reference to a renter includes a tenant; and
 - (c) a reference to a residential rental agreement includes a tenancy agreement or tenancy.
- (2) Unless this Act expressly provides or the context otherwise requires, despite the changes in terminology made by the **Residential Tenancies Amendment Act 2018**—
 - (a) in relation to rented premises within the meaning of this Act, the law in respect of landlords continues to apply to residential rental providers; and
 - (b) in relation to rented premises within the meaning of this Act, the law in respect of tenants continues to apply to renters; and

- (c) the law in respect of tenancy agreements and tenancies continues to apply to residential rental agreements.
- (3) Nothing in this section applies to a tenancy to which the **Retail Leases Act 2003** or any other prescribed enactment or law applies."

7 Section 17 amended

- (1) **Insert** the following heading to section 17 of the Principal Act—
"Room used by operator or operator's family or employees".
- (2) In section 17 of the Principal Act, for "owner, a member of the owner's family or an employee of the owner" **substitute** "operator, a member of the operator's family or an employee of the operator".

8 Minister may declare building to be a rooming house

For section 19(3) and (4) of the Principal Act **substitute**—

- "(3) On the request of the Director of Housing, the Minister, by notice published in the Government Gazette, may declare the following to be a rooming house for the purposes of this Act—
 - (a) a building owned or leased by the Director of Housing and containing one or more self-contained apartments; or

- (b) a building owned or leased by a registered housing provider within the meaning of the **Housing Act 1983** or registered housing association within the meaning of that Act and containing one or more self-contained apartments.
- (4) A notice under subsection (3) may be published on the Internet."

9 Application for exemption

- (1) In section 24(1) of the Principal Act—
 - (a) for "landlord or tenant" **substitute** "residential rental provider or renter";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement".
- (2) In section 24(2) of the Principal Act, for "house owner" **substitute** "house operator".

10 Order of Tribunal

- (1) In section 25(1) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenancy" **substitute** "residential rental";
 - (c) for "tenant" **substitute** "renter".
- (2) In section 25(2) of the Principal Act, for "rooming house owner" **substitute** "rooming house operator".

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11 Section 26 amended

- (1) **Insert** the following heading to section 26 of the Principal Act—

"Residential rental agreements to be in standard form".

- (2) For section 26(1) of the Principal Act **substitute**—

"(1) If a residential rental agreement for a fixed term not exceeding 5 years is in writing, it must be in the prescribed standard form for a fixed term residential rental agreement of no more than 5 years."

- (3) In section 26(1A) of the Principal Act—

(a) for "tenancy agreement" (where first occurring) **substitute** "residential rental agreement";

(b) for paragraph (b) **substitute**—

"(b) must be in the prescribed standard form for a fixed term residential rental agreement of more than 5 years unless it is in the form referred to in subsection (1)."

- (4) In section 26(2) of the Principal Act—

(a) for "landlord" **substitute** "residential rental provider";

(b) for "tenant" **substitute** "renter";

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(c) for "tenancy agreement" **substitute**
"residential rental agreement".

(5) In section 26(2A) of the Principal Act—

(a) for "landlord" **substitute** "residential
rental provider";

(b) for "tenant" **substitute** "renter";

(c) for "tenancy agreement"(where first
occurring) **substitute** "residential rental
agreement";

(d) for paragraphs (a) and (b) **substitute**—

"(a) in the standard form for a fixed term
not exceeding 5 years; or

(b) in the standard form for a fixed term
of more than 5 years."

(6) For the penalty at the foot of section 26(2)
and (2A) of the Principal Act **substitute**—

"Penalty: 25 penalty units."

(7) In section 26(3) of the Principal Act, for
"tenancy agreement" **substitute** "residential
rental agreement".

(8) At the foot of section 26 of the Principal Act
insert—

"Note

Section 27C provides that terms about cleaning and
safety-related repairs and related obligations may
be included in a residential rental agreement in the
standard form."

12 Section 26A amended

- (1) For the heading to section 26A of the Principal Act **substitute**—

"Offence to include prohibited terms in residential rental agreement for fixed term of more than 5 years".

- (2) For section 26A(1) of the Principal Act **substitute**—

"(1) A residential rental provider or renter must not prepare or authorise the preparation of a residential rental agreement for a fixed term of more than 5 years that contains—

- (a) a prescribed prohibited term for a residential rental agreement for a fixed term of more than 5 years; or
- (b) a term referred to in section 27B.

Penalty: 25 penalty units."

- (3) In section 26A(2) of the Principal Act—

- (a) for "tenancy" **substitute** "residential rental";
- (b) **omit** "prescribed".

13 Invalid terms

- (1) For section 27(1) of the Principal Act **substitute**—

"(1) A term of a residential rental agreement that is additional to the terms contained in the standard form is invalid if—

- (a) it purports to exclude, restrict or modify, or purports to have the effect of excluding, restricting or modifying—

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- (i) the application to that residential rental agreement of all or any of the provisions of this Act; or
- (ii) the exercise of a right conferred by this Act; or

- (b) it is a prohibited term or a term that this Act provides must not be included in a residential rental agreement.

Note

Section 27A provides for terms that are additional to the terms contained in the standard form."

- (2) In section 27(2) of the Principal Act, for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement".
- (3) In section 27(3) of the Principal Act, **omit** "tenancy agreement".
- (4) Section 27(4) of the Principal Act is **repealed**.
- (5) At the foot of section 27 of the Principal Act **insert**—

"Note

The Tribunal may declare under sections 28 and 472 that a term of a residential rental agreement is invalid."

14 Section 27A amended

- (1) For the heading to section 27A of the Principal Act **substitute**—

"Additional terms in fixed term residential rental agreements".

- (2) Before section 27A(1) of the Principal Act **insert**—
- "(1AA) A residential rental agreement for a fixed term of not more than 5 years that is in the standard form may include a term agreed by the parties which is additional to the terms contained in the standard form."
- (3) In section 27A(1) of the Principal Act—
- (a) for "tenancy agreement" (where first occurring) **substitute** "residential rental agreement";
 - (b) **omit** "tenancy agreement" (where secondly occurring).
- (4) In section 27A(2) of the Principal Act—
- (a) for "tenancy agreement" (where first occurring) **substitute** "residential rental agreement";
 - (b) **omit** "tenancy agreement" (where secondly and thirdly occurring).
- (5) For the penalty at the foot of section 27A(2) of the Principal Act **substitute**—
- "Penalty: 25 penalty units."

15 New sections 27B and 27C inserted

After section 27A of the Principal Act **insert**—

"27B Prohibited terms—general

- (1) A residential rental agreement must not include any of the following terms—

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- (a) a term that requires the renter to take out any form of insurance;
- (b) a term that exempts the residential rental provider from liability for an act of—
 - (i) the residential rental provider or that person's agent; or
 - (ii) a person acting on behalf of the residential rental provider or that person's agent;
- (c) a term that provides that if the renter contravenes the residential rental agreement, the renter is liable to pay—
 - (i) all or part of the remaining rent under the residential rental agreement; or
 - (ii) increased rent; or
 - (iii) a penalty; or
 - (iv) liquidated damages;
- (d) a term that requires all or part of the rented premises to be professionally cleaned at the end of the tenancy, unless that term is contained in the standard form;
- (e) a term that requires the renter to pay the cost of having all or part of the rented premises professionally cleaned at the end of the tenancy, unless that term is contained in the standard form;

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- (f) a term that provides that, if the renter does not contravene the residential rental agreement—
 - (i) the rent is reduced; or
 - (ii) the rent may be reduced; or
 - (iii) the renter is to be paid a rebate or other benefit; or
 - (iv) the renter may be paid a rebate or other benefit;
 - (g) any other prescribed prohibited term.
- (2) A term in a written residential rental agreement or any other agreement must not include a term that requires a party to a written residential rental agreement to bear any fees, costs or charges incurred by the other party in connection with the preparation of the residential rental agreement.

Note

Section 27 provides that terms which must not be included in a residential rental agreement are invalid.

27C Prescribed terms—professional cleaning, maintenance and related obligations

- (1) A residential rental agreement in the standard form may include—
- (a) a prescribed term providing for all or part of the rented premises to be professionally cleaned if, during the term of the residential rental agreement, professional cleaning becomes required to restore the premises to the condition

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they were in immediately before the start of the tenancy, taking into account fair wear and tear; and

- (b) a prescribed term providing for the renter to pay the cost of having all or part of the rented premises professionally cleaned if, during the term of the residential rental agreement, professional cleaning becomes required to restore the premises to the condition they were in immediately before the start of the tenancy, taking into account fair wear and tear.
- (2) A residential rental agreement in the standard form may include a prescribed term that sets out safety-related activities to be completed by the residential rental provider and the renter during the term of the agreement.

Note

Section 63A provides for the safety-related duties of a renter."

16 Section 29 amended

- (1) **Insert** the following heading to section 29 of the Principal Act—
"Copy of agreement to be made available to renter".
- (2) In section 29(1) of the Principal Act—

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- (a) for "landlord" (where twice occurring) **substitute** "residential rental provider";
 - (b) for "tenant" (wherever occurring) **substitute** "renter";
 - (c) in paragraphs (a) and (b), for "tenancy agreement" **substitute** "residential rental agreement";
 - (d) for "tenant's" **substitute** "renter's".
- (3) For the penalty at the foot of section 29(1) of the Principal Act **substitute**—
"Penalty: 25 penalty units."
- (4) In section 29(2) of the Principal Act—
- (a) for "tenancy agreement" **substitute** "residential rental agreement";
 - (b) for "tenant" (where twice occurring) **substitute** "renter";
 - (c) for "landlord" (where twice occurring) **substitute** "residential rental provider".
- (5) For the penalty at the foot of section 29(2) of the Principal Act **substitute**—
"Penalty: 25 penalty units."

17 New sections 29A and 29B inserted

After section 29 of the Principal Act **insert**—

"29A Residential rental agreement signed by the renter but not by the residential rental provider

- (1) Without limiting section 26(3), if a renter has signed a residential rental agreement and given it to the residential rental provider or that person's agent and the residential rental provider has not signed it, the residential rental agreement has the same effect as if it were signed by the residential rental provider if the residential rental provider or that person's agent—
 - (a) accepts rent without reservation; or
 - (b) otherwise acted in part performance of the residential rental agreement.
- (2) A residential rental agreement has effect under subsection (1) from—
 - (a) the day on which the rent was accepted, if the residential rental provider or that person's agent has accepted rent without reservation; or
 - (b) if the residential rental provider or that person's agent has otherwise acted in part performance of the residential rental agreement, the day on which the act was performed.
- (3) Section 53 of the **Property Law Act 1958** does not prevent a residential rental agreement from having effect under this section.

29B Application to Tribunal to order preparation of residential rental agreement

- (1) A renter may apply to the Tribunal for an order requiring a residential rental provider to prepare and enter into a written residential rental agreement.
- (2) The Tribunal may make an order requiring a residential rental provider to prepare and enter into a written residential rental agreement if the Tribunal is satisfied that—
 - (a) the residential rental provider and renter are subject to an existing residential rental agreement that is not in writing or that is only partly in writing; and
 - (b) the renter is continuing in occupation of the rented premises after a previous fixed term residential rental agreement has ended.
- (3) The order may specify—
 - (a) the terms of the residential rental agreement; and
 - (b) a commencement date for the residential rental agreement which may be a date that is before the date the order was made."

18 New Division 1A of Part 2 inserted

Before section 30 of the Principal Act **insert**—

**"Division 1A—Discrimination in
relation to residential rental agreements**

**29C Residential rental agreement application
forms must include prescribed
information**

A residential rental provider or that person's agent must not provide a person with an application form to apply to enter into a residential rental agreement unless the application form includes a statement that contains the prescribed information."

19 Section 30 amended

- (1) **Insert** the following heading to section 30 of the Principal Act—
"Renters with children".
- (2) In section 30(1) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".
- (3) For the penalty at the foot of section 30(1) of the Principal Act **substitute**—
"Penalty: 25 penalty units."
- (4) In section 30(3) of the Principal Act, for "A person" **substitute** "Subject to subsection (3A), a person".
- (5) After section 30(3) of the Principal Act **insert**—

"(3A) A person must not apply to the Tribunal under subsection (3) if the person has brought a dispute under Part 8 of the **Equal Opportunity Act 2010** in respect of a claim or facts which could form the basis of an application under subsection (3)."

20 New section 30A inserted

After section 30 of the Principal Act **insert—**

"30A Residential rental provider must not unlawfully discriminate against another person by refusing to let rented premises

- (1) A residential rental provider must not contravene section 52 of the **Equal Opportunity Act 2010** by refusing to let rented premises to a person on the basis of an attribute set out in section 6 of that Act.
- (2) A residential rental provider must not instruct or permit that person's agent to refuse to let rented premises to a person on the basis of an attribute set out in section 6 of the **Equal Opportunity Act 2010**.

Note

Section 210AA provides that a person may apply to the Tribunal for an order for compensation if the person has suffered loss as a result of discrimination by the residential rental provider or that person's agent in contravention of this Division."

21 New Division 1B and Division 1C of Part 2 inserted

Before Division 2 of Part 2 of the Principal Act **insert—**

**"Division 1B—Disclosures and
representations prior to entering into
residential rental agreements**

**30B Restriction on use of personal information
provided by prospective renters**

A residential rental provider or that person's agent must not use personal information disclosed by a person on an application form used to apply to enter into a residential rental agreement unless the use is for—

- (a) assessing the person's suitability as a renter; or
- (b) any other requirement of this Act.

**30C Residential rental provider must not
request prescribed information from
applicants**

A residential rental provider or that person's agent must not request a person who applies to enter into a residential rental agreement to disclose the prescribed information.

**30D Information that residential rental
providers must disclose before entering
residential rental agreement**

Before entering into a residential rental agreement, a residential rental provider must disclose the following information to the renter—

- (a) if the residential rental provider has engaged an agent to sell the rented premises or prepared a contract of sale,

that there is a proposal to sell the rented premises;

- (b) if a mortgagee has commenced a proceeding to enforce a mortgage over the rented premises, that a mortgagee is taking action for possession of the rented premises;
- (c) if the residential rental provider is not the owner of the rented premises, that the residential rental provider has a right to let the rented premises;
- (d) if the rented premises are supplied with electricity from an embedded electricity network, the prescribed details of the operator of the embedded electricity network;
- (e) any other prescribed information in relation to the rented premises.

30E Misleading or deceptive conduct inducing a person to enter a residential rental agreement

- (1) This section applies to—
 - (a) a residential rental provider who is not acting in trade or commerce in entering into a residential rental agreement; and
 - (b) the agent of a residential rental provider referred to in paragraph (a) who is not acting in trade or commerce.
- (2) A residential rental provider or that person's agent must not induce a person to enter into a residential rental agreement by engaging in

conduct that is misleading or deceptive, or that is likely to mislead or deceive.

- (3) A residential rental provider or that person's agent must not induce a person to enter into a residential rental agreement by making a false or misleading representation concerning any of the following—
- (a) the residential rental provider's interest in the land;
 - (b) the rent payable under the agreement;
 - (c) the location of the premises to be let under the agreement;
 - (d) the characteristics of the premises to be let under the agreement;
 - (e) the use to which the premises to be let under the agreement are capable of being put or may lawfully be put;
 - (f) the existence or availability of facilities associated with the premises to let under the agreement.

Penalty: 60 penalty units in the case of a natural person;
300 penalty units in the case of a body corporate.

- (4) This section does not limit the operation of the Australian Consumer Law (Victoria).

Division 1C—Rental auctions prohibited

30F Rented premises must be offered for rent at a fixed amount

- (1) Subject to subsection (2), a residential rental provider or that person's agent must not advertise or otherwise offer premises unless the rent under the residential rental agreement is advertised or offered as a fixed amount.

Penalty: 60 penalty units in the case of a natural person;
300 penalty units in the case of a body corporate.

- (2) A person does not commit an offence against subsection (1) if the person places a sign at or near premises for rent—
- (a) that advertises or offers premises for rent; and
 - (b) that does not state an amount of rent for premises.

- (3) A residential rental provider or that person's agent must not solicit or otherwise invite an offer of an amount of rent that is higher than the advertised amount of rent for the rented premises.

Penalty: 60 penalty units in the case of a natural person;
300 penalty units in the case of a body corporate.

30G Residential rental provider or that person's agent must not engage in false or misleading advertising of rent for rental premises

- (1) This section applies to—

- (a) a residential rental provider who is not acting in trade or commerce in entering into a residential rental agreement; and
 - (b) the agent of a residential rental provider referred to in paragraph (a) who is not acting in trade or commerce.
- (2) A residential rental provider or that person's agent who promotes or advertises rented premises must not make a false or misleading representation in relation to the rent for the premises.
- Penalty: 60 penalty units in the case of a natural person;
300 penalty units in the case of a body corporate.
- (3) This section does not limit the operation of the Australian Consumer Law (Victoria).".

22 What is the maximum bond?

- (1) In section 31(1) of the Principal Act, for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement".
- (2) For the penalty at the foot of section 31(1) **substitute**—
"Penalty: 60 penalty units."
- (3) Section 31(2) of the Principal Act is **repealed**.
- (4) For section 31(3) of the Principal Act **substitute**—
"(3) Subsection (1) does not apply to a residential rental agreement if the weekly amount of

rent payable under the agreement exceeds
the prescribed amount."

**23 Not more than 1 bond is payable in respect of
continuous occupation**

- (1) In section 34(1) of the Principal Act—
 - (a) for "tenancy agreement" (wherever occurring) **substitute** "residential rental agreement";
 - (b) for "tenant" (where twice occurring) **substitute** "renter".
- (2) For the penalty at the foot of section 34(1) of the Principal Act **substitute**—
"Penalty: 60 penalty units."
- (3) For section 34(2) of the Principal Act **substitute**—
 - "(2) An additional bond may be paid in the prescribed manner.
 - (3) This section does not apply to—
 - (a) a residential rental agreement for a fixed term of more than 5 years in the form referred to in section 26(1A)(b);
or
 - (b) an additional bond payable in respect of a renter's obligation to restore any modification the renter has made to the rented premises under section 64."

24 Condition report

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(1) For section 35(1) of the Principal Act
substitute—

"(1) Before a renter enters into occupation of rented premises, a residential rental provider must give the renter 2 copies of a condition report signed by or on behalf of the residential rental provider specifying the state of repair and general condition of the premises on the day specified in the report.

Penalty: 25 penalty units.

(1A) For the purposes of subsection (1), a residential rental provider is deemed to give 2 copies of a condition report to the renter if the residential rental provider gives the renter an electronic copy of the condition report.

(1B) A condition report must be in the prescribed form.

Note

Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**."

(2) In section 35(2) of the Principal Act—

(a) for "3" **substitute** "5";

(b) for "tenant" (wherever occurring) **substitute** "renter";

(c) for "landlord" **substitute** "residential rental provider".

(3) After section 35(2) of the Principal Act **insert**—

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- "(3) A renter who is not given a condition report within the period referred to in subsection (1) may complete a condition report and give it to the residential rental provider, or that person's agent, during the period between inspecting the rented premises and 5 business days after entering into occupation of the rented premises.
- (4) A copy of the condition report that is completed under subsection (1) or (3) is to be retained by the residential rental provider and the renter.
- (5) Within 10 days after the end of a residential rental agreement, the residential rental provider, or that person's agent, must complete the copy of the condition report retained by the residential rental provider or the renter under this section—
- (a) in the presence of the other party; or
 - (b) in the absence of the other party, if the party has given the absent other party a reasonable opportunity to be present when the condition report is completed."

25 New section 35A inserted

After section 35 of the Principal Act **insert**—

"35A Residential rental provider or renter may apply to Tribunal to amend inaccurate or incomplete condition report

- (1) Within 30 days after a residential rental agreement has commenced, the residential rental provider or renter may apply to the

Tribunal to amend a statement in a condition report on the basis that the statement is inaccurate or incomplete.

- (2) On an application under subsection (1), the Tribunal may order—
 - (a) that the condition report is to be amended in the manner specified in the order; or
 - (b) that the condition report is not required to be amended.
- (3) This section does not limit the operation of sections 18, 29, 30, 151 and 152 of the Australian Consumer Law (Victoria)."

26 Condition report is evidence of state of repair

- (1) In section 36(1) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter".
- (2) After section 36(1) of the Principal Act **insert**—

"(1A) A condition report that is given to a residential rental provider is taken to be notice given to the residential rental provider of any defects or outstanding repairs stated in the report."
- (3) For section 36(2)(b) of the Principal Act **substitute**—

"(b) any statement in the report about which the renter records a written comment disagreeing with that statement on the copy of the report completed by the renter; or

- (c) a statement that the residential rental provider has disagreed with in writing on the condition report, if the report was completed by the renter before it was completed by the residential rental provider."

27 Certain guarantees prohibited

- (1) In section 37(1) of the Principal Act—
 - (a) for "tenant" (where twice occurring) **substitute** "renter";
 - (b) for "tenant's" **substitute** "renter's";
 - (c) for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement".
- (2) For the penalty at the foot of section 37(1) of the Principal Act **substitute**—
"Penalty: 60 penalty units."
- (3) In section 37(2) of the Principal Act—
 - (a) for "tenancy agreement" **substitute** "residential rental agreement";
 - (b) for "31(2) or (3)" **substitute** "31(3)".

28 Maximum amount of certain guarantees

- (1) In section 38(1) of the Principal Act—
 - (a) for "tenant" **substitute** "renter";
 - (b) for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement".
- (2) In section 38(2) of the Principal Act—

- (a) for "tenancy agreement" **substitute** "residential rental agreement";
- (b) for "31(2) or (3)" **substitute** "31(3)".

29 Accrual of rent

In section 39 of the Principal Act—

- (a) for "tenancy agreement" **substitute** "residential rental agreement";
- (b) for "accordingly" **substitute** "on that basis".

30 Limit on rent in advance

(1) In section 40(1) of the Principal Act—

- (a) for "landlord" **substitute** "residential rental provider";
- (b) for "tenant" **substitute** "renter";
- (c) for "tenancy agreement" **substitute** "residential rental agreement".

(2) For the penalty at the foot of section 40(1) of the Principal Act **substitute**—

"Penalty: 60 penalty units."

(3) For section 40(2) of the Principal Act **substitute**—

"(2) Subsection (1) does not apply if the amount of rent payable for each week under the residential rental agreement exceeds the amount of rent prescribed for the purposes of section 31."

31 Section 41 amended

- (1) **Insert** the following heading to section 41 of the Principal Act—
"Rent in advance under weekly residential rental agreement".
- (2) In section 41 of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter";
 - (c) for "tenancy agreement" **substitute** "residential rental agreement".
- (3) For the penalty at the foot of section 41 of the Principal Act **substitute**—
"Penalty: 60 penalty units."

32 Where and how is rent to be paid?

- (1) In section 42(1) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".
- (2) In section 42(2) of the Principal Act—
 - (a) for "The rent" **substitute** "Subject to this section, the rent";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement".
- (3) After section 42(2) of the Principal Act **insert**—
"(3) A residential rental provider or that person's agent must not require a renter to pay rent by a cheque or other negotiable instrument that is post-dated.

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Penalty: 60 penalty units.

- (4) A residential rental provider or that person's agent must ensure that a rent payment method that incurs no additional costs (other than bank fees or account fees payable on the renter's bank account) is reasonably available to the renter.

Penalty: 60 penalty units.

- (5) Without limiting how rent is paid, a residential rental provider or that person's agent must permit the renter to pay the rent by the following payment methods—

(a) the bill paying service known as Centrepay administered by the Department of Human Services of the Commonwealth;

(b) any prescribed payment method.

- (6) Without limiting subsection (5), the residential rental provider and the renter, by agreement, may change the manner in which rent is payable under the residential rental agreement.

- (7) The residential rental provider or that person's agent must give the renter information about any costs (including third party transaction fees, direct debit dishonour fees and any other electronic payment facility fees) that the renter may incur by using a particular payment method before the renter consents to use the payment method."

33 Receipts for rent

- (1) In section 43(1) of the Principal Act, for "tenant" **substitute** "renter".
- (2) For the penalty at the foot of section 43(1) of the Principal Act **substitute**—
"Penalty: 25 penalty units."
- (3) In section 43(2) of the Principal Act, for "tenant" (wherever occurring) **substitute** "renter".
- (4) For the penalty at the foot of section 43(2) of the Principal Act **substitute**—
"Penalty: 25 penalty units."
- (5) In section 43(2A) of the Principal Act, for "tenant" (where twice occurring) **substitute** "renter".
- (6) For the penalty at the foot of section 43(2A) of the Principal Act **substitute**—
"Penalty: 25 penalty units."
- (7) In section 43(3)(a) of the Principal Act, for "tenant" **substitute** "renter".

34 Section 44 amended

- (1) **Insert** the following heading to section 44 of the Principal Act—
"**Rent increases**".
- (2) In section 44(1) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter".

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(3) For section 44(3) of the Principal Act
substitute—

- "(3) The notice of a proposed rent increase must include—
- (a) the amount of the rent increase; and
 - (b) the method by which the rent increase was calculated; and
 - (c) a statement informing the renter of the renter's right under section 45 to apply within 30 days after the notice is given to the Director to investigate and report on the proposed rent."

(4) For section 44(4) of the Principal Act
substitute—

- "(4) A residential rental provider under a fixed term residential rental agreement must not increase the rent before the term ends unless the agreement—
- (a) provides for a rent increase within the fixed term of a specified amount and the increase is not more than that amount; or
 - (b) specifies the method by which a rent increase within the fixed term is to be calculated and the increase is not more than an amount calculated using the specified method."

(5) In section 44(4A) of the Principal Act—

- (a) for "landlord" **substitute** "residential rental provider";

- (b) for "tenancy agreement" **substitute** "residential rental agreement";
- (c) for "6 months" **substitute** "12 months".

35 Section 49 amended

- (1) **Insert** the following heading to section 49 of the Principal Act—
"Renter's goods not to be taken for rent".
- (2) In section 49 of the Principal Act—
 - (a) for "tenant's" **substitute** "renter's";
 - (b) for "tenant" **substitute** "renter".
- (3) For the penalty at the foot of section 49 of the Principal Act **substitute**—
"Penalty: 60 penalty units."

36 Application and holding deposits

- (1) In section 50 of the Principal Act—
 - (a) for "tenancy agreement" **substitute** "residential rental agreement";
 - (b) for "tenant" (where twice occurring) **substitute** "renter".
- (2) For the penalty at the foot of section 50 of the Principal Act **substitute**—
"Penalty: 60 penalty units."

37 Certain charges prohibited

- (1) In section 51(1) of the Principal Act—
 - (a) for "tenant" **substitute** "renter";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement".

- (2) For the penalty at the foot of section 51(1) of the Principal Act **substitute**—
"Penalty: 60 penalty units."
- (3) In section 51(2) of the Principal Act—
- (a) for "tenant" (where twice occurring) **substitute** "renter";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement".
- (4) For the penalty at the foot of section 51(2) of the Principal Act **substitute**—
"Penalty: 60 penalty units."
- (5) In section 51(3) of the Principal Act—
- (a) for "tenant" **substitute** "renter";
 - (b) in paragraphs (a) and (b), for "tenancy agreement" **substitute** "residential rental agreement";
 - (c) in paragraph (b), after "facilities" **insert** "or any other electronic payment facility".
- (6) For the penalty at the foot of section 51(3) of the Principal Act **substitute**—
"Penalty: 60 penalty units."

38 Section 52 substituted

For section 52 of the Principal Act **substitute**—

"52 Renter's liability for various utility charges

A renter is liable for—

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- (a) all charges for the supply or use of electricity, gas or oil in respect of the renter's occupation of rented premises that are separately metered, except for the installation costs and charges for the initial connection of the service to the rented premises; and
- (b) all charges for the use of any gas bottles (including supply or hire of the bottles) in respect of the renter's occupation of the rented premises; and
- (c) in respect of rented premises that are separately metered—
 - (i) the cost of all water supplied to the premises during the renter's occupancy if the cost is based solely on the amount of water supplied; and
 - (ii) that part of the charge that is based on the amount of water supplied to the premises during the renter's occupation if the cost of water supplied is only partly based on the amount of water supplied to the premises; and
 - (iii) all sewage disposal charges imposed during the renter's occupation of the rented premises by a water corporation under the **Water Act 1989**".

39 Section 53 amended

- (1) **Insert** the following heading to section 53 of the Principal Act—
- "Residential rental provider's liability for various utility charges".**
- (2) In section 53(1) of the Principal Act—
- (a) for "landlord" **substitute** "residential rental provider";
 - (b) after paragraph (a) **insert**—
 - "(ab) all rates, taxes or charges payable under any Act other than charges payable by the renter under this Division;"
 - (c) in paragraph (b), for "tenant" **substitute** "renter";
 - (d) for paragraph (d) **substitute**—
 - "(d) water charges in respect of rented premises which are not separately metered, including—
 - (i) all sewage disposal charges imposed by a water corporation under the **Water Act 1989**; and
 - (ii) all costs and charges related to a water supply service; and
 - (iii) water supplied to the rented premises;"
 - (e) paragraph (e) is **repealed**;
 - (f) in paragraph (g), for "premises." **substitute** "premises;"
 - (g) after paragraph (g) **insert**—
 - "(h) any other prescribed charges."

- (3) In section 53(2) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter".
- (4) In section 53(3) of the Principal Act, for "landlord" **substitute** "residential rental provider".

40 New sections 53A and 53B inserted

After section 53 of the Principal Act **insert**—

"53A Residential rental provider's liability for excessive usage caused by faults

- (1) Subject to subsection (2), if a renter has been charged for excessive usage of a service at the rented premises caused by a fault in infrastructure or any fixtures or buildings at or connected to the premises, the residential rental provider is liable for that part of the excessive charge that is additional to an amount of ordinary usage by the renter.

Example

Excessive usage charges caused by a leak in the underground pipe of a water service connected to rented premises.

- (2) A residential rental provider is not liable for excessive usage charges under subsection (1) unless—
 - (a) the renter notified the residential rental provider, as soon as practicable, of—
 - (i) the excessive usage charges; and

- (ii) the fault that caused the excessive usage; and
 - (b) the fault was not caused by any action or omission of the renter.
- (3) A residential rental provider must reimburse a renter for any reasonable costs incurred by the renter for diagnosis of a fault referred to in subsection (1) conducted by a suitably qualified person.
- (4) A residential rental provider is not responsible for any excess usage charges or other costs for a fault caused by any property that is the responsibility of a service provider.

53B Application to Tribunal about excessive usage charges

- (1) A residential rental provider or a renter may apply to the Tribunal to determine the liability of the residential rental provider and the renter for excessive usage charges referred to in section 53A.
- (2) In making a determination under subsection (1), the Tribunal is to have regard to the following—
 - (a) whether the renter had knowledge of the fault;
 - (b) whether the renter took reasonable steps to notify the residential rental provider, or that person's agent, of the fault;

- (c) whether the renter has been compensated by another person for any part of the excessive usage charges;
- (d) whether the residential rental provider has complied with this Act in respect of any urgent repairs;
- (e) any diagnosis made by a water authority or other suitably qualified person in respect of the fault;
- (f) any maintenance and repairs conducted by the residential rental provider;
- (g) any other matter the Tribunal considers appropriate."

41 Section 54 amended

- (1) Insert the following heading to section 54 of the Principal Act—

"Residential rental provider's liability for charges for supply to non-complying appliances".

- (2) In section 54(1) of the Principal Act—

- (a) for "landlord" (where twice occurring) **substitute** "residential rental provider";
- (b) for "water efficient appliances" **substitute** "an appliance, fitting or fixture with a rating that is of or above a rating in the efficiency rating system".

42 New section 54A inserted

After section 54 of the Principal Act **insert**—

"54A Residential rental provider to give key or security device to renters

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- (1) A residential rental provider, at the residential rental provider's expense, must give each renter who has signed the residential rental agreement—
 - (a) a key or another security device to enable each renter to access and enjoy the rented premises; or
 - (b) a key and another security device if both are required to enable each renter to access and enjoy the rented premises.

- (2) If a renter requests an additional key or security device, the residential rental provider may charge the renter a reasonable fee for giving the additional key or security device to the renter."

43 Section 56 amended

- (1) **Insert** the following heading to section 56 of the Principal Act—
"Residential rental provider must not seek overpayment for utility charge".
- (2) In section 56(1) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter".
- (3) For the penalty at the foot of section 56(1) of the Principal Act **substitute**—
"Penalty: 60 penalty units."
- (4) For section 56(2) of the Principal Act **substitute**—

"(2) If the relevant supplier of the utility has issued an account to the residential rental provider, any amount to be recovered from the renter for the account must be adjusted by deducting any concession or rebate to which the renter is entitled."

- (5) In section 56(3) of the Principal Act—
- (a) in paragraphs (a) and (b), for "tenant" (wherever occurring) **substitute** "renter";
 - (b) in paragraph (a), for "landlord" **substitute** "residential rental provider".

44 Section 57 amended

- (1) **Insert** the following heading to section 57 of the Principal Act—
- "Director of Housing or registered housing agency may impose service charge".**
- (2) In section 57(1) of the Principal Act—
- (a) for "tenant" (where twice occurring) **substitute** "renter";
 - (b) after "Housing" (where first occurring) **insert** "or a registered housing agency";
 - (c) after "Housing" (where secondly occurring) **insert** "or the registered housing agency".
- (3) In section 57(2) of the Principal Act, for "tenant" **substitute** "renter".
- (4) After section 57(2) of the Principal Act **insert**—

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- "(2A) A service charge must not exceed the cost of providing the service or facility to the renter."
- (5) After section 57(3) of the Principal Act **insert**—
- "(3A) If the Director of Housing or a registered housing agency imposes or varies a service charge on a renter, the Director of Housing or the registered housing agency, as the case requires, must give written notice to the renter of—
- (a) the imposition of the service charge; or
 - (b) the increase or decrease made to the service charge, including particulars of the change in the cost of providing the services or facilities referred to in subsection (3)."
- (6) In section 57(4) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".
- (7) After section 57(4) of the Principal Act **insert**—
- "(4A) A renter may apply to the Tribunal for an order requiring the Director of Housing, or the registered housing agency, as the case requires, to withdraw or vary the amount of a service charge imposed under subsection (1).
- (4B) On an application under subsection (4A), the Tribunal may order the Director of Housing or the registered housing agency, as the case requires, to—
- (a) withdraw the service charge; or

- (b) vary the amount of the service charge;
or
- (c) otherwise vary the service charge as the
Tribunal thinks fit."

45 Heading to Division 5 of Part 2 amended

In the heading to Division 5 of Part 2 of the
Principal Act, for "**tenants and landlords**"
substitute "**renters and residential rental
providers**".

46 Section 61 substituted

For section 61 of the Principal Act **substitute—**

**"61 Renter and visitor must not damage
premises or common areas**

- (1) Subject to subsection (2), a renter and any
visitor must not intentionally or negligently
cause damage to—
 - (a) rented premises; and
 - (b) any common area in respect of the
rented premises.
- (2) For the purposes of subsection (1), *damage*
does not include fair wear and tear caused by
a renter or a visitor.

Note

This section is a duty provision and a contravention of this
section may be dealt with as a breach of a duty under Part 5
and other provisions of this Act."

47 Section 62 substituted

For section 62 of the Principal Act **substitute—**

**"62 Renter must notify residential rental
provider of damage**

- (1) Subject to subsection (2), a renter who becomes aware of damage to the rented premises, as soon as practicable, must give written notice to the residential rental provider of—
 - (a) the fact that the damage has occurred; and
 - (b) the nature of the damage.
- (2) Written notice under subsection (1)—
 - (a) may be given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**; and
 - (b) is not otherwise subject to the requirements of section 506."

48 Section 63 substituted and new section 63A inserted

For section 63 of the Principal Act **substitute**—

"63 Renter must keep and leave rented premises reasonably clean

- (1) A renter must keep the rented premises in a reasonably clean condition except to the extent that the residential rental provider is responsible under this Act for keeping the premises in that condition.
- (2) At the end of a residential rental agreement, the renter must leave the rented premises, as far as practicable—
 - (a) reasonably clean; and
 - (b) in the same condition as when the renter entered into possession of the

premises, taking into account fair wear and tear to the premises.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act.

63A Renter's safety-related duties

- (1) A renter must not remove, deactivate or otherwise interfere with the operation of a prescribed safety device at rented premises unless it is reasonable in the circumstances to do so.
- (2) Subject to subsection (3), a renter must undertake any safety-related activities set out in the residential rental agreement if that agreement contains a term prescribed under section 27C(2).
- (3) Any activity referred to in subsection (2) must be carried out by a suitably qualified person.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

49 Section 64 amended

- (1) **Insert** the following heading to section 64 of the Principal Act—
"Modifications to rented premises".

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(2) For section 64(1) of the Principal Act
substitute—

- "(1) A renter may make any modifications to rented premises that are prescribed modifications without the residential rental provider's consent.
- (1A) A renter must not, without the residential rental provider's written consent—
- (a) install any fixtures on the rented premises; or
 - (b) make any alteration, renovation or addition to the rented premises that are not prescribed modifications under subsection (1).
- (1B) A residential rental provider must not unreasonably refuse consent to modifications made by the renter—
- (a) that do not penetrate or permanently modify—
 - (i) surfaces; or
 - (ii) fixtures; or
 - (iii) the structure of the property; or
 - (b) that are required for health and safety purposes; or
- (c) that are—

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- (i) reasonable alterations within the meaning of section 55 of the **Equal Opportunity Act 2010**; and
- (ii) assessed and determined to be required modifications by an accredited occupational therapist or a prescribed practitioner; or
- (d) that ensure access to telecommunications services; or
- (e) that are reasonable security measures; or
- (f) that are necessary to ensure the safety of a party to the existing residential rental agreement who—
 - (i) has been or is being subjected to family violence by another party to that agreement (including a protected person under a family violence safety notice, family violence intervention order or recognised non-local DVO); or
 - (ii) is a protected person under a personal safety intervention order made against another party to that agreement; or
- (g) that are necessary to—
 - (i) increase the thermal comfort of the premises; or
 - (ii) reduce energy and water usage costs for the premises; or

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- (h) that are prescribed modifications for the purposes of this subsection.
- (1C) Without limiting a residential rental provider's right to refuse consent to a modification, the residential rental provider may refuse consent if—
 - (a) a valid notice to vacate has been given to the renter in connection with an imminent change of possession, use or ownership of the rented premises; or
 - (b) the modification—
 - (i) would significantly change the premises; or
 - (ii) would require modifications to other premises or common areas; or
 - Note**

Section 56 of the **Equal Opportunity Act 2010** applies to alterations to common property.
 - (iii) would result in non-compliance with any other Act or law; or
 - Example**

Non-compliance with the **Building Act 1993**.
 - (iv) would result in additional maintenance costs for the residential rental provider if the rented premises were not restored at the end of the renter's occupation of premises; or

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- (c) any action required to restore the rented premises to the condition the premises were in immediately before the modification is not reasonably practicable in the circumstances.
 - (1D) Subsection (1C) does not apply to a modification referred to in subsection (1B)(c).
 - (1E) A residential rental provider may require that any modification permitted under this section is to be completed by a suitably qualified person."
- (3) In section 64 of the Principal Act—
- (a) in subsection (2)—
 - (i) for "tenancy" **substitute** "residential rental";
 - (ii) for "tenant" **substitute** "renter";
 - (iii) for "landlord's" **substitute** "residential rental provider's";
 - (iv) for "landlord" **substitute** "residential rental provider";
 - (b) in subsection (3)—
 - (i) for "tenancy" **substitute** "residential rental";

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- (ii) for "landlord and the tenant" **substitute** "residential rental provider and the renter".
- (4) After section 64(3) of the Principal Act **insert—**
- "(4) For the purposes of subsection (2), a residential rental provider may require the renter to pay an additional amount of bond, unless—
 - (a) the amount of bond is less than \$500; or
 - (b) the amount of bond is not proportionate to the reasonable costs of restoring the premises to the condition the premises were in immediately before the modification; or
 - (c) the residential rental provider and renter have agreed under subsection (3) that the renter is not required to restore the premises; or
 - (d) the residential rental provider has agreed that the modification is funded by a scheme under a condition that the rented premises does not need to be restored.
 - (5) Subject to subsection (6), a renter may apply to the Tribunal for determination of a claim that the residential rental provider has unreasonably refused consent under this section.
 - (6) A renter must not apply to the Tribunal under subsection (5) if the renter has brought a dispute under Part 8 of the **Equal Opportunity Act 2010** in respect of a claim

or facts which could form the basis of the application under subsection (5).

- (7) The Tribunal must hear an application under subsection (5) within 5 days after the application is made.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

50 New Division 5A of Part 2 heading inserted

Before section 65 of the Principal Act **insert** the following heading—

"Division 5A—General duties of residential rental providers".

51 Section 65 amended

- (1) **Insert** the following heading to section 65 of the Principal Act—

"Residential rental provider's duty in relation to provision of premises".

- (2) For section 65(1) of the Principal Act **substitute**—

"(1) A residential rental provider must ensure that on the day that it is agreed the renter is to enter into occupation, the rented premises—

- (a) are vacant; and

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(b) are in a reasonably clean condition.

Penalty: 60 penalty units in the case of a
natural person;

300 penalty units in the case of a
body corporate."

(3) In section 65(2) and (3) of the Principal Act, for
"tenant" (wherever occurring) **substitute** "renter".

(4) At the foot of section 65 of the Principal Act
insert—

"Note

This section is a duty provision and a contravention of this
section may be dealt with as a breach of a duty under Part 5
and other provisions of this Act."

52 New section 65A inserted

After section 65 of the Principal Act **insert**—

**"65A Occupation of rented premises that do not
comply with rental minimum standards**

(1) Without limiting sections 65, 68 and 70, a
residential rental provider must ensure that
rented premises comply with prescribed
rental minimum standards on or before the
day on which the renter enters into
occupation of the premises.

Penalty: 60 penalty units in the case of a
natural person;

300 penalty units in the case of a
body corporate.

- (2) If rented premises do not comply with the rental minimum standards on or immediately after the day on which the renter enters into occupation of the premises, the renter may issue a request to the residential rental provider for urgent repairs to be carried out to the premises to ensure that the premises comply with the standards.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

53 Section 66 amended

- (1) **Insert** the following heading to section 66 of the Principal Act—
"Residential rental provider must give renter certain information".
- (2) In section 66(1) of the Principal Act—
- (a) for "landlord" (where twice occurring) **substitute** "residential rental provider";
 - (b) for "tenant" (where twice occurring) **substitute** "renter";
 - (c) for "tenancy agreement" **substitute** "residential rental agreement".
- (3) For the penalty at the foot of section 66(1) of the Principal Act **substitute**—
"Penalty: 60 penalty units."
- (4) After section 66(1) of the Principal Act **insert**—
"(1A) A written statement referred to in subsection (1) may be given by electronic

communication in accordance with the
**Electronic Transactions (Victoria)
Act 2000.**".

- (5) In section 66(2) of the Principal Act—
- (a) for "landlord" (where twice occurring)
substitute "residential rental provider";
 - (b) for "tenant" **substitute** "renter";
 - (c) in paragraph (a), for "landlord's" **substitute**
"residential rental provider's".
- (6) For the penalty at the foot of section 66(2) of the
Principal Act **substitute**—
"Penalty: 60 penalty units."
- (7) In section 66(3) of the Principal Act—
- (a) for "landlord" (where twice occurring)
substitute "residential rental provider";
 - (b) for "tenant" **substitute** "renter".
- (8) For the penalty at the foot of section 66(3) of the
Principal Act **substitute**—
"Penalty: 60 penalty units."
- (9) In section 66(4) of the Principal Act—
- (a) for "landlord" **substitute** "residential rental
provider";
 - (b) for "tenant" **substitute** "renter".
- (10) For the penalty at the foot of section 66(4) of the
Principal Act **substitute**—
"Penalty: 60 penalty units."

- (11) In section 66(5) of the Principal Act, for "tenant" **substitute** "renter".

54 Quiet enjoyment

- (1) In section 67 of the Principal Act—
- (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter";
 - (c) for "tenancy agreement" **substitute** "residential rental agreement".

- (2) At the foot of section 67 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

55 Section 68 amended

- (1) **Insert** the following heading to section 68 of the Principal Act—
- "Residential rental provider's duty to maintain premises".**
- (2) For section 68(1) of the Principal Act **substitute**—
- "(1) A residential rental provider must ensure that the rented premises are provided and maintained—
- (a) in good repair; and
 - (b) in a reasonably fit and suitable condition for occupation.
- (1A) Subsection (1) applies—

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- (a) whether or not the renter was aware of any disrepair at the rented premises before entering into occupation of the premises; and
 - (b) despite the amount of rent paid by the renter; and
 - (c) despite the age and character of the rented premises."
- (3) In section 68(2) of the Principal Act—
- (a) for "landlord" (where twice occurring) **substitute** "residential rental provider";
 - (b) in paragraph (a), for "tenant's" **substitute** "renter's";
 - (c) in paragraph (b), for "tenant" (where twice occurring) **substitute** "renter".
- (4) In section 68(3) of the Principal Act, for "landlord" (where twice occurring) **substitute** "residential rental provider".
- (5) After section 68(3) of the Principal Act **insert**—
- "(4) The residential rental provider must ensure that any person who carries out any repairs or works to discharge the residential rental provider's duty under subsection (1) is a suitably qualified person."

- (6) At the foot of section 68 of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

56 New sections 68A and 68B inserted

After section 68 of the Principal Act **insert—**

"68A Residential rental provider's duty to comply with safety-related repairs and maintenance requirements

- (1) Subject to subsection (2), a residential rental provider must undertake any safety-related repairs and maintenance activities set out in the residential rental agreement if that agreement contains a term prescribed under section 27C(2).
- (2) Any maintenance or repairs required to be completed by a residential rental provider under subsection (1) must be carried out by a suitably qualified person.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act.

68B Residential rental provider must keep and produce records of gas and electrical safety checks

A residential rental provider must comply with any prescribed requirements for the keeping and production of records of gas

and electrical safety checks conducted at the rented premises.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

57 Section 69 amended

- (1) In the heading to section 69 of the Principal Act, for "**Landlord**" substitute "**Residential rental provider**".
- (2) In section 69 of the Principal Act—
 - (a) for "landlord" (where twice occurring) substitute "residential rental provider";
 - (b) for "water" substitute "water, electricity or gas";
 - (c) for "prescribed level of rating in a prescribed rating system" substitute "rating that is of or above a rating in an efficiency rating system".
- (3) At the foot of section 69 of the Principal Act insert—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

58 Locks

- (1) For section 70(1) of the Principal Act substitute—

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- "(1) A residential rental provider must ensure that all external doors able to be secured with a functioning deadlock at rented premises, other than any screen door attached to an external door, are secured with a functioning deadlock.
- (1A) It is reasonable for a residential rental provider not to ensure an external door at rented premises is secured with a functioning deadlock if—
- (a) another Act or law provides for a different type of lock or device for the premises; or
 - (b) the external door cannot be accessed because of another security barrier at the rented premises.
- (1B) A residential rental provider must provide locks to secure all windows of the rented premises that are capable of having a lock."
- (2) In section 70(2) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".
- (3) In section 70(3) of the Principal Act—
- (a) for "tenant" **substitute** "renter";
 - (b) for "landlord's" **substitute** "residential rental provider's".
- (4) In section 70(4) of the Principal Act, for "landlord" **substitute** "residential rental provider".

(5) In section 70(5) of the Principal Act, after "70A" **insert** ", 70B".

(6) At the foot of section 70 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

59 Locks for rented premises the subject of an intervention order

(1) In section 70A(1) of the Principal Act—

(a) in paragraph (a)—

(i) for "tenant" **substitute** "renter";

(ii) for "non-local DVO that is a recognised DVO" **substitute** "recognised non-local DVO";

(b) for paragraph (b) **substitute**—

"(b) a protected person under the notice or order—

(i) is also a party to the residential rental agreement for the rented premises; or

(ii) has been residing in the rented premises as the protected person's principal place of residence but is not a party to the residential rental agreement; and

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- (c) the Tribunal has not made an order made under section 91W(1)(b) in relation to the protected person."
- (2) In section 70A(2) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".
- (3) In section 70A(3) of the Principal Act—
 - (a) in paragraph (a)—
 - (i) for "landlord or landlord's agent" **substitute** "residential rental provider or that person's agent";
 - (ii) in subparagraph (ii), for "non-local DVO that is a recognised DVO" **substitute** "recognised non-local DVO";
 - (b) in paragraph (b)—
 - (i) for "tenancy agreement" **substitute** "residential rental agreement";
 - (ii) for "tenant" **substitute** "renter".
- (4) In section 70A(4) of the Principal Act—
 - (a) for "tenant" **substitute** "renter";
 - (b) in paragraph (a), for "non-local DVO made by a court that is a recognised DVO" **substitute** "recognised non-local DVO made by a court";
 - (c) in paragraph (b), for "non-local DVO made by a police officer that is a recognised DVO"

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substitute "recognised non-local DVO made by a police officer".

- (5) For section 70A(5) of the Principal Act—
- (a) for "landlord or landlord's agent" **substitute** "residential rental provider or that person's agent";
 - (b) for "tenant" (where twice occurring) **substitute** "renter";
 - (c) for "non-local DVO that is a recognised DVO" **substitute** "recognised non-local DVO".
- (6) In section 70A(6) of the Principal Act—
- (a) for "landlord or landlord's agent" **substitute** "residential rental provider or that person's agent";
 - (b) for "landlord and landlord's agent" **substitute** "residential rental provider and that person's agent";
 - (c) for "tenant" **substitute** "renter".
- (7) In section 70A(7) of the Principal Act—
- (a) for "landlord or landlord's agent" (where twice occurring) **substitute** "residential rental provider or that person's agent";
 - (b) in paragraph (a), for "landlord, the landlord's agent" **substitute** "residential rental provider, that person's agent";
 - (c) in paragraph (b), for "landlord's agent, the landlord" **substitute** "residential rental

provider's agent, the residential rental provider".

- (8) At the foot of section 70A of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

60 New section 70B inserted

After section 70A of the Principal Act **insert—**

"70B Locks for rented premises the subject of an order under section 91W(1)(b)

- (1) If the Tribunal has made an order under section 91W(1)(b) terminating an existing residential rental agreement and requiring the residential rental provider to enter in a new residential rental agreement with a specified person and other persons (if any), the specified person may change any external door or window lock of the rented premises, including a lock in a master key system.
- (2) As soon as practicable after the specified person changes any external door or window lock, the specified person must—
 - (a) give the residential rental provider or that person's agent a key to the lock;
and
 - (b) give a key to the lock to the other parties to the residential rental agreement (if any).

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- (3) A residential rental provider or that person's agent must not give a key to the lock to a person who was a party to the existing residential rental agreement and who is not a party to the new residential rental agreement.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

61 New Division 5B inserted in Part 2

After section 71 of the Principal Act **insert—**

"Division 5B—Pets

71A Renter may keep a pet at rented premises with consent or Tribunal order

A renter may keep a pet at the rented premises if—

- (a) the residential rental provider has consented in writing to the renter keeping the pet on the premises; or
- (b) the Tribunal has made an order permitting the renter to keep the pet on the rented premises.

Note

A residential rental provider is taken to have consented to a request to keep a pet on the rented premises unless, within 14 days of being given the request, the residential

rental provider makes an application to the Tribunal—
see section 71C(2).

**71B Renter's request for consent to keep pet
on rented premises**

- (1) A renter who requests the residential rental provider's consent to keep a pet on the rented premises must do so in the form approved by the Director.
- (2) A renter who makes a request under subsection (1) must give the request to the residential rental provider.

**71C Residential rental provider must not
unreasonably refuse to consent to keep
a pet on rented premises**

- (1) A residential rental provider must not unreasonably refuse to consent to the renter keeping a pet on the rented premises.
- (2) The residential rental provider is taken to have consented to a request to the keeping of a pet on the rented premises unless, within 14 days after being given the request, the residential rental provider applies to the Tribunal under section 71D.

**71D Application to refuse consent to keep a pet
on rented premises or exclude a pet from
rented premises**

- (1) A residential rental provider may apply to the Tribunal for an order that it is reasonable for the residential rental provider to refuse consent to keep the pet on the rented premises.

- (2) A residential rental provider who reasonably believes a renter is keeping a pet on the rented premises without the residential rental provider's consent may apply to the Tribunal for an order to exclude the pet from the rented premises.

71E Tribunal orders—pets

- (1) On an application under section 71D, the Tribunal may make—
- (a) an order that the renter is permitted to keep a pet on the rented premises; or
 - (b) if satisfied that it is reasonable to refuse consent to the keeping of the pet on the rented premises, the following—
 - (i) an order that it is reasonable to refuse consent to the keeping of the pet on the rented premises;
 - (ii) an order excluding the pet from the rented premises.
- (2) In determining an application under section 71D, the Tribunal may have regard to the following matters—
- (a) the type of pet the renter proposes to keep, or is keeping, on the rented premises;
 - (b) the character and nature of the rented premises;
 - (c) the character and nature of the appliances, fixtures and fittings on the rented premises;

- (d) whether refusing consent to keep the pet on rented premises is permitted under any Act;
 - (e) any prescribed matters;
 - (f) any other matter the Tribunal considers relevant.
- (3) If the Tribunal makes an order excluding the pet from the rented premises, the Tribunal must specify the date on which the order takes effect."

62 New section 72AA inserted

Before section 72 of the Principal Act **insert—**

"72AA Renter must report damage and breakdown of facilities to residential rental provider

A renter must give written notice to the residential rental provider as soon as practicable after becoming aware of—

- (a) damage to the rented premises; or
- (b) the breakdown of facilities, fixtures, furniture or equipment provided by the residential rental provider.

Note

Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**."

63 Urgent repairs

- (1) In section 72(1) of the Principal Act—

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- (a) for "tenant" (wherever occurring) **substitute** "renter";
 - (b) in paragraph (a), for "landlord or the landlord's agent" **substitute** "residential rental provider or that person's agent";
 - (c) in paragraph (b), for "landlord" **substitute** "residential rental provider".
- (2) In section 72(2) of the Principal Act—
- (a) for "tenant" (wherever occurring) **substitute** "renter";
 - (b) in paragraph (a)—
 - (i) for "landlord" **substitute** "residential rental provider";
 - (ii) for "14" **substitute** "7";
 - (c) in paragraph (b)—
 - (i) for "landlord" **substitute** "residential rental provider";
 - (ii) **omit** "or \$1000,";
 - (iii) for "less." **substitute** "less; and";
 - (d) after paragraph (b) **insert**—
 - "(c) the residential rental provider must reimburse the renter for the reasonable cost of repairs within 7 days after receiving written notice of—
 - (i) the repairs; and
 - (ii) the cost of the repairs."
- (3) For section 72(3) of the Principal Act **substitute**—

"(3) If urgent repairs are required to an appliance, fitting or fixture with a rating in a prescribed efficiency rating system, and the appliance, fitting or fixture cannot be repaired, the renter may replace it with an appliance, fitting or fixture with a rating that is of or above a rating in the efficiency rating system."

(4) In section 72(4) of the Principal Act, for "tenant" **substitute** "renter".

64 Application to Tribunal for urgent repairs

(1) In section 73(1) of the Principal Act—

- (a) for "tenant" (wherever occurring) **substitute** "renter";
- (b) for "landlord or the landlord's agent" **substitute** "residential rental provider or that person's agent";
- (c) in paragraph (b), for "\$1000, or if a greater amount is prescribed for the purposes of this section, that prescribed amount," **substitute** "the prescribed amount";
- (d) in paragraph (c), for "landlord" **substitute** "residential rental provider".

(2) After section 73(2) of the Principal Act **insert**—

"(3) Without limiting the matters to which the Tribunal may consider in determining an application under this section, the Tribunal must consider the Director's guidelines."

65 Application to Director to investigate need for non-urgent repairs

(1) In section 74(1) of the Principal Act—

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- (a) for "tenant" (where twice occurring)
substitute "renter";
 - (b) for "landlord" (wherever occurring)
substitute "residential rental provider".
- (2) For section 74(2) of the Principal Act
substitute—
- "(2) An application under subsection (1) and a report under subsection (3)—
- (a) must be in writing; and
 - (b) may be made or issued, as the case requires, by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**".
- (3) In section 74(3) of the Principal Act—
- (a) in paragraph (a), for "must" **substitute** "may";
 - (b) in paragraph (b), for "landlord" **substitute** "residential rental provider";
 - (c) for paragraph (c) **substitute**—
"(c) may issue a report that—
 - (i) states the duty to maintain the rented premises in good repair and in a reasonably fit and suitable condition for occupation has been breached; and
 - (ii) directs the residential rental provider to do any thing in

order to comply with the duty to maintain the rented premises in good repair and in a reasonably fit and suitable condition for occupation."

66 Section 75 substituted

For section 75 of the Principal Act **substitute—**

"75 Application to Tribunal for non-urgent repairs

- (1) A renter may apply to the Tribunal for an order requiring the residential rental provider—
 - (a) to carry out specified non-urgent repairs if—
 - (i) the renter has given the residential rental provider written notice under section 74(1)(a); and
 - (ii) the residential rental provider has not carried out the repairs within 14 days after receiving the notice; or
 - (b) to comply with a report issued by the Director under section 74.
- (2) A renter must not apply to the Tribunal under subsection (1)(b) before the Director has issued the report under section 74.

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- (3) The Tribunal must hear an application under subsection (1) within 7 days after the application is made.
- (4) Without limiting the matters to which the Tribunal may have regard in determining an application under subsection (1), the Tribunal must have regard to the following—
 - (a) whether the repairs are needed because of—
 - (i) an act or omission of the renter; or
 - (ii) non-compliance by the renter with a provision of the residential rental agreement or the renter's duty not to damage the rented premises under section 61;
 - (b) whether the residential rental provider or that person's agent—
 - (i) was notified of the repairs; and
 - (ii) was given a reasonable opportunity to carry out the repairs;
 - (c) whether the renter has provided documentary evidence of the repair.
- (5) A renter must not apply to the Tribunal for a compliance order under section 212 for a breach of a duty that is the subject of an application under this section if that application has been determined by the Tribunal."

67 New section 75A inserted

After section 75 of the Principal Act **insert**—

"75A Residential rental provider may join owners corporation in application for breach of duty to maintain premises

- (1) In an application to the Tribunal for a breach of the duty to maintain rented premises in good repair that contains a ground in respect of damage or defects to common property that adjoins the premises, the residential rental provider may join the owners corporation responsible for the common property as a party to the application.
- (2) If the application referred to in subsection (1) requires determination of a related matter under the **Owners Corporations Act 2006**, the Tribunal may hear and determine that related matter concurrently with the application."

68 What can the Tribunal order?

- (1) For section 76(1) of the Principal Act **substitute**—

- "(1) If the Tribunal is satisfied that the residential rental provider is in breach of the duty to maintain the rented premises in good repair, the Tribunal may make an order that requires—
- (a) the residential rental provider to carry out specified repairs; and
 - (b) the use of a suitably qualified person to carry out the repairs; and
 - (c) compensation to be paid in accordance with section 212(2)."

- (2) In section 76(2) of the Principal Act, for "The" **substitute** "If the Tribunal makes an order requiring the residential rental provider to carry out specified repairs, the".

69 Payment of rent into Rent Special Account

- (1) In section 77(1) of the Principal Act—
- (a) for "tenant" (wherever occurring) **substitute** "renter";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement".
- (2) In section 77(2) of the Principal Act—
- (a) for "may" **substitute** "must";
 - (b) for "tenant" **substitute** "renter";
 - (c) for paragraph (a) **substitute**—
"(a) a notice referred to in subsection (1) has been given to the residential rental provider; and";
 - (d) in paragraph (b)—
 - (i) for "landlord" **substitute** "residential rental provider";
 - (ii) for "repairs." **substitute** "repairs; and";
 - (e) after paragraph (b) **insert**—
"(c) the residential rental provider has not demonstrated that the residential rental provider—

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- (i) is experiencing financial hardship;
or
 - (ii) would experience financial hardship if the rent was paid into the Rent Special Account."
- (3) In section 77(3) of the Principal Act—
 - (a) in paragraph (a), for "landlord" **substitute** "residential rental provider";
 - (b) in paragraph (b)—
 - (i) for "landlord" (wherever occurring) **substitute** "residential rental provider";
 - (ii) for "landlord's" **substitute** "residential rental provider's";
 - (iii) for "premises." **substitute** "premises;
and";
 - (c) after paragraph (b) **insert**—

"(c) the whole or any part of the rent may be paid to the residential rental provider before the end of that period, if the residential rental provider and the renter agree to early payment."
- (4) After section 77(3) of the Principal Act **insert**—

"(4) A renter may apply to the Tribunal to order that the whole or any part of the rent paid into the Rent Special Account be paid to the renter if—

 - (a) the Tribunal has made an order under subsection (2) that rent be paid into the Rent Special Account in respect of a

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- breach of section 68 or the rental minimum standards; and
- (b) the residential rental provider has not effected any required repairs at the rented premises by the end of the period stated in that order.
- (5) In determining whether a residential rental provider has demonstrated that the residential rental provider has experienced or would experience financial hardship for the purposes of subsection (2), the Tribunal may have regard to any of the following—
- (a) an eviction notice given to the residential rental provider;
 - (b) a disconnection notice in respect of a service or utility account held by the residential rental provider;
 - (c) a notice of legal proceedings issued against the residential rental provider;
 - (d) a letter from a non-profit organisation about the residential rental provider's loss of employment or financial hardship;
 - (e) a notice from a lender to the residential rental provider, including—
 - (i) an overdraft call; or
 - (ii) a repossession notice in respect of a mortgaged property;
 - (f) outstanding medical bills of the residential rental provider;

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- (g) a letter from a doctor in respect of the impact of the residential rental provider's illness or carer's responsibility on the ability of the residential rental provider to earn an income;
- (h) a final notice from a school to the residential rental provider in respect of the payment of mandatory schooling fees;
- (i) funeral expenses payable by the residential rental provider;
- (j) a repossession notice served on the residential rental provider in respect of an essential item;
- (k) a hardship variation, or a written request to vary the terms of an existing loan held by the residential rental provider;
- (l) any other prescribed document."

70 Section 78 amended

- (1) **Insert** the following heading to section 78 of the Principal Act—

"Residential rental provider may give renter repair notice".

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(2) For section 78(1) of the Principal Act **substitute**—

- "(1) A residential rental provider may give a repair notice to a renter if—
- (a) damage is caused to the rented premises because of a failure of the renter to comply with section 61(1); and
 - (b) the residential rental provider has not given a breach of duty notice in respect of that damage."

(3) In section 78(2) of the Principal Act—

- (a) in paragraph (b), for "tenant" **substitute** "renter";
- (b) in paragraph (c)—
 - (i) for "landlord" (wherever occurring) **substitute** "residential rental provider";
 - (ii) for "tenant" (wherever occurring) **substitute** "renter";
 - (iii) in subparagraphs (i) and (ii), for "tenant's" **substitute** "renter's";
- (c) in paragraph (d)—
 - (i) for "landlord" (where twice occurring) **substitute** "residential rental provider";
 - (ii) for "tenant" **substitute** "renter".

(4) After section 78(2) of the Principal Act **insert**—

"(3) If a repair notice is not complied with, the residential rental provider may apply to the Tribunal for an order under section 212."

71 Section 79 amended

(1) **Insert** the following heading to section 79 of the Principal Act—

"Residential rental provider may do repairs and renter liable for costs".

(2) In section 79(1) of the Principal Act—

- (a) for "landlord" (where twice occurring) **substitute** "residential rental provider";
- (b) for "tenant" (wherever occurring) **substitute** "renter";
- (c) for "tenant's" **substitute** "renter's".

(3) In section 79(2) of the Principal Act—

- (a) for "landlord" (wherever occurring) **substitute** "residential rental provider";
- (b) for "tenant" (where twice occurring) **substitute** "renter";
- (c) for "tenant's" **substitute** "renter's".

(4) In section 79(3) of the Principal Act—

- (a) for "tenant" (where twice occurring) **substitute** "renter";
- (b) for "landlord" (wherever occurring) **substitute** "residential rental provider".

(5) After section 79(3) of the Principal Act **insert**—

"(4) The renter must reimburse the residential rental provider for any reasonable costs of

repairs for which the renter is liable under subsection (3) within 14 days after receipt of particulars of the costs of the repairs under subsection (3).

- (5) A renter may apply to the Tribunal for an extension of the 14 day period referred to in subsection (4) if—
- (a) the renter is unable to reimburse the residential rental provider within 14 days after the repairs are completed; and
 - (b) the residential rental provider does not agree to a period to provide reimbursement that is longer than the 14 day period referred to in subsection (4).
- (6) Despite subsection (4), if the renter is experiencing hardship, the renter may give written notice to the residential rental provider that the renter requires an additional 14 days to reimburse the residential rental provider.
- (7) A renter who gives notice under subsection (6) must provide proof of hardship upon request by the residential rental provider."

72 Section 81 amended

- (1) **Insert** the following heading to section 81 of the Principal Act—
- "Assignment and sub-letting by a renter".**
- (2) In section 81(1) of the Principal Act—

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- (a) for "tenant" **substitute** "renter";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement";
 - (c) for "landlord's" **substitute** "residential rental provider's".
- (3) In section 81(2) of the Principal Act, for "landlord" **substitute** "residential rental provider".
- (4) After section 81(2) of the Principal Act **insert**—
- "(2A) For the purposes of subsection (2), it is unreasonable to withhold consent on the basis of an attribute set out in section 6 the **Equal Opportunity Act 2010**.

Note

Section 210AA provides that a person may apply to the Tribunal for an order for compensation if the person has suffered loss as a result of discrimination by the residential rental provider or that person's agent in contravention of this section."

- (5) In section 81(3) of the Principal Act, for "landlord's" **substitute** "residential rental provider's".

73 Section 84 amended

- (1) **Insert** the following heading to section 84 of the Principal Act—
- "Residential rental provider cannot ask for fee for giving consent"**.
- (2) In section 84(1) of the Principal Act—
- (a) for "landlord" **substitute** "residential rental provider";

- (b) in paragraph (b), for "tenant" **substitute** "renter".
- (3) For the penalty at the foot of section 84(1) of the Principal Act **substitute**—
"Penalty: 60 penalty units."
- (4) In section 84(2) of the Principal Act—
 - (a) for "tenant" (wherever occurring) **substitute** "renter";
 - (b) for "landlord" (where twice occurring) **substitute** "residential rental provider".
- (5) For section 84(3) of the Principal Act **substitute**—
"(3) This section does not prevent a residential rental provider from requiring a renter to bear any reasonable expenses that are reasonably incurred by the residential rental provider because of the assignment of a residential rental agreement."

74 Entry of rented premises

In section 85 of the Principal Act—

- (a) for "landlord or the landlord's agent" **substitute** "residential rental provider or that person's agent";
- (b) in paragraph (a)—
 - (i) for "tenant" (where twice occurring) **substitute** "renter";
 - (ii) for "not more than" **substitute** "within";
- (c) for paragraph (b) **substitute**—

- "(b) at any time between 8 a.m. and 6 p.m. on any day (except a public holiday)—
- (i) for a purpose set out in section 86(1)(a) or (b), if at least 48 hours notice has been given to the renter in accordance with section 88; or
 - (ii) for a purpose set out in section 86(1)(ab), if at least 7 days notice has been given to the renter in accordance with section 88; or
 - (iii) for a purpose set out in section 86(1)(c), (e) or (g), if at least 24 hours notice has been given to the renter in accordance with section 88; or
 - (iv) for a purpose set out in section 86(1)(d) or (f), if at least 7 days notice has been given to the renter in accordance with section 88."

75 Grounds for entry of rented premises

(1) In section 86(1) of the Principal Act—

(a) for paragraph (a) **substitute**—

"(a) subject to subsection (2), before giving notice of entry, a notice to vacate or a notice of intention to vacate the rented premises had been given and entry is required—

- (i) to show the premises to a prospective renter; or

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- (ii) to conduct an open inspection of the premises for prospective renters; or
 - (ab) to produce advertising images and videos in accordance with section 89A; or";
- (b) for paragraph (b) **substitute**—
 - "(b) subject to subsection (2A), if the premises are to be sold or used as security for a loan and entry is required—
 - (i) to show the premises to a prospective buyer or lender; or
 - (ii) to conduct an open inspection of the premises for prospective buyers; or";
- (c) in paragraph (c)—
 - (i) for "landlord" **substitute** "residential rental provider";
 - (ii) for "tenancy agreement" **substitute** "residential rental agreement";
- (d) in paragraph (e)—
 - (i) for "landlord or the landlord's agent" **substitute** "residential rental provider or that person's agent";
 - (ii) for "tenant" **substitute** "renter";
 - (iii) for "tenancy agreement" **substitute** "residential rental agreement";
- (e) in paragraph (g), for "section 233A(3)" **substitute** "section 91V(1)".

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(2) For section 86(2) of the Principal Act
substitute—

"(2) The following apply in respect of entry to rented premises for a purpose referred to in subsection (1)(a)—

- (a) the right of entry may only be exercised—
 - (i) in the period within 21 days before the termination date specified in the notice to vacate or notice of intention to vacate; and
 - (ii) up to twice a week, unless otherwise agreed with the renter; and
 - (iii) for a period of no longer than one hour, unless a longer period is agreed with the renter;
- (b) it is not unreasonable for a protected person residing at the premises to require that any inspections be by appointment.

(2A) The following apply in respect of entry to rented premises for a purpose referred to in subsection (1)(b)—

- (a) the right of entry may only be exercised—
 - (i) if the residential rental provider has given the renter notice of intention to sell in the form approved by the Director at least 14 days before entry is proposed; and

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- (ii) if the residential rental provider has made all reasonable efforts to agree with the renter on days and times for the property to be available for inspection; and
 - (iii) up to twice a week, unless otherwise agreed with the renter; and
 - (iv) for a period of no longer than one hour, unless a longer period is agreed with the renter;
- (b) it is not unreasonable for a protected person residing at the premises to require that any inspections be by appointment;
- (c) a renter at the premises is entitled to the prescribed compensation for sales inspections.
- (2B) If a rental provider exercises a right of entry under subsection (1)(b), the rental provider must pay the renter the prescribed compensation for each sales inspection."
- (3) In section 86(3) of the Principal Act—
- (a) for "tenancy agreement" **substitute** "residential rental agreement";
 - (b) for "landlord" **substitute** "residential rental provider";
 - (c) for "tenant" **substitute** "renter".
- (4) In section 86(4) of the Principal Act—
- (a) for "tenant" **substitute** "renter";

- (b) for "landlord or the landlord's agent"
substitute "residential rental provider
or that person's agent".

76 Section 89 substituted

For section 89 of the Principal Act **substitute**—

"89 Renter has duty to permit entry

- (1) Subject to subsection (2), a renter has a duty to permit a person exercising a right of entry in accordance with this Division to enter the rented premises.
- (2) A renter may apply to the Tribunal for an order specifying or limiting when entry to the premises may occur by—
- (a) a residential rental provider or that person's agent; and
 - (b) an agent for the sale of the rented premises or other persons.
- (3) On an application under subsection (2), the Tribunal may make an order specifying or limiting the days, times and purposes for which entry to the rented premises is authorised for—
- (a) a residential rental provider or that person's agent; and
 - (b) an agent for the sale of the rented premises; and
 - (c) any other person specified in the order.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

77 New section 89A inserted

After section 89 of the Principal Act **insert**—

"89A Residential rental provider may enter rented premises to produce advertising images and videos

- (1) A residential rental provider or that person's agent may enter rented premises to produce advertising images and video of the property after providing notice under section 85(b)(ii).
- (2) The residential rental provider or that person's agent must make a reasonable attempt to agree with the renter on a suitable time for entry to the rented premises for the purposes referred to in subsection (1).
- (3) The renter, by written notice, may object to the production or taking of advertising images or video under subsection (1) if the image or video—
 - (a) shows a possession of the renter that—
 - (i) directly identifies the renter or another occupant; or
 - (ii) reveals sensitive information about the renter or another person who resides at the premises; or
 - (iii) is valuable and would increase the risk of theft at the premises; or

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- (iv) would be unreasonable to expect the renter to remove or conceal; or
 - (b) may identify a person residing at the premises who is at risk of family violence or personal violence.
- (4) If the renter has requested that identifiable or high-value possessions are to be excluded from images or video produced under this section, the renter may make a request to the residential rental provider, or that person's agent, for the renter to review the images or video before the images or video are advertised.
- (5) A residential rental provider or that person's agent must not advertise the images or video referred to in subsection (4) before the renter has—
 - (a) reviewed the images or video; and
 - (b) given written consent to the residential rental provider, or that person's agent, for the images or video to be advertised.
- (6) A residential rental provider or that person's agent must not take or produce images or video referred to in subsection (3) if the renter has given written objection under subsection (3).
- (7) If the residential rental provider or that person's agent intends to use an advertising image or a video that displays a renter's possession more than 12 months after the image or video was produced, the residential

rental provider, or that person's agent, must obtain written consent from the renter or former renter (as the case requires) before the residential rental provider, or that person's agent, uses the image or video for advertising.

- (8) If an image or a video was produced for a purpose other than advertising, the residential rental provider, or that person's agent, must obtain the renter's written consent before using the image or video for advertising purposes."

78 What if damage is caused during entry?

- (1) For section 90(1) of the Principal Act **substitute**—

"(1) A renter may apply to the Tribunal for an order for compensation if, when the residential rental provider exercises a right of entry under section 85, any person causes damage to or loss of the renter's goods on the rented premises."

- (2) In section 90(2)(a) of the Principal Act, for "tenant's" **substitute** "renter's".

79 Offence relating to entering rented premises

- (1) In section 91A of the Principal Act, for "landlord or a landlord's agent" **substitute** "residential rental provider or that person's agent".
- (2) For the penalty at the foot of section 91A of the Principal Act **substitute**—
"Penalty: 60 penalty units."

Part 4—Amendments relating to rooming houses—residency rights and duties

80 Notice to resident of residency right

- (1) In section 92C(1) of the Principal Act, for "owner" **substitute** "operator".
- (2) For the penalty at the foot of section 92C(1) of the Principal Act **substitute**—
"Penalty: 25 penalty units."
- (3) In section 92C(3)(c) of the Principal Act, for "owner" **substitute** "operator".

81 New section 93A inserted

After section 93 of the Principal Act **insert**—

"93A Fixed term rooming house agreements

- (1) A resident or a proposed resident and a rooming house operator may enter into an agreement (not being a residential rental agreement or an agreement under section 94(2)) for a fixed term specifying the terms and conditions of the resident's use and enjoyment of the rooming house.
- (2) A fixed term rooming house agreement must be—
 - (a) in writing; and
 - (b) in the prescribed form.
- (3) A term or condition in a fixed term rooming house agreement that is inconsistent with this Act or that purports to restrict, exclude or modify the application of or exercise of a right conferred by this Act is invalid."

82 Section 94 amended

- (1) **Insert** the following heading to section 94 of the Principal Act—

"Power to enter agreements other than fixed term rooming house agreements".

- (2) For section 94(1) of the Principal Act **substitute**—

"(1) Despite this Part, a resident and rooming house operator may enter into a residential rental agreement in relation to a self-contained apartment for the purposes of section 18(1)."

- (3) Section 94(1A) of the Principal Act is **repealed**.

- (4) In section 94(2) of the Principal Act—

- (a) for "tenancy" **substitute** "residential rental";
- (b) for "owner" **substitute** "operator".

- (5) Section 94(3A) of the Principal Act is **repealed**.

- (6) In section 94(3B) of the Principal Act—

- (a) for "tenancy" **substitute** "residential rental";
- (b) for "owner" **substitute** "operator".

83 Harsh and unconscionable terms

In section 94A(1) of the Principal Act, after "section 94(2)" **insert** "or a fixed term rooming house agreement".

**84 New sections 94AB, 94AC, 94AD, 94AE and 94AF
inserted**

After section 94A of the Principal Act **insert**—

**"94AB Additional terms for fixed term rooming
house agreements**

A fixed term rooming house agreement
may include any other term or condition
that is not inconsistent with this Act or the
form prescribed under section 93A(2)(b).

Note

Section 94AC provides that certain additional terms are
invalid.

94AC Invalid terms

A term or condition in a fixed term rooming
house agreement (including a term agreed to
by the parties under section 94AB) is invalid
if—

- (a) it is a term that this Act provides
must not be included in a fixed
term rooming house agreement; or
- (b) it is a prohibited term.

Note

The Tribunal may declare under sections 94A and 472 that
a term of a fixed term rooming house agreement is invalid.

94AD Prohibited terms—general

- (1) A fixed term rooming house agreement must not include any of the following terms—
 - (a) a term that requires the resident to take out any form of insurance;
 - (b) a term that exempts the rooming house operator from liability for an act of—
 - (i) the rooming house operator or that person's agent; or
 - (ii) a person acting on behalf of the rooming house operator or that person's agent;
 - (c) a term that provides that if the resident contravenes the fixed term rooming house agreement, the resident is liable to pay—
 - (i) all or part of the remaining rent under the agreement; or
 - (ii) increased rent; or
 - (iii) a penalty; or
 - (iv) liquidated damages;
 - (d) a term that requires all or part of the room in the rooming house to be professionally cleaned at the end of the agreement, unless that term is contained in the form prescribed under section 93A(2)(b);
 - (e) a term that requires the resident to pay the cost of having all or part of the room in the rooming house professionally cleaned at the end of the agreement, unless that term

is contained in the form prescribed
under section 93A(2)(b);

- (f) a term that provides that if the resident does not contravene the fixed term rooming house agreement—
 - (i) the rent is reduced; or
 - (ii) the rent may be reduced; or

- (iii) the resident is to be paid a rebate or other benefit; or

- (iv) the resident may be paid a rebate or other benefit;

- (g) any other prescribed prohibited term.

- (2) A term in a fixed term rooming house agreement must not include a term that requires a party to the agreement to bear any fees, costs or charges incurred by the other party in connection with the preparation of the agreement.

Note

Section 94AC provides that terms which must not be included in a fixed term rooming house agreement are invalid.

94AE Prescribed terms—professional cleaning

A fixed term rooming house agreement may include—

- (a) a term that requires the room in the rooming house to be professionally

cleaned if professional cleaning is required to restore the room to the condition it was in immediately before the start of the agreement, taking into account fair wear and tear; or

- (b) a term that requires the resident to pay the cost of having all or part of the room in the rooming house professionally cleaned if professional cleaning is required to restore the room to the condition it was in immediately before the start of the agreement, taking into account fair wear and tear.

94AF Application to Tribunal to order preparation of fixed term rooming house agreement

- (1) A resident may apply to the Tribunal for an order requiring a rooming house operator to prepare and enter into a fixed term rooming house agreement.
- (2) The Tribunal may make an order requiring a rooming house operator to prepare and enter into a fixed term rooming house agreement if the Tribunal is satisfied that—
 - (a) the rooming house operator and resident are subject to an existing agreement that is not in writing or that is only partly in writing; and
 - (b) the resident is continuing in occupation of the room in the rooming house after a previous fixed term rooming house agreement has ended.

- (3) The order may specify—
- (a) subject to this Part, the terms of the fixed term rooming house agreement; and
 - (b) a commencement date for the fixed term rooming house agreement which may be a date that is before the date the order was made."

85 Consent required for increase in room capacity

- (1) In section 94B(1) of the Principal Act, for "owner" (where twice occurring) **substitute** "operator".
- (2) For the penalty at the foot of section 94B(1) of the Principal Act **substitute**—
"Penalty: 150 penalty units."

86 New Divisions 1B and 1C inserted in Part 3

After Division 1A of Part 3 of the Principal Act
insert—

**"Division 1B—Discrimination in relation
to residency rights**

**94E Occupancy application forms must
include prescribed information**

A rooming house operator or that person's agent must not provide a person with an application form to apply for occupancy of a room unless the application form includes a statement that contains the prescribed information.

94F Rooming house operator must not unlawfully discriminate against another person by refusing occupancy

- (1) A rooming house operator must not contravene section 52 of the **Equal Opportunity Act 2010** by refusing a person occupancy of the room on the basis of an attribute set out in section 6 of that Act.
- (2) A rooming house operator must not instruct or permit that person's agent to refuse a person occupancy on the basis of an attribute set out in section 6 of the **Equal Opportunity Act 2010**.

Note

Section 210AA provides that a person may apply to the Tribunal for an order for compensation if the person has suffered a loss as a result of discrimination by the rooming house operator or that person's agent in contravention of this section.

Division 1C—Disclosures and representations prior to granting residency rights

94G Restriction on use of personal information provided by prospective residents

A rooming house operator or that person's agent must not use personal information disclosed by a person on an application form to apply for a residency right unless the use is for—

- (a) the purposes of assessing the person's suitability as a resident; or
- (b) another purpose required by this Act.

94H Rooming house operator must not request prescribed information from applicants

A rooming house operator or that person's agent must not request that a person who applies for a residency right is to disclose the prescribed information.

94I Information that rooming house operators must disclose before occupancy commences

Before occupancy of a room commences, a rooming house operator must disclose the following information to the resident—

- (a) if the rooming house operator has engaged an agent to sell the rooming house or prepared a contract of sale, that there is a proposal to sell the rooming house;
- (b) if a mortgagee has commenced a proceeding to enforce a mortgage over the rooming house, that a mortgagee is taking action for possession of the rooming house;
- (c) if the rooming house operator is not the owner of the rooming house, that the rooming house operator has a right to permit occupancy of the room;
- (d) any other prescribed information in relation to the room."

87 What is the maximum bond?

For section 96 of the Principal Act **substitute—**

"96 What is the maximum bond?

A rooming house operator must not demand or accept a bond that exceeds—

- (a) in the case of a fixed term rooming house agreement, the equivalent of 28 days rent; or
- (b) in any other case, the equivalent of 14 days rent.

Penalty: 60 penalty units."

88 Condition report

- (1) For section 97(1) of the Principal Act **substitute—**

"(1) Before a resident or a proposed resident enters into occupation of the room as a resident, a rooming house operator must give the resident or proposed resident 2 copies of a condition report signed by or on behalf of the rooming house operator specifying the state of repair and general condition of the room on the day specified in the report.

Penalty: 25 penalty units.

(1A) For the purposes of subsection (1), a rooming house operator is deemed to give 2 copies of a condition report to the resident or proposed resident if the rooming house operator gives the resident or proposed resident an electronic copy of the condition report.

(1B) A condition report must be in the prescribed form.

Note

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Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**.

- (2) In section 97(2) of the Principal Act—
- (a) for "3" **substitute** "5";
 - (b) for "owner" **substitute** "operator".
- (3) After section 97(2) of the Principal Act **insert**—
- "(3) A resident or a proposed resident who is not given a condition report within the period referred to in subsection (1) may complete a condition report and give it to the rooming house operator, or that person's agent, during the period between inspecting the room and 5 business days after entering into occupation of the room.
- (4) A copy of the condition report that is completed under subsection (1) or (3) is to be retained by the rooming house operator and the resident.
- (5) Within 10 days after the end of an agreement under section 94 that grants a residency right, the rooming house operator, or that person's agent, must complete the copy of the condition report retained by the rooming house operator or the resident under this section—
- (a) in the presence of the other party; or
 - (b) in the absence of the other party, if the party has given the absent other party a reasonable opportunity to be present

when the condition report is
completed."

89 New section 97A inserted

After section 97 of the Principal Act **insert**—

**"97A Rooming house operator or resident may
apply to Tribunal to amend inaccurate or
incomplete condition report**

- (1) Within 30 days after an agreement in respect of a residency right under this Part has commenced, the rooming house operator or resident may apply to the Tribunal to amend a statement in a condition report on the basis that the statement is inaccurate or incomplete.
- (2) On an application under subsection (1), the Tribunal may order—
 - (a) that the condition report is to be amended in the manner specified in the order; or
 - (b) that the condition report is not required to be amended.
- (3) This section does not limit the operation of sections 18, 29, 30, 151 and 152 of the Australian Consumer Law (Victoria)."

90 Condition report is evidence of state of repair

- (1) In section 98(1) of the Principal Act, for "owner" **substitute** "operator".
- (2) After section 98(1) of the Principal Act **insert**—

"(1A) A condition report that is given to a rooming house operator is taken to be notice given to

the rooming house operator of any defects or outstanding repairs stated in the report."

(3) For section 98(2)(b) of the Principal Act
substitute—

- "(b) any statement in the report about which the resident records a written comment disagreeing with that statement in the copy of the report completed by the rooming house operator; or
- (c) a statement that the rooming house operator has disagreed with in writing on the condition report, if the report was completed by the resident before or after it was completed by the rooming house operator."

91 Limit on rent in advance

- (1) In section 99 of the Principal Act, for "owner"
substitute "operator".
- (2) For the penalty at the foot of section 99 of the Principal Act **substitute—**
"Penalty: 60 penalty units."

92 New section 99A inserted

After section 99 of the Principal Act **insert—**

"99A Rent payment

- (1) A rooming house operator, or that person's agent, must not require a resident to pay rent by a cheque or other negotiable instrument that is post-dated.

Penalty: 60 penalty units.

- (2) A rooming house operator or that person's agent must ensure that a rent payment method that incurs no additional costs (other than bank fees or account fees payable on the resident's bank account) is reasonably available to the resident.

Penalty: 60 penalty units.

- (3) A rooming house operator or that person's agent must permit the resident to pay the rent by the following payment methods—
- (a) the bill paying service known as Centrepay administered by the Department of Human Services of the Commonwealth;
 - (b) any prescribed payment method.
- (4) Without limiting subsection (3), the rooming house operator and the resident, by agreement, may change the manner in which rent is payable under the agreement in respect of the residency right.
- (5) The rooming house operator, or that person's agent, must give the resident information about any costs (including third party transaction fees, direct debit dishonour fees and any other electronic payment facility fees) that the resident may incur by using a particular payment method before the resident consents to use the payment method."

93 Receipts for rent

- (1) For the penalty at the foot of section 100(1) of the Principal Act **substitute**—

"Penalty: 25 penalty units."

- (2) For the penalty at the foot of section 100(2) of the Principal Act **substitute**—

"Penalty: 25 penalty units."

- (3) For the penalty at the foot of section 100(2A) of the Principal Act **substitute**—

"Penalty: 25 penalty units."

94 How much notice of rent increase is required?

- (1) In section 101(1) of the Principal Act, for "owner" **substitute** "operator".
- (2) In section 101(3) of the Principal Act, for "owner" (where twice occurring) **substitute** "operator".
- (3) In section 101(4)(b) and (5A) of the Principal Act, for "owner" **substitute** "operator".
- (4) In section 101(5A) of the Principal Act, for "6" **substitute** "12".

95 Resident's goods not to be taken for rent

For the penalty at the foot of section 107 of the Principal Act **substitute**—

"Penalty: 60 penalty units."

96 Separately metered rooms

In section 108(1) of the Principal Act—

- (a) for "owner" (where twice occurring) **substitute** "operator";
- (b) for "electricity and gas" (where twice occurring) **substitute** "electricity, gas and water".

97 Section 109A amended

- (1) In the heading to section 109A of the Principal Act, after "**Housing**" **insert "or registered housing agency"**.
- (2) In section 109A(1) of the Principal Act, after "**Housing**" **insert "or a registered housing agency"**.
- (3) After section 109A(2) of the Principal Act **insert—**
 - "(2A) A service charge must not exceed the cost of providing the service or facility to the resident."
- (4) After section 109A(3) of the Principal Act **insert—**
 - "(3A) If the Director of Housing or a registered housing agency imposes or varies a service charge on a resident, the Director of Housing or the registered housing agency, as the case requires, must give written notice to the resident of—
 - (a) the imposition of the service charge; or
 - (b) the increase or decrease made to the service charge, including particulars of the change in the cost of providing the services or facilities referred to in subsection (3).
 - (3B) A resident may apply to the Tribunal for an order requiring the Director of Housing or the registered housing agency, as the case requires, to withdraw or vary the amount of a service charge imposed under subsection (1).

- (3C) On an application under subsection (3B), the Tribunal may order the Director of Housing or the registered housing agency, as the case requires, to—
- (a) withdraw the service charge; or
 - (b) vary the amount of the service charge; or
 - (c) otherwise vary the service charge as the Tribunal thinks fit."

98 Sections 110, 112 and 113 amended

- (1) At the foot of section 110 of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (2) At the foot of section 112 of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (3) At the foot of section 113 of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

99 Section 114 substituted and new section 114A inserted

For section 114 of the Principal Act **substitute—**

**"114 Resident must keep and leave room
reasonably clean**

- (1) A resident must keep the room in a reasonably clean condition except to the extent that the rooming house operator is responsible under this Act for keeping the room in that condition.
- (2) At the end of an agreement in respect of a residency right, the resident must, as far as possible, leave the room—
 - (a) reasonably clean; and
 - (b) in the same condition as it was when the resident entered into occupation of the room, taking into account fair wear and tear to the room.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act.

**114A Resident must not interfere with
prescribed safety device**

A resident must not remove, deactivate or otherwise interfere with the operation of a prescribed safety device in any part of a rooming house unless it is reasonable in the circumstances to do so.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

100 Section 115 amended

- (1) **Insert** the following heading to section 115 of the Principal Act—
"Resident must not make modifications without consent".
- (2) In section 115 of the Principal Act, for "owner" **substitute** "operator".
- (3) At the end of section 115 of the Principal Act **insert**—
 - "(2) A rooming house operator must not unreasonably refuse consent to modifications made by a resident that are—
 - (a) reasonable alterations within the meaning of section 55 of the **Equal Opportunity Act 2010**; and
 - (b) assessed and determined to be required modifications by an accredited occupational therapist or a prescribed practitioner.

Note

Section 210AA provides that a person may apply to the Tribunal for an order for compensation if the person has suffered a loss as a result of discrimination by the rooming house operator or that person's agent in contravention of this section."

101 Resident must notify owner of and compensate for damage

- (1) **Insert** the following heading to section 116 of the Principal Act—
"Resident must notify rooming house operator of and compensate for damage".

- (2) In section 116(1) of the Principal Act, for "owner" (where twice occurring) **substitute** "operator".
- (3) In section 116(2) of the Principal Act—
 - (a) for "owner" (where twice occurring) **substitute** "operator";
 - (b) after "damage to" **insert** "a room or damage to".
- (4) At the foot of section 116 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

102 Sections 117, 118 and 119 amended

- (1) At the foot of section 117 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."
- (2) At the foot of section 118 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."
- (3) At the foot of section 119 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

103 New sections 120AA and 120AAB inserted

Before section 120 of the Principal Act **insert—**

"120AA Rooming house operator's liability for excessive usage caused by faults

- (1) Subject to subsection (2), if a resident has been charged for excessive usage of a service at the room the resident occupies that is caused by a fault in infrastructure or any fixtures or buildings at or connected to the premises, the rooming house operator is liable for that part of the excessive charge that is additional to an amount of ordinary usage by the resident.

Example

Excessive usage charges caused by a leak in the underground pipe of a water service connected to the rooming house.

- (2) A rooming house operator is not liable for excessive usage charges under subsection (1) unless—
- (a) the resident notified the rooming house operator, as soon as practicable, of—
- (i) the excessive usage charges; and
 - (ii) the fault that caused the excessive usage; and

- (b) the fault was not caused by any action or omission of the resident.
- (3) A rooming house operator must reimburse a resident for any reasonable costs incurred by the resident for diagnosis of a fault referred to in subsection (1) conducted by a suitably qualified person.
- (4) A rooming house operator is not responsible for any excess usage charges or other costs for a fault caused by any property that is the responsibility of a service provider.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act.

120AAB Application to Tribunal about excessive usage charges

- (1) A rooming house operator or a resident may apply to the Tribunal to determine the liability of the rooming house operator and the resident for excessive usage charges referred to in section 120AA.
- (2) In making a determination under subsection (1), the Tribunal is to have regard to the following—
 - (a) whether the resident had knowledge of the fault;
 - (b) whether the resident took reasonable steps to notify the rooming house operator, or that person's agent, of the fault;

- (c) whether the resident has been compensated by another person for any part of the excessive usage charges;
- (d) whether the rooming house operator has complied with this Act in respect of any urgent repairs;
- (e) any diagnosis made by a water authority or other suitably qualified person in respect of the fault;
- (f) any maintenance and repairs conducted by the rooming house operator;
- (g) any other matter the Tribunal considers appropriate."

104 Sections 120 and 121 amended

- (1) At the foot of section 120 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (2) At the foot of section 121 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

105 Sections 122 and 123 amended

- (1) At the foot of section 122 of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (2) At the foot of section 123 of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

106 Section 124 substituted

For section 124 of the Principal Act **substitute—**

"124 Provision and display of statement of rights and house rules

- (1) A rooming house operator must give the resident, not later than the day on which the resident agrees to take up occupation—
- (a) a written statement in a form approved by the Director setting out in summary form the resident's rights and duties under this Act; and
 - (b) a copy of the house rules.

Penalty: 25 penalty units.

- (2) A rooming house operator must display prominently in each resident's room—
- (a) a one page written statement in a form approved by the Director setting out in

summary form the resident's rights and
duties under this Act; and

(b) a copy of the house rules.

Penalty: 25 penalty units.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

107 Section 125 amended

(1) **Insert** the following heading to section 125 of the Principal Act—

"Rooming house operator to give additional information".

(2) In section 125(1) of the Principal Act—

(a) for "owner" (where twice occurring)
substitute "operator";

(b) in paragraph (a), for "owner's" **substitute**
"operator's".

(3) For the penalty at the foot of section 125(1) of the Principal Act **substitute**—

"Penalty: 150 penalty units."

(4) In section 125(2) of the Principal Act, for "owner" (where twice occurring) **substitute** "operator".

(5) For the penalty at the foot of section 125(2) of the Principal Act **substitute**—

"Penalty: 150 penalty units."

(6) In section 125(3) of the Principal Act, for "owner" **substitute** "operator".

(7) For the penalty at the foot of section 125(3) of the Principal Act **substitute**—

"Penalty: 150 penalty units."

(8) At the foot of section 125 of the Principal Act **insert**—

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

108 Duties relating to house rules

(1) In section 127(1) of the Principal Act, for "owner" **substitute** "operator".

(2) For the penalty at the foot of section 127(1) of the Principal Act **substitute**—

"Penalty: 25 penalty units."

(3) In section 127(2) of the Principal Act, for "owner" **substitute** "operator".

(4) At the foot of section 127 of the Principal Act **insert**—

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

109 Urgent repairs

(1) In section 129(1) of the Principal Act—

(a) in paragraph (a)—

(i) for "owner" **substitute** "operator";

(ii) for "owner's" **substitute** "operator's";

(b) in paragraph (b), for "owner" **substitute** "operator".

(2) In section 129(2) of the Principal Act—

(a) in paragraph (a), for "owner 14" **substitute** "operator 7";

(b) in paragraph (b)—

(i) for "owner" **substitute** "operator";

(ii) **omit** "or \$1000,";

(iii) for "less." **substitute** "less; and";

(c) after paragraph (b) **insert**—

"(c) the rooming house operator must reimburse the resident for the reasonable cost of repairs within 7 days after receiving written notice of—

(i) the repairs; and

(ii) the cost of the repairs."

(3) After section 129(3) of the Principal Act **insert**—

"(4) If urgent repairs are required to an appliance, fitting or fixture with a rating in a prescribed efficiency rating system, and the appliance, fitting or fixture cannot be repaired, the resident may replace it with an appliance, fitting or fixture with a rating that is of or above a rating in the efficiency rating system."

110 Application to Tribunal for urgent repairs

- (1) In section 130(1) of the Principal Act—
 - (a) for "owner" (wherever occurring) **substitute** "operator";
 - (b) for "owner's" **substitute** "operator's".
- (2) In section 130(1)(b) of the Principal Act, for "\$1000, or if a greater amount is prescribed for the purposes of this section, that prescribed amount," **substitute** "the prescribed amount".
- (3) After section 130(2) of the Principal Act **insert**—
 - "(3) Without limiting the matters to which the Tribunal may consider in determining an application under this section, the Tribunal must consider the Director's guidelines."

111 Application to Director to investigate need for non-urgent repairs

- (1) In section 131(1) of the Principal Act, for "owner" (where three times occurring) **substitute** "operator".
- (2) For section 131(2) of the Principal Act **substitute**—
 - "(2) An application under subsection (1) and a report under subsection (3)—
 - (a) must be in writing; and
 - (b) may be made or issued, as the case requires, by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**."
- (3) In section 131(3) of the Principal Act—
 - (a) in paragraph (a), for "must" **substitute** "may";

- (b) in paragraph (b), for "owner" **substitute** "operator";
- (c) for paragraph (c) **substitute**—
 - "(c) may issue a report that—
 - (i) states the duty to maintain the room or the rooming house in good repair has been breached; and
 - (ii) directs the rooming house operator to do any thing in order to comply with the duty to maintain the room or the rooming house in good repair."

112 Section 132 substituted

For section 132 of the Principal Act **substitute**—

"132 Application to Tribunal for non-urgent repairs

- (1) A resident may apply to the Tribunal for an order requiring the rooming house operator—
 - (a) to carry out specified non-urgent repairs if—
 - (i) the resident has given the rooming house operator written notice under section 131(1)(a); and
 - (ii) the rooming house operator has not carried out the repairs within 14 days after receiving the notice; or

- (b) to comply with a report issued by the Director under section 131.
- (2) A resident must not apply to the Tribunal under subsection (1)(b) before the Director has issued the report under section 131.
- (3) The Tribunal must hear an application under subsection (1) within 7 days after the application is made.
- (4) A resident must not apply to the Tribunal for a compliance order under section 212 for a breach of a duty that is the subject of an application under this section if that application has been determined by the Tribunal."

113 What can the Tribunal order?

- (1) For section 133(1) of the Principal Act **substitute—**

- "(1) If the Tribunal is satisfied that the rooming house operator is in breach of the duty to maintain the room or the rooming house in good repair, the Tribunal may make an order that requires—
 - (a) the rooming house operator to carry out specified repairs; and
 - (b) the use of a suitably qualified person to carry out the repairs; and
 - (c) compensation to be paid in accordance with section 212(2).
- (1A) Without limiting the matters to which the Tribunal may have regard in determining

an application under subsection (1), the Tribunal must have regard to the following—

- (a) whether the repairs are needed because of—
 - (i) an act or omission of the resident;
or
 - (ii) non-compliance by the resident with a provision of a fixed term rooming house agreement or an agreement under section 94(2) or a resident's duties under section 116;
- (b) whether the rooming house operator or that person's agent—
 - (i) was notified of the repairs; and
 - (ii) was given a reasonable opportunity to carry out the repairs;
- (c) whether the resident arranged for a suitably qualified person to carry out the repairs;
- (d) whether the rooming house operator was required to engage a suitably qualified person to verify the quality of the repairs;
- (e) whether the resident has provided documentary evidence of the repair, including any receipts or copies of receipts for repair costs."

- (2) In section 133(2) of the Principal Act, for "The order" **substitute** "If the Tribunal makes an order requiring the rooming house operator to carry out specified repairs, the order".
- (3) In section 133(3) of the Principal Act, for "owner" **substitute** "operator".

114 Payment of rent into Rent Special Account

- (1) In section 134(2) of the Principal Act—
 - (a) for "may" **substitute** "must";
 - (b) in paragraphs (a) and (b), for "owner" **substitute** "operator";
 - (c) in paragraph (b), for "repairs." **substitute** "repairs; and";
 - (d) after paragraph (b) **insert**—
 - "(c) the rooming house operator has not demonstrated that the operator—
 - (i) is experiencing financial hardship; or
 - (ii) would experience financial hardship if the rent was paid into the Rent Special Account."
- (2) In section 134(3) of the Principal Act—
 - (a) for "owner" (wherever occurring) **substitute** "operator";
 - (b) in paragraph (b), for "owner's" **substitute** "operator's".
- (3) After section 134(3) of the Principal Act **insert**—

- "(4) A resident may apply to the Tribunal to order that the whole or any part of the rent paid into the Rent Special Account be paid to the resident if—
- (a) the Tribunal has made an order under subsection (2) that rent be paid into the Rent Special Account; and
 - (b) the rooming house operator has not effected any required repairs at the room or rooming house by the end of the period stated in that order.
- (5) In determining whether a rooming house operator has demonstrated that the operator has experienced or would experience financial hardship for the purposes of subsection (2), the Tribunal may have regard to any of the following—
- (a) an eviction notice given to the rooming house operator;
 - (b) a disconnection notice in respect of a service or utility account held by the rooming house operator;
 - (c) a notice of legal proceedings issued against the rooming house operator;
 - (d) a letter from a non-profit organisation about the rooming house operator's loss of employment or financial hardship;
 - (e) a notice from a lender to the rooming house operator, including—
 - (i) an overdraft call; or

- (ii) a repossession notice in respect of a mortgaged property;
- (f) outstanding medical bills of the rooming house operator;
- (g) a letter from a doctor in respect of the impact of the rooming house operator's illness or carer's responsibility on the ability of the rooming house operator to earn an income;
- (h) a final notice from a school to the rooming house operator in respect of the payment of mandatory schooling fees;
- (i) funeral expenses payable by the rooming house operator;
- (j) a repossession notice served on the rooming house operator in respect of an essential item;
- (k) a hardship variation, or a written request to vary the terms of an existing loan held by the rooming house operator;
- (l) any other prescribed document."

115 Access to room

In section 136 of the Principal Act—

- (a) for "owner" **substitute** "operator";
- (b) for "owner's" **substitute** "operator's";
- (c) in paragraph (d)—
 - (i) for "section 137" **substitute** "section 137(a), (b), (c) or (d)";

(ii) for "139." **substitute** "139; or";

(d) after paragraph (d) **insert**—

"(e) for the purpose set out in section 137(e), at any time between 8 a.m. and 6 p.m. on any day (except a public holiday) if at least 48 hours notice has been given to the resident, or in the case of a shared room, each resident of the room, in accordance with section 139."

116 Resident has duty to permit entry

At the foot of section 140 of the Principal Act
insert—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

117 What if damage is caused during entry?

For section 141(1) of the Principal Act
substitute—

"(1) A resident of a rooming house may apply to the Tribunal for an order for compensation if, when the rooming house operator, or that person's agent, exercises a right of entry under section 136 any person causes damage to or loss of the resident's goods in the room."

118 Offence relating to entering room occupied by resident

- (1) In section 142A of the Principal Act—
 - (a) for "owner" **substitute** "operator";
 - (b) for "owner's" **substitute** "operator's".
- (2) For the penalty at the foot of section 142A of the Principal Act **substitute**—
"Penalty: 60 penalty units."

119 Standards for rooming houses etc.

- (1) In section 142B(1) of the Principal Act, for "owner" **substitute** "operator".
- (2) For the penalty at the foot of section 142B(1) of the Principal Act **substitute**—
"Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate."
- (3) In section 142B(2) of the Principal Act, for "owner" **substitute** "operator".
- (4) For the penalty at the foot of section 142B(2) of the Principal Act **substitute**—
"Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate."
- (5) In section 142B(3) of the Principal Act, for "owner" **substitute** "operator".

- (6) For the penalty at the foot of section 142B(3) of the Principal Act **substitute**—

"Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate."

120 Records of gas and electrical safety checks

- (1) In section 142BA of the Principal Act, for "owner" **substitute** "operator".
- (2) For the penalty at the foot of section 142BA of the Principal Act **substitute**—

"Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate."

121 Unregistered rooming house

- (1) In section 142D of the Principal Act—
- (a) for "house owner, or that owner's agent" **substitute** "house operator, or that operator's agent";
- (b) after "believe that" **insert** ", or in all the circumstances ought to know that,".
- (2) For the penalty at the foot of section 142D of the Principal Act **substitute**—
- "Penalty: 60 penalty units."

122 Information to be included in Rooming House Register

- (1) In section 142F(1)(f) of the Principal Act, for "owner" **substitute** "operator".
- (2) In section 142F(4) of the Principal Act, for "owner" **substitute** "operator".

123 Inspection of Rooming House Register

In section 142J(3)(a) of the Principal Act, for "142K;" **substitute** "142K or 142KA;".

124 New section 142KA inserted

After section 142K of the Principal Act **insert—**

"142KA Restriction on access to address of rooming house

- (1) An applicant for the issue, renewal or transfer of a registration of a rooming house under section 71 of the **Public Health and Wellbeing Act 2008** or the proprietor of a registered rooming house may apply to the Director to restrict public access to information under this Division concerning the address of the rooming house.
- (2) On an application under subsection (1), the Director may restrict public access to some or all of that information if the Director is satisfied that exceptional circumstances exist justifying the restriction of public access to that information.
- (3) The Director may restrict public access under subsection (2) for the period, and on the conditions, that the Director thinks fit.

- (4) In making a decision under this section, the Director must have regard to the purpose for which the Rooming House Register was established.
- (5) If the Director is satisfied that it is in the public interest that information restricted under this section be released to a person who applies for the release of that information, the Director may release some or all of the information to that person on any conditions that the Director thinks fit.
- (6) If the Director decides to release restricted information under subsection (5), the Director must give written notice of that decision to the applicant.
- (7) The Director must not release information restricted under this section without the consent of the applicant unless—
 - (a) at least 28 days have passed since the Director gave written notice under subsection (6) of the decision to release the information; and
 - (b) either—
 - (i) the applicant has not applied to the Tribunal for a review of the decision; or
 - (ii) the Tribunal has upheld the Director's decision to release the restricted information."

Part 5—Amendments relating to caravan parks and movable dwellings

125 Agreements

- (1) After section 144(1) of the Principal Act **insert**—

"Note

Section 145E requires a caravan park owner to disclose certain information about the land on which the caravan park is situated to the resident before an agreement under this subsection is entered into."

- (2) After section 144(4) of the Principal Act **insert**—

"(4A) A term of an agreement under this section is also invalid if it is a prohibited term or a term that this Act provides must not be included in an agreement under this section."

- (3) After section 144(5) of the Principal Act **insert**—

"(6) A term of an agreement that purports that a person is to occupy a site in a caravan park for holidaying or non-residential purposes is prima facie evidence that the agreement is in respect of occupation of the caravan site for holidaying or non-residential purposes."

- (4) **Insert** the following note at the foot of section 144 of the Principal Act—

"Note

The Tribunal may declare under sections 144A and 472 that a term of an agreement under this section is invalid."

126 New sections 144AA and 144AB inserted

After section 144 of the Principal Act **insert—**

"144AA Prohibited terms—general

- (1) An agreement under section 144 must not include any of the following terms—
 - (a) a term that requires the resident to take out any form of insurance;
 - (b) a term that exempts the caravan park owner from liability for an act of—
 - (i) the caravan park owner or that person's agent; or
 - (ii) a person acting on behalf of the caravan park owner or that person's agent;
 - (c) a term that provides that if the resident contravenes the agreement, the resident is liable to pay—
 - (i) all or part of the remaining rent under the agreement; or
 - (ii) increased rent; or
 - (iii) a penalty; or
 - (iv) liquidated damages;
 - (d) a term that provides that if the resident does not contravene the agreement—
 - (i) the rent is reduced; or
 - (ii) the rent may be reduced; or

- (iii) the resident is to be paid a rebate or other benefit; or
 - (iv) the resident may be paid a rebate or other benefit;
 - (e) any other prescribed prohibited term.
- (2) A term in an agreement under section 144 must not include a term that requires a party to the agreement to bear any fees, costs or charges incurred by the other party in connection with the preparation of the agreement.

Note

Section 144 provides that terms which must not be included in an agreement are invalid.

144AB Prohibited terms—professional cleaning

- (1) Subject to this section, an agreement under section 144 must not include—
- (a) a term that requires all or part of the caravan to be professionally cleaned at the end of the agreement; or
 - (b) a term that requires the resident to pay the cost of having all or part of the caravan in the caravan park professionally cleaned at the end of the agreement.
- (2) An agreement under section 144 may include a term that requires the caravan to be professionally cleaned if professional cleaning is required to restore the caravan to the condition it was in immediately before the start of the agreement, taking into account fair wear and tear.

- (3) An agreement under section 144 may include a term that requires the resident to pay the cost of having all or part of the caravan professionally cleaned if professional cleaning is required to restore the caravan to the condition it was in immediately before the start of the agreement, taking into account fair wear and tear."

127 New section 144B inserted

After section 144A of the Principal Act **insert**—

"144B Application to Tribunal to order preparation of agreement

- (1) A resident may apply to the Tribunal for an order requiring a caravan park owner or a caravan owner (as the case requires) to prepare and enter into a written agreement under section 144.
- (2) The Tribunal may make an order requiring a caravan park owner to prepare and enter into a written agreement under section 144(1) if the Tribunal is satisfied that—
 - (a) the resident and the caravan park owner or caravan owner (as the case requires) are subject to an existing agreement that is not in writing or that is only partly in writing; and
 - (b) the resident is continuing in occupation of a caravan or site in the caravan park after a previous fixed term agreement has ended.
- (3) The order may specify—

- (a) the terms of the agreement; and
- (b) a commencement date for the agreement which may be a date that is before the date the order was made."

128 Caravan park owner to notify prospective resident of rights

For the penalty at the foot of section 145 of the Principal Act **substitute—**

"Penalty: 25 penalty units."

129 New Divisions 1A and 1B inserted in Part 4

After Division 1 of Part 4 of the Principal Act **insert—**

"Division 1A—Discrimination in relation to residency rights

145A Section 144(1) or (2) agreement application forms must include prescribed information

A caravan park owner or caravan owner or that person's agent must not provide a person with an application form to apply for an agreement under section 144(1) or (2) unless the application form includes a statement that contains the prescribed information.

145B Caravan park owner or caravan owner must not unlawfully discriminate against another person by refusing to grant agreement under section 144(1) or (2)

- (1) A caravan park owner or caravan owner must not contravene section 52 of the **Equal Opportunity Act 2010** by refusing a person to enter an agreement under section 144(1) or (2) on the basis of an attribute set out in section 6 of that Act.
- (2) A caravan park owner or caravan owner must not instruct or permit that person's agent to refuse a person to enter an agreement under section 144(1) or (2) on the basis of an attribute set out in section 6 of the **Equal Opportunity Act 2010**.

Note

Section 210AA provides that a person may apply to the Tribunal for an order for compensation if the person has suffered a loss as a result of discrimination by the caravan park owner or caravan owner or that person's agent in contravention of this Division.

**Division 1B—Disclosures and
representations prior to granting
residency rights**

**145C Restriction on use of personal information
provided by prospective residents**

A caravan park owner or caravan owner or that person's agent must not use personal information disclosed by a person on an application form to apply for an agreement under section 144(1) or (2) unless the use is for—

- (a) the purposes of assessing the person's suitability as a resident; or
- (b) another purpose required by the Act.

145D Caravan park owner or caravan owner must not request prescribed information from applicants

A caravan park owner or caravan owner or that person's agent must not request a person who applies for an agreement under section 144(1) or (2) to disclose the prescribed information.

145E Information that caravan park owners or caravan owners must disclose before agreement under section 144(1) or (2) commences

- (1) Before a resident enters into an agreement under section 144(1), a caravan park owner must disclose the following information to the resident—
 - (a) if the caravan park owner has engaged an agent to sell the caravan park or prepared a contract of sale, that there is a proposal to sell the caravan park;
 - (b) if the caravan park owner is not the freehold owner of the land on which the caravan park is situated—
 - (i) the nature of the caravan park owner's interest in the land; and
 - (ii) any limitations on the caravan park owner's ability to grant interests in the land to the resident;
 - (c) if the caravan park owner is the owner of the land on which the caravan

park is situated and a mortgagee has commenced a proceeding to enforce a mortgage over the land, that a mortgagee is taking action for possession of the land;

- (d) if the site is separately metered for supply of electricity and the caravan park is supplied with electricity from an embedded electricity network, the details of the embedded electricity network;
 - (e) any other prescribed information.
- (2) Before a resident enters into an agreement under section 144(2), a caravan owner must disclose the following information to the resident—
- (a) if the caravan owner has engaged an agent to sell the caravan or prepared a contract of sale, that there is a proposal to sell the caravan;
 - (b) if a mortgagee has commenced a proceeding to enforce a mortgage over the caravan, that a mortgagee is taking action for possession of the caravan;
 - (c) any other prescribed information.
- (3) Disclosure under this section must be in a form approved by the Director.

145F Offence to enter into certain agreements about caravan park land

- (1) Subject to subsection (2), a caravan park owner whose interest in the land on which the caravan park is situated is granted under

a lease must not enter into an agreement with a resident under section 144(1) that is for a period of occupancy which exceeds the date on which the term of the lease expires.

Penalty: 60 penalty units.

- (2) For the purpose of subsection (1), an option to extend or renew the lease held by the caravan park owner is not to be taken into account in determining the end date on which the term of the lease expires.

Note

A caravan park resident may apply to the Tribunal under section 452(3AC) in respect of a breach to disclose information required under this section."

130 Payment of bond

For the penalty at the foot of section 146(3) of the Principal Act **substitute**—

"Penalty: 60 penalty units."

131 What is the maximum bond?

- (1) In section 147 of the Principal Act, for "a period of 28 days" **substitute** "one month".
- (2) For the penalty at the foot of section 147 of the Principal Act **substitute**—

"Penalty: 60 penalty units."

132 Condition report

- (1) For section 148(1) of the Principal Act **substitute**—

"(1) Before a resident enters into occupation of the site or the caravan, a caravan park owner or a caravan owner must give the resident

2 copies of a condition report signed by or on behalf of the caravan park owner or caravan owner specifying the state of repair and general condition of the site, including any fixtures or connections to the site, or the caravan (as the case requires), on the day specified in the report.

Penalty: 25 penalty units.

- (1A) For the purposes of subsection (1), a caravan park owner or a caravan owner, as the case requires, is deemed to give 2 copies of a condition report to the resident if the caravan park owner or the caravan owner gives the resident an electronic copy of the condition report.
- (1B) A condition report must be in the prescribed form."
- (2) In section 148(2) of the Principal Act for "3" **substitute "5"**.
- (3) After section 148(2) of the Principal Act **insert—**
"(3) A resident who is not given a condition report within the period referred to in subsection (1) may complete a condition report and give it to the caravan park owner or the caravan owner (or the agent of either of those persons), during the period between inspecting the site or the caravan and 5 business days after entering into occupation of the site or the caravan.
- (4) A copy of the condition report that is completed under subsection (1) or (3) is to be retained by the caravan park owner or the

caravan owner (as the case requires) and the resident.

- (5) Within 10 days after the end of an agreement under section 144, the caravan park owner, or the caravan owner, or that person's agent (as the case requires), must complete the copy of the condition report retained by the caravan park owner, or the caravan owner, or the resident under this section—
- (a) in the presence of the other party; or
 - (b) in the absence of the other party, if the party has given the absent other party a reasonable opportunity to be present when the condition report is completed.

Note

Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**."

133 New section 148A inserted

After section 148 of the Principal Act **insert**—

"148A Caravan park owner, caravan owner or caravan park resident may apply to Tribunal to amend inaccurate or incomplete condition report

- (1) Within 30 days after an agreement in respect of a residency right under this Part has commenced, the caravan park owner, caravan owner or caravan park resident may apply to the Tribunal to amend a statement in a condition report on the basis that the statement is inaccurate or incomplete.

- (2) On an application under subsection (1), the Tribunal may order—
 - (a) that the condition report is to be amended in the manner specified in the order; or
 - (b) that the condition report is not required to be amended in the manner specified in the order.
- (3) This section does not limit the operation of sections 18, 29, 30, 151 and 152 of the Australian Consumer Law (Victoria)."

134 Condition report is evidence of state of repair

- (1) After section 149(1) of the Principal Act **insert**—
 - "(1A) A condition report that is given to a caravan park owner or a caravan owner is taken to be notice given to the caravan park owner or a caravan owner of any defects or outstanding repairs stated in the report."
- (2) For section 149(2)(b) of the Principal Act **substitute**—
 - "(b) any statement in the report about which the resident records a written comment disagreeing with the statement on the copy of the report completed by the caravan park owner, or the caravan owner (as the case requires); or
 - (c) a statement on the condition report with which the caravan park owner, or the caravan owner (as the case requires) has disagreed in writing, if the report was completed by the resident before or after it

was completed by the caravan park owner or the caravan owner."

135 Limit on rent or hiring charge in advance

For the penalty at the foot of section 150(1) and (2) of the Principal Act **substitute—**

"Penalty: 60 penalty units."

136 New section 150A inserted

After section 150 of the Principal Act **insert—**

"150A Payment of rent or hiring charge

- (1) A caravan park owner or a caravan owner, or that person's agent, must not require a resident to pay a hiring charge or rent by a cheque or other negotiable instrument that is post-dated.

Penalty: 60 penalty units.

- (2) A caravan park owner or a caravan owner, or that person's agent, must ensure that a hiring charge or rent payment method that incurs no additional costs (other than bank fees or account fees payable on the resident's bank account) is reasonably available to the resident.

Penalty: 60 penalty units.

- (3) A caravan park owner or a caravan owner, or that person's agent, must permit the resident to pay the hiring charge or rent by the following payment methods—
 - (a) the bill paying service known as Centrepay administered by the

Department of Human Services
of the Commonwealth;

- (b) any prescribed payment method.
- (4) Without limiting subsection (3), the caravan park owner or the caravan owner (as the case requires) and the resident, by agreement, may change the manner in which the hiring charge or rent is payable under the agreement made under section 144.
- (5) The caravan park owner or the caravan owner or that person's agent (as the case requires), must give the resident information about any costs (including third party transaction fees, direct debit dishonour fees and any other electronic payment facility fees) that the resident may incur by using a particular payment method before the resident consents to use the payment method."

137 Receipts for rent or hiring charge

For the penalty at the foot of section 151(1), (2) and (2A) of the Principal Act **substitute**—

"Penalty: 25 penalty units."

138 How much notice is required of rent or hiring charge increase?

In section 152(5A) and (5B) of the Principal Act, for "6" **substitute** "12".

139 Resident's goods not to be taken for rent or hiring charge

For the penalty at the foot of section 160 of the Principal Act **substitute**—

"Penalty: 60 penalty units."

140 Section 161 substituted

For section 161 of the Principal Act **substitute—**

"161 Supply of key

- (1) A caravan park owner must not charge an initial fee for the supply of a key or device, or for both if necessary, that enable a resident to gain vehicular access to the park.
- (2) A caravan park owner may charge a reasonable fee for the supply of an additional or a replacement key or device requested by the resident.
- (3) On termination of the residency right, a resident must return all keys and devices provided by the caravan park owner to the caravan park owner."

141 Resident's liability for electricity, gas and water charges

After section 162(2) of the Principal Act **insert—**

- "(3) A resident is liable for all charges in respect of installation and connection of services from a supply point on the site occupied by the resident to the resident's caravan."

142 Caravan park owner's liability for electricity, gas and water charges

- (1) After section 163(a) of the Principal Act **insert**—
 "(ab) all rates, taxes or charges payable under any Act other than charges payable by the resident under this Division;"
- (2) In section 163(d) of the Principal Act, for "services." **substitute** "services;"
- (3) After section 163(d) of the Principal Act **insert**—
 "(e) any prescribed fees and charges."

143 Owner's responsibility for charges for supply to non-complying appliances

In section 164(1) of the Principal Act, for "water efficient appliances" **substitute** "an appliance, fitting or fixture with a rating that is of or above a rating in an efficiency rating system".

144 Owner must not seek overpayment for utility charges

- (1) For the penalty at the foot of section 166(1) of the Principal Act **substitute**—
 "Penalty: 60 penalty units."
- (2) For section 166(2) of the Principal Act **substitute**—
 "(2) If the relevant supplier of the utility has issued an account to the caravan park owner, any amount to be recovered from the resident for the account must be adjusted by deducting any concession or rebate to which the resident is entitled."

145 Sections 167, 169 and 170 amended

- (1) At the foot of section 167 of the Principal Act
insert—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (2) At the foot of section 169 of the Principal Act
insert—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (3) At the foot of section 170 of the Principal Act
insert—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

**146 Section 171 substituted and new sections 171A
and 171B inserted**

For section 171 of the Principal Act **substitute—**

**"171 Resident must keep and leave site
reasonably clean**

- (1) A resident must keep the site in a reasonably clean condition except to the extent that the caravan park owner is responsible under this Act for keeping the site in that condition.
- (2) A resident must maintain the site and caravan in a manner and condition that do not detract from the general standard of the caravan park as set by the caravan park owner from time to time.

- (3) At the end of the residency, the resident must leave the site, as far as practicable—
 - (a) reasonably clean and tidy; and
 - (b) in the same condition as when the resident entered into possession of the site, taking into account fair wear and tear to the site during the residency.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act.

171A Resident must keep caravan in good repair

- (1) A resident who owns a caravan situated on the site occupied by the resident must keep the caravan in a condition, taking into account fair wear and tear, that—
 - (a) is in good repair; and
 - (b) does not pose a significant health risk; and
 - (c) is safe to occupy.
- (2) At the end of a residency, the resident must, as far as practicable, leave the caravan in the same condition as it was when the resident entered into occupation of the caravan, taking into account fair wear and tear.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act.

171B Resident must not make site or caravan modifications without consent

- (1) A resident must not, without the caravan park owner's written consent—
 - (a) install any fixtures on the site or in the caravan park; or
 - (b) erect any structure on the site or in the caravan park; or
 - (c) make any alteration, renovation or addition to the site or caravan park.
- (2) If a resident is not the owner of a caravan, the resident must not, without the caravan owner's prior written consent—
 - (a) install any fixtures to the caravan; or
 - (b) make any alteration, renovation or addition to the caravan.
- (3) A caravan park owner or a caravan owner, as the case requires, must not unreasonably refuse consent to modifications made by a resident that are—
 - (a) reasonable alterations within the meaning of section 55 of the **Equal Opportunity Act 2010**; and
 - (b) assessed and determined to be required modifications by an accredited occupational therapist or a prescribed practitioner.

Note

Section 210AA provides that a person may apply to the Tribunal for an order for compensation if the person has suffered a loss as a result of discrimination by the caravan park owner or caravan owner or that person's agent in contravention of this section."

147 Section 172 repealed

Section 172 of the Principal Act is **repealed**.

148 Resident must notify owner of and compensate for damage

- (1) In section 173(1) of the Principal Act, after "caused to" **insert** "a site,".
- (2) In section 173(2) of the Principal Act, after "damage to" **insert** "a site or damage to".
- (3) At the foot of section 173 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

149 Sections 174, 175, 176, 177 and 178 amended

- (1) At the foot of section 174 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (2) At the foot of section 175 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (3) At the foot of section 176 of the Principal Act
insert—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (4) At the foot of section 177 of the Principal Act
insert—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (5) At the foot of section 178 of the Principal Act
insert—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

150 New section 178A inserted

After section 178 of the Principal Act **insert—**

"178A Caravan park owner must maintain rented site in good repair

A caravan park owner must provide and maintain in good repair any site rented to a resident, including any structures or

fixtures owned by the caravan park owner,
other than the caravan occupied by the
resident.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

151 Duty of caravan park owner to maintain communal areas

(1) After section 179(1) of the Principal Act **insert**—

"(1A) If a resident has reported to the caravan park owner damage or breakdown of communal facilities at the caravan park under section 173(2), the caravan park owner must ensure that the damage or breakdown is repaired as soon as practicable."

(2) At the foot of section 179 of the Principal Act **insert**—

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

152 Maintenance and repair of caravans

At the foot of section 180 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

153 New sections 180A and 180B inserted

After section 180 of the Principal Act **insert**—

"180A Caravan park owner's and caravan owner's liability for excessive usage caused by faults

- (1) Subject to subsection (2), if a resident has been charged for excessive usage of a service at the site the resident occupies that is caused by a fault in infrastructure or any fixtures or buildings at or connected to the site or the caravan park, including the caravan, the caravan park owner or the caravan owner, as the case requires, is liable for that part of the excessive charge that is additional to an amount of ordinary usage by the resident.

Example

Excessive usage charges caused by a leak in the underground pipe of a water service connected to a site in a caravan park.

- (2) A caravan park owner or a caravan owner, as the case requires, is not liable for excessive usage charges unless—
 - (a) the resident notified the caravan park owner or the caravan owner, as soon as practicable, of—
 - (i) the excessive usage charges; and

- (ii) the fault that caused the excessive usage; and
 - (b) the fault was not caused by any action or omission of the resident.
- (3) A caravan park owner is not liable for excessive usage charges if the excessive usage charges were caused by a fault with the caravan occupied by the resident which is not owned by the caravan park owner.
- (4) A caravan park owner or caravan owner, as the case requires, must reimburse a resident for any reasonable costs incurred by the resident for the diagnosis of a fault referred to in subsection (1) by a suitably qualified person.
- (5) A caravan park owner or a caravan owner is not responsible for any excess usage charges or other costs for a fault caused by any property that is the responsibility of a service provider.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act.

180B Application to Tribunal about excessive usage charges

- (1) A caravan park owner, a caravan owner or a resident may apply to the Tribunal to determine the liability of the caravan park owner, the caravan owner and the resident for excessive usage charges referred to in section 180A.

- (2) In making a determination under subsection (1), the Tribunal is to have regard to the following—
- (a) whether the resident had knowledge of the fault;
 - (b) whether the resident took reasonable steps to notify the caravan park owner, the caravan owner, or that person's agent, of the fault;
 - (c) whether the resident has already been compensated by another person for any part of the excessive usage charges;
 - (d) whether the caravan park owner or the caravan owner has complied with this Act in respect of any urgent repairs;
 - (e) any diagnosis made by a water authority or other suitably qualified person in respect of the fault;
 - (f) any maintenance and repairs conducted by the caravan park owner or the caravan owner;
 - (g) any other matter the Tribunal considers appropriate.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

154 Section 181 amended

- (1) In the heading to section 181 of the Principal Act, for "**water efficient appliances**" substitute "**appliances with an efficiency rating system**".

(2) In section 181 of the Principal Act, for "prescribed level of rating in a prescribed rating system" **substitute** "rating that is of or above a rating in an efficiency rating system".

(3) At the foot of section 181 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

155 Statement of rights and copy of park rules

(1) For the penalty at the foot of section 182 of the Principal Act **substitute**—

"Penalty: 60 penalty units."

(2) At the foot of section 182 of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

156 Statement of scale of certain charges, fees and commissions

(1) For the penalty at the foot of section 183(1) of the Principal Act **substitute**—

"Penalty: 60 penalty units."

(2) For the penalty at the foot of section 183(2) of the Principal Act **substitute**—

"Penalty: 25 penalty units."

- (3) At the foot of section 183 of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

157 Owner to give additional information

- (1) For the penalty at the foot of section 184(1), (2) and (3) of the Principal Act **substitute—**

"Penalty: 25 penalty units."

- (2) At the foot of section 184 of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

158 Caravan park rules

- (1) In section 185(1) of the Principal Act, for "A caravan" **substitute** "Subject to subsection (3)".
- (2) After section 185(2) of the Principal Act **insert—**

"(3) A caravan park owner must not make a caravan park rule that requires a resident to undertake an upgrade or improvement work in relation to a caravan unless the upgrade or work is required to keep the caravan in a reasonable state of cleanliness, safety and good repair.

- (4) A caravan park owner must—
- (a) provide a copy of the caravan park rules to a resident before the residency commences; and
 - (b) take all reasonable steps to ensure that the caravan park rules are observed by all residents; and
 - (c) ensure that the caravan park rules—
 - (i) are reasonable; and
 - (ii) are enforced and interpreted consistently and fairly.
- (5) Rules made in contravention of this section are invalid.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

159 Duties relating to caravan park rules

- (1) For the penalty at the foot of section 186(1) of the Principal Act **substitute**—
"Penalty: 25 penalty units."
- (2) After section 186(1) of the Principal Act **insert**—
- "(3) A caravan park owner must consult with the residents in the caravan park about a proposed change to the caravan park rules.
Penalty: 60 penalty units.
- (4) A caravan park owner is taken to have consulted with the residents in accordance with this section if the owner has—

- (a) provided details of the proposed amendment to the caravan park rules in writing to the residents; and
 - (b) allowed at least 14 days for the residents to respond in writing; and
 - (c) considered and responded in writing to any written responses received from the residents."
- (3) At the foot of section 186 of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

160 Urgent repairs to caravans

- (1) In section 188(2) of the Principal Act—
- (a) in paragraph (a), for "14" **substitute** "7";
 - (b) in paragraph (b)—
 - (i) **omit** "or \$1000";
 - (ii) for "less." **substitute** "less;"
 - (c) after paragraph (b) **insert—**

"(c) the caravan park owner or the caravan owner (as the case requires) must reimburse the resident within 7 days after receiving written notice of—

 - (i) the repairs; and
 - (ii) the cost of the repairs."

(2) For section 188(3) of the Principal Act
substitute—

"(3) If urgent repairs are required to an appliance, fitting or fixture with a rating that is of or above a rating in a prescribed efficiency rating system, and the appliance, fitting or fixture cannot be repaired, the resident may replace it with an appliance, fitting or fixture with a rating that is of or above a rating in the efficiency rating system."

161 New section 188A inserted

After section 188 of the Principal Act **insert—**

"188A Urgent site repairs

- (1) A resident may cause urgent site repairs to be carried out if—
- (a) the resident has taken reasonable steps to arrange for the caravan park owner, or that person's agent, to immediately carry out the urgent site repairs; and
 - (b) the caravan park owner, or that person's agent, did not carry out those repairs.
- (2) If the resident carries out repairs under subsection (1)—
- (a) the resident must give the caravan park owner or the caravan owner 7 days written notice of—
 - (i) the repairs carried out; and
 - (ii) the cost of the repairs; and
 - (b) the caravan park owner or that person's agent is liable to reimburse the resident

for the reasonable cost of the repairs, or a prescribed greater amount (which includes any amount in respect of any GST payable on the supply to which the urgent site repairs relate), whichever is less.

- (3) If urgent site repairs are required to an item that uses or supplies water, electricity or gas and that item does not have a rating that is of or above a rating in an efficiency rating system, and that item cannot be repaired, the resident may replace it with an item that has a rating that is of or above a rating in an efficiency rating system.
- (4) This section does not apply—
 - (a) to equipment or appliances supplied by the resident; or
 - (b) if there is no immediate danger to health and safety and the resident is able to use facilities in the communal areas of the caravan park."

162 Application to Tribunal for urgent repairs

- (1) **Insert** the following heading to section 189 of the Principal Act—
"Application to the Tribunal for urgent caravan repairs".
- (2) In section 189(1)(b) of the Principal Act, for "\$1000, or if a greater amount is prescribed for

the purposes of this section, that prescribed amount," **substitute** "the prescribed amount".

(3) After section 189(2) of the Principal Act **insert**—

"(3) Without limiting the matters to which the Tribunal may consider, the Tribunal must consider the Director's guidelines in determining an application under this section."

163 New section 189A inserted

After section 189 of the Principal Act **insert**—

"189A Application to Tribunal for urgent site repairs

- (1) A resident may apply to the Tribunal for an order requiring the caravan park owner, or that person's agent, to carry out specified urgent site repairs if—
 - (a) the resident cannot pay the cost of the repairs; or
 - (b) the repairs cost more than a prescribed amount (which includes any amount in respect of any GST payable on the supply to which the urgent repairs relate); or
 - (c) the caravan park owner has refused to pay the cost of the urgent site repairs.
- (2) The Tribunal must hear an application under subsection (1) within 2 business days after the application is made.
- (3) Without limiting the matters to which the Tribunal may consider, the Tribunal must consider the Director's guidelines

in determining an application under this section."

164 Application to Director to investigate need for non-urgent repairs

(1) **Insert** the following heading to section 190 of the Principal Act—

"Application to Director to investigate need for non-urgent caravan repairs".

(2) In section 190(3) of the Principal Act—

(a) in paragraph (a), for "must" **substitute** "may";

(b) for paragraph (c) **substitute**—

"(c) may issue a report that—

(i) certifies that the caravan park owner or the caravan owner is in breach of the duty to maintain the caravan in good repair; and

(ii) directs the caravan park owner or the caravan owner to do anything necessary to comply with the duty, including specifying a reasonable time for the completion of repairs, if any."

(3) After section 190(3) of the Principal Act **insert**—

"(4) If the Director has issued a report stating that the caravan park owner or the caravan owner is in breach of the duty to maintain the caravan in good repair, the resident may apply in writing to a court or the Tribunal for an order directing the caravan owner

to comply with any requirements of the Director in the report.

- (5) On an application under section 190(4), a court or the Tribunal—
- (a) may order the caravan owner to comply with the requirements of the Director in the report the subject of the application, including requiring the caravan owner to cause any repairs to be completed within the specified time; and
 - (b) may make any other orders the court or Tribunal thinks fit.

Note

Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**."

165 New section 190A inserted

After section 190 of the Principal Act **insert—**

"190A Application to Director to investigate need for non-urgent site repairs

- (1) A resident may apply to the Director to investigate whether the caravan park owner is in breach of a duty to ensure the site which the resident occupies, or a structure or a fixture owned by the caravan park owner on the site, is maintained in good repair if—
- (a) the resident has given notice to the caravan park owner that site repairs (other than urgent site repairs) are required—

- (i) to the site which the resident occupies; or
 - (ii) any structure or a fixture owned by the caravan park owner on the site; and
- (b) the caravan park owner has not carried out the site repairs within 14 days after being given the notice.
- (2) An application under subsection (1) must be in writing.
- (3) On an application under subsection (1), the Director—
 - (a) may investigate; and
 - (b) may negotiate arrangements for the carrying out of site repairs if the Director is satisfied that the caravan park owner is in breach of the duty to maintain in good repair the site, or a structure or a fixture in the caravan park owned by the caravan park owner; and
 - (c) may give a written report to the resident."

166 Application to Tribunal for non-urgent repairs

- (1) For section 191(1)(a) and (b) of the Principal Act **substitute**—
 - "(a) the resident has given written notice to the caravan owner that non-urgent repairs are required to the caravan; and

(b) the caravan owner has not caused the repairs to be carried out within 14 days after being given notice referred to in paragraph (a)."

(2) For section 191(2) of the Principal Act **substitute—**

"(2) An application under subsection (1) must be heard by the Tribunal within 7 days after the application is made."

(3) Section 191(4) of the Principal Act is **repealed**.

167 New section 191A inserted

After section 191 of the Principal Act **insert—**

"191A Application to Tribunal for non-urgent site repairs

- (1) A resident may apply to the Tribunal for an order requiring the caravan park owner to carry out specified site repairs if—
- (a) the resident has given written notice to the caravan park owner that non-urgent repairs are required to the site; and
 - (b) the caravan park owner has not caused the repairs to be carried out within 14 days after being given notice referred to in paragraph (a).
- (2) An application under subsection (1) must be heard by the Tribunal within 7 days after the application is made."

168 What can the Tribunal order?

(1) After section 192(1) of the Principal Act **insert—**

- "(1A) The Tribunal may make an order requiring the caravan park owner to carry out specified site repairs if it is satisfied that the caravan park owner is in breach of the duty to maintain in good repair the site, or a structure or fixture on the site owned by the caravan park owner.
- (1B) The Tribunal may make an order requiring repairs to be carried out by a suitably qualified person.
- (1C) The Tribunal may make an order requiring the payment of compensation.
- (1D) Without limiting the matters to which the Tribunal may have regard in determining an application under section 189, 189A, 191 or 191A, the Tribunal must have regard to the following—
- (a) whether the repair is required because of—
 - (i) an act or omission by the resident; or
 - (ii) non-compliance by the resident with the agreement in respect of the residency right or the resident's duties under section 173;
 - (b) whether the caravan owner or caravan park owner (as the case requires) or that person's agent received notice of the fault requiring repair;
 - (c) if the caravan owner or caravan park owner or that person's agent received

notice of the fault requiring repair,
whether the caravan owner or caravan
park owner was given a reasonable
opportunity by the resident to make
the repair;

(d) whether the resident arranged for a
suitably qualified person to carry out
any repairs;

(e) whether the caravan owner or caravan
park owner is required to arrange for a
suitably qualified person to verify the
quality of any repair;

(f) whether the resident has provided
documentary evidence to the Tribunal
of repairs, including the cost of
repairs."

(2) In section 192(2) of the Principal Act, for
"The order" **substitute** "An order made under
subsection (1) or (1A)".

169 Payment of hiring charge into Rent Special Account

(1) **Insert** the following heading to section 193 of
the Principal Act—

**"Payment of rent or hiring charge into Rent
Special Account".**

(2) After section 193(1) of the Principal Act **insert**—

"(1A) If a resident has given notice under
section 190A requiring repairs to be
carried out to a site the resident may
apply to the Tribunal for an order

authorising the payment of the rent into the Rent Special Account."

- (3) In section 193(2) of the Principal Act—
- (a) for "The Tribunal may" **substitute** "The Tribunal must";
 - (b) after paragraph (a) **insert**—
 - "(ab) the caravan park owner or caravan owner has not demonstrated that the caravan park owner or caravan owner, as the case requires—
 - (i) is experiencing financial hardship;
or
 - (ii) would experience financial hardship if the rent or hiring charge was paid into the Rent Special Account; and";
 - (c) after "hiring charge" **insert** "or rent".
- (4) After section 193(2) of the Principal Act **insert**—
- "(2A) In determining whether a caravan park owner or a caravan owner has demonstrated that the owner has experienced or would experience financial hardship for the purposes of subsection (2), the Tribunal may have regard to any of the following—
- (a) an eviction notice given to the owner;
 - (b) a disconnection notice in respect of a service or utility account held by the owner;
 - (c) a notice of legal proceedings issued against the owner;

- (d) a letter from a non-profit organisation about the owner's loss of employment or financial hardship;
 - (e) a notice from a lender to the owner, including—
 - (i) an overdraft call; or
 - (ii) a repossession notice in respect of a mortgaged property;
 - (f) outstanding medical bills of the owner;
 - (g) a letter from a doctor in respect of the impact of the owner's illness or carer's responsibility on the ability of the owner to earn an income;
 - (h) a final notice from a school to the owner in respect of the payment of mandatory schooling fees;
 - (i) funeral expenses payable by the owner;
 - (j) a repossession notice served on the owner in respect of an essential item;
 - (k) a hardship variation, or a written request to vary the terms of an existing loan held by the owner;
 - (l) any other prescribed document."
- (5) In section 193(3)(a) of the Principal Act, after "hiring charge" **insert** "or rent".
- (6) For section 193(3)(b) of the Principal Act **substitute**—
- "(b) on an application by the caravan park owner or the caravan owner, the Tribunal may order that the whole, or such part of the hiring

charge or rent as it may determine, be paid to the caravan park owner or caravan owner (as the case requires) before the end of the period—

- (i) on the agreement of both of the parties; or
- (ii) if the Tribunal is satisfied that the owner has fulfilled or is fulfilling the owner's duty to carry out the repairs."

(7) After section 193(3) of the Principal Act **insert**—

"(4) A resident may apply to the Tribunal for an order directing that all or part of the amount of a hiring charge or rent be repaid to the resident if—

- (a) on an order under subsection (2), the hiring charge or rent has been paid into the Rent Special Account in relation to a breach of section 178A or 180; and
- (b) the caravan park owner or caravan owner has failed to effect repairs by the end of the period stated in the order."

170 Heading to Division 7 of Part 4 amended

In the heading to Division 7 of Part 4 **omit** "and movable dwellings".

171 Transfer of residency right

(1) After section 195(1) of the Principal Act **insert**—

"(1A) In addition to subsection (1), if a caravan with a serious defect that is owned by a resident is being sold at the site occupied

by the resident, the caravan park owner may consent to the transfer of the resident's residency right, subject to an undertaking that works to rectify the serious defect will be made to the caravan within a reasonable time.

- (1B) An undertaking referred to in subsection (1A) may be made by—
- (a) the vendor of the caravan; or
 - (b) the purchaser of the caravan.
- (1C) If an undertaking referred to in subsection (1A) has been given to the caravan park owner but the works to rectify the serious defect are not completed within a reasonable time, the caravan park owner may apply to the Tribunal under section 452(3) for an order that the person who made the undertaking is to complete the works within a reasonable time."
- (2) In section 195(2) of the Principal Act—
- (a) for "A caravan" **substitute** "Subject to subsection (2A), a caravan";
 - (b) for "subsection (1)." **substitute** "subsection (1) or (1A).".
- (3) After section 195(2) of the Principal Act **insert**—
- "(2A) A caravan park owner may reasonably withhold consent under subsection (1A) if—
- (a) the caravan being sold has a serious defect; and

- (b) no undertaking has been given to the caravan park owner to rectify the defect."

172 Sale of caravan

- (1) For the penalty at the foot of section 198(1) of the Principal Act **substitute**—
"Penalty: 25 penalty units."
- (2) In section 198(2) of the Principal Act, for "A caravan" **substitute** "Subject to subsection (3), a caravan".
- (3) For the penalty at the foot of section 198(2) of the Principal Act **substitute**—
"Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate."
- (4) After section 198(2) of the Principal Act **insert**—
 - "(3) For the purpose of subsection (2), a caravan park owner does not hinder or obstruct the sale of a caravan owned by a resident if—
 - (a) the caravan park owner refuses consent to transfer the residency right under section 195(1A); and
 - (b) the caravan has a serious defect; and
 - (c) no undertaking has been given to the caravan park owner to rectify the serious defect."

173 Resident has duty to permit entry

At the foot of section 204 of the Principal Act
insert—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

174 What if damage is caused during entry?

For section 205(1) of the Principal Act
substitute—

"(1) If a caravan park owner or the caravan owner, or that person's agent, exercises a right of entry under section 199 or 200, a resident of a caravan park may apply to the Tribunal for an order for compensation if any person causes damage to or loss of the resident's goods in the caravan or on the site."

175 Offence relating to entering a site or caravan occupied by a resident

For the penalty at the foot of section 206A of the Principal Act **substitute—**

"Penalty: 25 penalty units."

176 New Division 9 of Part 4 inserted

After section 206A of the Principal Act **insert—**

"Division 9—Residents committees

206BAA Participation in residents committee

- (1) A resident is entitled to participate in any residents committee formed for the caravan park in which the person resides.
- (2) If a site tenants committee for a Part 4A park has already been formed for the caravan park in which a resident resides, the resident is entitled to participate in the site tenants committee.

206BAB Caravan park owner's duties to residents committees

- (1) A caravan park owner must not unreasonably interfere with a resident's right to participate in a residents committee.

Penalty: 60 penalty units.

- (2) A caravan park owner must allow residents to use suitable communal park facilities for meetings of a residents committee.
- (3) A caravan park owner must consult with a residents committee about the following—
 - (a) any proposed change to the caravan park rules;
 - (b) any proposal to remove or substantially restrict a facility or service available within the park;
 - (c) any proposal to provide a new facility or service within the park.
- (4) A caravan park owner is taken to have consulted with a residents committee in respect of a matter referred to in subsection (3) if the caravan park owner—

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- (a) has provided details of the proposal in writing to the committee; and
 - (b) has allowed at least 14 days for the committee to respond in writing; and
 - (c) has considered and responded in writing to any written response received from the committee.
- (5) The duty of a caravan park owner under subsection (3) is in addition to any other duty of the caravan park owner to consult with residents under this Act."

Part 6—Amendments relating to site agreements and Part 4A dwellings

177 New section 206BA inserted

After section 206B of the Principal Act **insert—**

"206BA Site tenant may request co-habitant to be site tenant under site agreement

- (1) A site tenant may request the site owner to consent to a co-habitant of a Part 4A site being made a site tenant under the site agreement.
- (2) The site owner may require the site tenant to reimburse the site owner for any reasonable expenses that are reasonably incurred by the site owner as a result of adding the co-habitant as a site tenant under the site agreement.
- (3) The site owner must not unreasonably withhold consent to a request under subsection (1).
- (4) A site tenant may apply to the Tribunal if the site owner refuses to consent to a co-habitant of the Part 4A site being made a site tenant on the ground that withholding consent is unreasonable.
- (5) In a proceeding on an application under subsection (4), a site owner may make submissions to the Tribunal in respect of—
 - (a) the suitability of the co-habitant; and
 - (b) any other reasons for withholding consent.

- (6) In a proceeding on an application under subsection (4), the Tribunal, if it thinks fit, may order that the co-habitant referred to in the application be added to the site agreement as a site tenant."

178 Site agreements to be in writing

For the penalty at the foot of section 206E(2) of the Principal Act **substitute—**

"Penalty: 150 penalty units."

179 New section 206EA inserted

After section 206E of the Principal Act **insert—**

"206EA Site agreements signed by the site tenant but not by the site owner

- (1) Without limiting section 206E(3), if a site tenant has signed a site agreement and given the agreement to the site owner and the site owner has not signed it, the agreement has the same effect as if it were signed by the site owner, if the site owner—
- (a) accepts rent without reservation; or
 - (b) otherwise acted in part performance of the site agreement.
- (2) A site agreement under subsection (1) takes effect—
- (a) from the day on which rent was accepted, if the site owner has accepted rent without reservation; or
 - (b) if the site owner has otherwise acted in part performance of the site agreement,

from the day on which the act was performed.

- (3) Section 53 of the **Property Law Act 1958** does not prevent a site agreement from having effect under this section."

180 Terms of site agreement

After section 206F(3) of the Principal Act
insert—

- "(4) A term of a site agreement is also invalid if it is a prohibited term or a term that this Act provides must not be included in a site agreement.

Note

The Tribunal may declare under sections 206G and 472 that a term of site agreement is invalid."

181 New section 206FA inserted

After section 206F of the Principal Act **insert—**

"206FA Prohibited terms—general

- (1) A site agreement must not include any of the following terms—
- (a) a term that requires the site tenant to take out any form of insurance;
 - (b) a term that exempts the site owner from liability for an act of—
 - (i) the site owner or that person's agent; or
 - (ii) a person acting on behalf of the site owner or that person's agent;

- (c) a term that provides that if the site tenant contravenes the site agreement, the site tenant is liable to pay—
 - (i) all or part of the remaining rent under the site agreement; or
 - (ii) increased rent; or
 - (iii) a penalty; or
 - (iv) liquidated damages;
 - (d) a term that provides that if the site tenant does not contravene the site agreement—
 - (i) the rent is reduced; or
 - (ii) the rent may be reduced; or
 - (iii) the site tenant is to be paid a rebate or other benefit; or
 - (iv) the site tenant may be paid a rebate or other benefit;
 - (e) any other prescribed prohibited term.
- (2) A term in a site agreement must not include a term that requires a party to the agreement to bear any fees, costs or charges incurred by the other party in connection with the preparation of the agreement.

Note

Section 206F provides that terms which must not be included in a site agreement are invalid."

182 Site agreement consideration period

For the penalty at the foot of section 206I(1) of the Principal Act **substitute**—

"Penalty: 60 penalty units."

183 New Divisions 1A and 1B inserted in Part 4A

After Division 1 of Part 4A of the Principal Act
insert—

**"Division 1A—Discrimination in
relation to site agreements**

**206JB Site agreement application forms must
include prescribed information**

A site owner or that person's agent must not provide a person with an application form to apply to enter into a site agreement unless the application form includes a statement that contains the prescribed information.

**206JC Site owner must not unlawfully
discriminate against another person by
refusing to let Part 4A site**

- (1) A site owner must not contravene section 52 of the **Equal Opportunity Act 2010** by refusing to let a person a Part 4A site on the basis of an attribute set out in section 6 of that Act.
- (2) A site owner must not instruct or permit that person's agent to refuse to let a person a Part 4A site on the basis of an attribute set out in section 6 of the **Equal Opportunity Act 2010**.

Note

Section 210AA provides that a person may apply to the Tribunal for an order for compensation if the person has suffered a loss as a result of discrimination by the site

owner or that person's agent in contravention of this Division.

Division 1B—Disclosures and representations prior to entering into site agreements

206JD Restriction on use of personal information provided by prospective site tenants

A site owner or that person's agent must not use personal information disclosed by a person on an application form to apply to enter into a site agreement unless the use is for—

- (a) the purposes of assessing the person's suitability as a site tenant; or
- (b) another purpose required by this Act.

206JE Site owner must not request prescribed information from applicants

A site owner or that person's agent must not request a person who applies to enter into a site agreement to disclose the prescribed information.

206JF Information that site owners must disclose before entering into site agreements

- (1) Before entering into a site agreement, a site owner must disclose the following information to the site tenant—
 - (a) if the site owner has engaged an agent to sell the Part 4A park or Part 4A site or prepared a contract of sale, that there

- is a proposal to sell the Part 4A park or Part 4A site;
- (b) if the site owner is not the freehold owner of the land on which the Part 4A park is situated—
 - (i) the nature of the site owner's interest in the land; and
 - (ii) any limitations on the site owner's ability to grant interests in the land to the site tenant;
 - (c) if a mortgagee has commenced a proceeding to enforce a mortgage over the Part 4A park or Part 4A site, that a mortgagee is taking action for possession of the Part 4A park or Part 4A site;
 - (d) if the site owner is not the owner of the Part 4A park, that the site owner has a right to let the Part 4A site;
 - (e) if the site is separately metered for the supply of electricity and the Part 4A park or Part 4A site is supplied with electricity from an embedded electricity network, the details of the embedded electricity network;
 - (f) any other prescribed information in relation to the Part 4A park or Part 4A site.
- (2) A disclosure under this section must be in the form approved by the Director.

206JG Offence to enter into certain agreements about Part 4A park land

- (1) Subject to subsection (2), a site owner who is not the freehold owner of the land on which a Part 4A site is situated must not enter into a site agreement with a site tenant that is for a period of occupancy which exceeds the expiry date of the lease.

Penalty: 60 penalty units.

- (2) For the purpose of subsection (1), an option to extend or renew the lease in the lease held by the site owner is not to be taken into account in determining the expiry date of the lease.

Note

A site tenant may apply to the Tribunal under section 452(3AD) in respect of a breach to disclose information required under this section."

184 What is the maximum bond?

- (1) For the penalty at the foot of section 206K(1) of the Principal Act **substitute**—

"Penalty: 60 penalty units."

- (2) For section 206K(2) of the Principal Act **substitute**—

"(2) Subsection (1) does not apply to a site agreement if the amount of rent payable under the site agreement for one week exceeds the prescribed amount."

185 Not more than one bond is payable in respect of continuous occupation

For the penalty at the foot of section 206N of the Principal Act **substitute**—

"Penalty: 60 penalty units."

186 Part 4A site condition report

- (1) For section 206O(1) of the Principal Act **substitute**—

"(1) Before a site tenant enters into occupation of the Part 4A site, a site owner must give the site tenant 2 copies of a condition report signed by or on behalf of the site owner specifying the state of repair and general condition of the Part 4A site, including any fixtures or connections to the site, on the day specified in the report.

Penalty: 25 penalty units.

- (1A) For the purposes of subsection (1), a site owner is deemed to give 2 copies of a condition report to the site tenant if the site owner gives the site tenant an electronic copy of the condition report.

- (1B) A condition report must be in the prescribed form."

- (2) In section 206O(2) of the Principal Act, for "3" **substitute** "5".

- (3) After section 206O(2) of the Principal Act **insert**—

"(3) A site tenant who is not given a condition report within the period referred to in subsection (1) may complete a condition report and give it to the site owner or that

person's agent during the period between inspecting the Part 4A site and 5 business days after entering into occupation of the site.

- (4) A copy of the condition report that is completed under subsection (1) or (3) is to be retained by the site owner and the site tenant.
- (5) Within 10 days after the end of a site agreement, the site owner or that person's agent must complete the copy of the condition report retained by the site owner or the site tenant under this section—
 - (a) in the presence of the other party; or
 - (b) in the absence of the other party, if the party has given the absent other party a reasonable opportunity to be present when the condition report is completed.

Note

Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**."

187 New section 206OA inserted

After section 206O of the Principal Act **insert**—

"206OA Site owner or site tenant may apply to Tribunal to amend inaccurate or incomplete condition report

- (1) Within 30 days after a site agreement has commenced, the site owner or site tenant may apply to the Tribunal to amend a statement in a condition report on the basis that the statement is inaccurate or incomplete.
- (2) On an application under subsection (1), the Tribunal may—
 - (a) order that the condition report must be amended; or
 - (b) order that the condition report is not required to be amended.
- (3) This section does not limit the operation of sections 18, 29, 30, 151 and 152 of the Australian Consumer Law (Victoria)."

188 Condition report is evidence of state of repair

- (1) After section 206P(1) of the Principal Act **insert**—

"(1A) A condition report that is given to a site owner is taken to be notice given to the site owner of any defects or outstanding repairs stated in the report."
- (2) For section 206P(2)(b) of the Principal Act **substitute**—

"(b) any statement in the report about which the site tenant records a written comment disagreeing with that statement in the copy of the report completed by the site tenant; or

- (c) a statement that the site owner has disagreed with in writing on the condition report, if the report was completed by the site owner before it was completed by the site owner."

189 Certain guarantees prohibited

For the penalty at the foot of section 206Q(1) of the Principal Act **substitute**—

"Penalty: 60 penalty units."

190 Rent, fees and charges under site agreements

In section 206S(1) of the Principal Act—

- (a) in paragraph (d), for "agreement; and" **substitute** "agreement, including in accordance with section 206SA(1); and";
- (b) in paragraph (f), for "dwelling." **substitute** "dwelling; and";
- (c) after paragraph (f) **insert**—
 - "(g) any prescribed matters relating to rent, fees and charges under site agreements."

191 New section 206SA inserted

After section 206S of the Principal Act **insert**—

"206SA Rent increases in site agreements

- (1) A site agreement may provide that rent under the site agreement may be increased—
 - (a) subject to subsection (3), by a fixed amount in accordance with a specified method of calculating the rent increase;
 - or

(b) by a non-fixed amount.

Note

A term referred to in subsection (1) may be varied by agreement with the site owner, the subject of an application under section 206G or the subject of an unfair contract term claim under the Australian Consumer Law (Victoria).

- (2) A site owner must not increase the rent payable by a site tenant at intervals of less than 12 months.
- (3) For the purposes of subsection (1)(a), a specified method of calculating a rent increase may refer to multiple methods of calculating a rent increase, based on varying circumstances, provided that only one method applies for each circumstance.

Example

A site agreement may contain a term that the rent will increase each year by 2% or the CPI percentage rate in that year, whichever is higher.

- (4) If rent under a site agreement is to be increased by a fixed amount under subsection (1)(a), the site owner must give at least 28 days written notice of the increase to the site tenant before the day on which rent is increased.
- (5) Notice given under subsection (4) must—
 - (a) be in the prescribed form; and
 - (b) specify—

- (i) the amount of increased rent; and
- (ii) the method used to calculate the increased rent amount; and

- (iii) the date from which the increased rent is payable.

Note

A notice may be challenged under section 206G or the Australian Consumer Law (Victoria).".

192 Limit on rent in advance

For the penalty at the foot of section 206T of the Principal Act **substitute**—

"Penalty: 60 penalty units."

193 New section 206TA inserted

After section 206T of the Principal Act **insert**—

"206TA Rent payment

- (1) A site owner, or that person's agent, must not require a site tenant to pay rent by a cheque or other negotiable instrument that is post-dated.

Penalty: 60 penalty units.

- (2) A site owner or that person's agent must ensure that a rent payment method that incurs no additional costs (other than bank fees or account fees payable on the site tenant's bank account) is reasonably available to the site tenant.

Penalty: 60 penalty units.

- (3) Without limiting how rent is paid, a site owner or that person's agent must permit the site tenant to pay the rent by the following payment methods—
 - (a) the bill paying service known as Centrepay administered by the Department of Human Services of the Commonwealth;
 - (b) any prescribed payment method.
- (4) Without limiting subsection (3), the site owner and the site tenant, by agreement, may change the manner in which rent is payable under the site agreement.
- (5) The site owner, or that person's agent, must give the site tenant information about any costs (including third party transaction fees, direct debit dishonour fees and any other electronic payment facility fees) that the site tenant may incur by using a particular payment method before the site tenant consents to use the payment method."

194 Receipts for rent

For the penalty at the foot of section 206U(1), (2) and (3) of the Principal Act **substitute**—

"Penalty: 25 penalty units."

195 How much notice is required of rent increase?

- (1) In the heading to section 206V of the Principal Act, after "**required of**" insert "**non-fixed**".
- (2) Section 206V(4) of the Principal Act is **repealed**.
- (3) After section 206V(5) of the Principal Act **insert**—

"(6) This section does not apply to a rent increase of a fixed amount under section 206SA(1)(a).".

196 Site tenant may complain to Director about excessive rent

After section 206W(4) of the Principal Act **insert—**

"(5) This section does not apply to a rent increase of a fixed amount under section 206SA(1)(a).".

197 Site tenant's goods not to be taken for rent

For the penalty at the foot of section 206ZC of the Principal Act **substitute—**

"Penalty: 60 penalty units.".

198 Section 206ZD substituted

For section 206ZD of the Principal Act **substitute—**

"206ZD Supply of key

- (1) A site owner must not charge an initial fee for the supply of a key or a device, or both if necessary, that enable a site tenant to gain vehicular access to the park.
- (2) A site owner may charge a reasonable fee for the supply of an additional or a replacement key or device requested by the site tenant.
- (3) On termination of the site agreement, a site tenant must return all keys and devices provided by the site owner to the site owner.".

199 Site tenant's liability for electricity, gas and water charges

After section 206ZE(2) of the Principal Act
insert—

- "(3) A site tenant is liable for all charges in respect of installation and connection of services from a supply point on the site occupied by the site tenant to the dwelling occupied by the site tenant."

200 Site owner's liability for electricity, gas and water charges

- (1) After section 206ZF(a) of the Principal Act
insert—

"(ab) all rates, taxes or charges payable under any Act other than charges payable by the site tenant under this Division;"

- (2) In section 206ZF(d) of the Principal Act, for "services." **substitute** "services;"

- (3) After section 206ZF(d) of the Principal Act
insert—

"(e) any prescribed fees and charges."

201 Site owner must not seek overpayment for utility charges

- (1) For the penalty at the foot of section 206ZH(1) of the Principal Act **substitute—**

"Penalty: 60 penalty units."

(2) For section 206ZH(2) of the Principal Act
substitute—

"(2) If the relevant supplier of the utility has issued an account of utility charges to the site owner, any amount to be recovered from the site tenant for the account must be adjusted by deducting any concession or rebate to which the site tenant is entitled."

202 Site tenant's use of site

(1) For section 206ZI(1) of the Principal Act
substitute—

"(1) Subject to subsection (1A), a site tenant must use the Part 4A site for residential purposes only and in accordance with the site agreement.

(1A) A site tenant may use the Part 4A site for a non-residential purpose if the site owner has given written consent to the site tenant to use the Part 4A site for the non-residential purpose.

(1B) A site owner must not unreasonably withhold consent under subsection (1A).

(1C) In giving consent to the use of a site under subsection (1A), the site owner may impose reasonable conditions relating to the non-residential use of the site.

(1D) If the site tenant has requested consent under subsection (1A), the site tenant may apply to the Tribunal on the grounds that—

- (a) the site owner has withheld consent unreasonably, if the site owner has withheld consent; or
 - (b) the site owner has imposed unreasonable conditions relating to the non-residential use of the site, if the site owner has imposed conditions of use on consent given under subsection (1).
- (1E) In determining an application under subsection (1D), the Tribunal, if it thinks fit, may order—
- (a) that consent by the site owner for the non-residential use of the site is not required; and
 - (b) that conditions specified in the order apply to the non-residential use of the site."

- (2) At the foot of section 206ZI of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

203 Sections 206ZJ, 206ZK and 206ZL amended

- (1) At the foot of section 206ZJ of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (2) At the foot of section 206ZK of the Principal Act
insert—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (3) At the foot of section 206ZL of the Principal Act
insert—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

204 Section 206ZM substituted and new sections 206ZMA and 206ZMB inserted

For section 206ZM of the Principal Act
substitute—

"206ZM Site tenant must keep and leave Part 4A site reasonably clean

- (1) A site tenant must keep the Part 4A site in a reasonably clean condition except to the extent that the site owner is responsible under this Act for keeping the Part 4A site in that condition.
- (2) A site tenant must maintain the Part 4A site and Part 4A dwelling in a manner and condition that do not detract from the general standard of the Part 4A park as set by the site owner from time to time.

- (3) At the end of a site agreement, the site tenant must leave the Part 4A site, as far as practicable—
- (a) reasonably clean and tidy; and
 - (b) in the same condition as when the site tenant entered into possession of the Part 4A site, taking into account fair wear and tear to the Part 4A site during occupation.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act.

206ZMA Site tenant must keep Part 4A dwelling in good repair

A site tenant must keep the Part 4A dwelling that the site tenant occupies in a condition, taking into account fair wear and tear, that is—

- (a) in good repair; and
- (b) safe to occupy; and
- (c) does not pose a significant health risk.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act.

206ZMB Site tenant must not make Part 4A site modifications without consent

- (1) A site tenant must not, without the site owner's prior written consent—

- (a) install any fixtures on the Part 4A site or in the Part 4A park; or
 - (b) erect any structure other than a Part 4A dwelling on the Part 4A site or in the Part 4A park; or
 - (c) make any alteration, renovation or addition to the Part 4A site or in the Part 4A park.
- (2) A site owner must not unreasonably refuse consent to modifications made by a site tenant that are—
- (a) reasonable alterations within the meaning of section 55 of the **Equal Opportunity Act 2010**; and
 - (b) assessed and determined to be required modifications by an accredited occupational therapist or a prescribed practitioner.

Note

Section 210AA provides that a person may apply to the Tribunal for an order for compensation if the person has suffered a loss as a result of discrimination by the site owner or that person's agent in contravention of this section."

205 Section 206ZN repealed

Section 206ZN of the Principal Act is **repealed**.

206 Site tenant must notify site owner of and compensate for damage

- (1) In section 206ZO(2) of the Principal Act, after "damage to" **insert** "a Part 4A site or damage to".
- (2) At the foot of section 206ZO of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

207 Sections 206ZP and 206ZQ amended

- (1) At the foot of section 206ZP of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (2) At the foot of section 206ZQ of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

208 Site owner must give tenant certain information

- (1) For the penalty at the foot of section 206ZR(1) and (2) of the Principal Act **substitute**—

"Penalty: 60 penalty units."

- (2) At the foot of section 206ZR of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

209 Part 4A site plans

- (1) For the penalty at the foot of section 206ZS(1) of the Principal Act **substitute**—

"Penalty: 25 penalty units."

- (2) At the foot of section 206ZS of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

210 Sections 206ZT, 206U and 206V amended

- (1) At the foot of section 206ZT of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (2) At the foot of section 206ZU of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

- (3) At the foot of section 206ZV of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

211 New sections 206ZVA, 206ZVB and 206ZVC inserted

After section 206ZV of the Principal Act insert—

"206ZVA Site owner must maintain and repair rented site

A site owner must maintain in good repair any site occupied by a site tenant, including any structures or fixtures owned by the site owner.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act.

206ZVB Site owner's liability for excessive usage caused by faults

- (1) Subject to subsection (2), if a site tenant has been charged for excessive usage of a service at the Part 4A site occupied by the site tenant, caused by a fault in infrastructure or any fixtures or buildings at or connected to the Part 4A site or the Part 4A park, the site owner is liable for that part of the excessive charge that is additional to an amount of ordinary usage by the site tenant.

Example

Excessive usage charges caused by a leak in the underground pipe of a water service connected to a site in a Part 4A park or a Part 4A park.

- (2) A site owner is not liable for excessive usage charges under subsection (1) unless—
 - (a) the site tenant has notified the site owner, as soon as practicable, of—
 - (i) the excessive usage charges; and
 - (ii) the fault that caused the excessive usage; and
 - (b) the fault was not caused by any action or omission of the site tenant.
- (3) A site owner must reimburse a site tenant for any reasonable costs incurred by the site tenant for diagnosis of a fault referred to in subsection (1) by a suitably qualified person.
- (4) A site owner is not responsible for any excess usage charges or other costs for a fault caused by any property that is the responsibility of a service provider.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act.

206ZVC Application to Tribunal about excessive usage charges

- (1) A site owner or a site tenant may apply to the Tribunal to determine the liability of the site owner and the site tenant for excessive usage charges referred to in section 206ZVB.

- (2) In making a determination under subsection (1), the Tribunal must have regard to the following—
- (a) whether the site tenant had knowledge of the fault;
 - (b) whether the site tenant took reasonable steps to notify the site owner or that person's agent of the fault;
 - (c) whether the site tenant has been compensated by another person for any part of the excessive usage charges;
 - (d) whether the site owner has complied with this Act in respect of any urgent repairs;
 - (e) any diagnosis made by a water authority or other suitably qualified person in respect of the fault;
 - (f) any maintenance and repairs conducted by the site owner;
 - (g) any other matter the Tribunal considers appropriate.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

212 Duty of site owner to maintain communal areas

After section 206ZW(2) of the Principal Act
insert—

- "(3) A site owner must ensure any damage or breakdown reported to the site owner by a

site tenant under section 206ZO(2) is repaired as soon as practicable.

Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

213 Site owner to give additional information

- (1) For the penalty at the foot of section 206ZX(1), (2) and (3) of the Principal Act **substitute—**

"Penalty: 25 penalty units."

- (2) At the foot of section 206ZX of the Principal Act **insert—**

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

214 Site owner may make Part 4A park rules

- (1) In section 206ZY(1) of the Principal Act, for "A site" **substitute** "Subject to subsection (4), a site".

- (2) After section 206ZY(3) of the Principal Act **insert—**

"(4) A site owner must not make a Part 4A park rule that requires a site tenant to undertake an upgrade or improvement work in relation to a Part 4A dwelling unless the upgrade or work is required to keep the dwelling in a reasonable state of cleanliness, safety and good repair.

- (5) Rules made in contravention of this section are invalid."

215 Amendment of Part 4A park rules

For the penalty at the foot of section 206ZZ(1) and (2) of the Principal Act **substitute—**

"Penalty: 60 penalty units."

216 New Division 7A inserted in Part 4A

After Division 7 of the Principal Act **insert—**

"Division 7A—Repairs

206ZZAA Urgent site repairs to Part 4A sites

- (1) A site tenant may cause urgent site repairs to a Part 4A site to be carried out if—
- (a) the site tenant has taken reasonable steps to arrange for the site owner or that person's agent to immediately carry out the urgent site repairs to the Part 4A site; and
 - (b) the site owner or that person's agent did not carry out those repairs.
- (2) If the site tenant carries out urgent site repairs under subsection (1)—
- (a) the site tenant must give the site owner 7 days written notice of—
 - (i) the repairs carried out; and
 - (ii) the cost of those repairs; and
 - (b) the site owner is liable to reimburse the site tenant for the reasonable cost of the urgent site repairs, or a prescribed

greater amount (which includes any amount in respect of any GST payable on the supply to which the urgent site repairs relate), whichever is less.

- (3) If urgent site repairs are required to an item that uses or supplies water, electricity or gas and that item does not have a rating that is of or above a rating in a prescribed efficiency rating system, and that item cannot be repaired, the site tenant may replace it with an item that has a rating that is of or above a rating in the efficiency rating system.
- (4) This section does not apply—
 - (a) to equipment or appliances supplied by the site tenant; or
 - (b) if there is no immediate danger to health and safety and the site tenant is able to use facilities in the communal areas of the Part 4A park.

206ZZAB Application to Tribunal for urgent site repairs

- (1) A site tenant may apply to the Tribunal for an order requiring the site owner, or that person's agent, to carry out urgent site repairs if—
 - (a) the site tenant cannot pay the cost of the repairs; or
 - (b) the repairs cost more than a prescribed amount (which includes any amount in respect of any GST payable on the supply to which the urgent repairs relate); or

- (c) the site owner or that person's agent has refused to pay the cost of the urgent repairs.
- (2) The Tribunal must hear an application under subsection (1) within 2 business days after the application is made.
- (3) Without limiting the matters to which the Tribunal may consider, the Tribunal must consider the Director's guidelines in determining an application under this section.

206ZZAC Application to Director to investigate need for non-urgent site repairs

- (1) A site tenant may apply to the Director to investigate whether the site owner is in breach of a duty to ensure the site which the site tenant occupies, or a structure or a fixture on the Part 4A site owned by the site owner, is maintained in good repair if—
 - (a) the site tenant has given notice to the site owner that site repairs (other than urgent site repairs) are required to—
 - (i) the site which the site tenant occupies; or
 - (ii) a structure or a fixture on the Part 4A site owned by the site owner; and
 - (b) the site owner has not carried out the site repairs within 14 days after receiving the notice.
- (2) An application under subsection (1) must be in writing.

- (3) On an application under subsection (1), the Director—
- (a) may investigate; and
 - (b) may negotiate arrangements for the carrying out of site repairs if the Director is satisfied that the site owner is in breach of the duty to maintain the site, or a structure or a fixture in the Part 4A park owned by the site owner, in good repair; and
 - (c) may give a written report to the site tenant.

206ZZAD Application to Tribunal for non-urgent site repairs

- (1) A site tenant may apply to the Tribunal for an order requiring the site owner to carry out specified site repairs if—
- (a) the site tenant has given written notice to the site owner that non-urgent repairs are required to the site; and
 - (b) the site owner has not caused the repairs to be carried out within 14 days after being given notice referred to in paragraph (a).
- (2) An application under subsection (1) must be heard by the Tribunal within 7 days after the application is made.

206ZZAE What can the Tribunal order?

- (1) The Tribunal may make an order requiring the site owner to carry out specified site repairs if it is satisfied that the owner is in breach of the duty to maintain the site, or a structure or a fixture in the Part 4A park owned by the site owner, in good repair.
- (2) An order made under subsection (1) must specify the repairs and the time within which they must be carried out.
- (3) The Tribunal may make an order requiring repairs to be carried out by a suitably qualified person.
- (4) The Tribunal may make an order requiring the payment of compensation.
- (5) Without limiting the matters to which the Tribunal may have regard in determining an application under section 206ZZAB or 206ZZAD, the Tribunal must have regard to the following—
 - (a) whether the repairs are needed because of—
 - (i) an act or omission of the site tenant; or
 - (ii) non-compliance by the site tenant with a provision of a site agreement or a site tenant's duties under section 206ZO;
 - (b) whether the site owner or that person's agent—
 - (i) was notified of the repairs; and

- (ii) was given a reasonable opportunity to carry out the repairs;
- (c) whether the site tenant arranged for a suitably qualified person to carry out the repairs;
- (d) whether the site owner was required to engage a suitably qualified person to verify the quality of the repairs;
- (e) whether the site tenant has provided documentary evidence of the repair, including any receipts or copies of receipts for repair costs.

206ZZAF Payment of rent into Rent Special Account

- (1) If a site tenant has given notice under section 206ZZAC(1)(a) requiring repairs to be carried out, the site tenant may apply to the Tribunal for an order authorising the payment of rent into the Rent Special Account.
- (2) The Tribunal must make an order authorising the site tenant to pay the rent into the Rent Special Account for a period specified by the Tribunal if it is satisfied that—
 - (a) a notice requiring the carrying out of repairs has been given to the site owner in accordance with this Act; and
 - (b) the site owner has failed to comply with the duty to carry out the repairs; and

- (c) the site owner has not demonstrated that the site owner—
 - (i) is experiencing financial hardship;
or
 - (ii) would experience financial hardship if the rent was paid into the Rent Special Account.
- (3) If an order is made under subsection (2)—
 - (a) the amount of the rent held in the Rent Special Account at the end of that period must be paid to the site owner; and
 - (b) on an application by the site owner, the Tribunal may order that the whole, or such part of the rent as it may determine, be paid to the site owner before the end of that period, if it is satisfied that the site owner has fulfilled or is fulfilling the site owner's duty to carry out the repairs.
- (4) A site tenant may apply to the Tribunal to order that the whole or any part of the rent paid into the Rent Special Account be paid to the site tenant if—
 - (a) the Tribunal has made an order under subsection (2) that rent be paid into the Rent Special Account; and
 - (b) the site owner has not effected any required repairs at the Part 4A site by the end of the period stated in that order.

- (5) In determining whether a site owner has demonstrated that the site owner has experienced or would experience financial hardship for the purposes of subsection (2), the Tribunal may have regard to any of the following—
- (a) an eviction notice given to the site owner;
 - (b) a disconnection notice in respect of a service or utility account held by the site owner;
 - (c) a notice of legal proceedings issued against the site owner;
 - (d) a letter from a non-profit organisation about the site owner's loss of employment or financial hardship;
 - (e) a notice from a lender to the site owner, including—
 - (i) an overdraft call; or
 - (ii) a repossession notice in respect of a mortgaged property;
 - (f) outstanding medical bills of the site owner;
 - (g) a letter from a doctor in respect of the impact of the site owner's illness or carer's responsibility on the ability of the site owner to earn an income;
 - (h) a final notice from a school to the site owner in respect of the payment of mandatory schooling fees;

- (i) funeral expenses payable by the site owner;
- (j) a repossession notice served on the site owner in respect of an essential item;
- (k) a hardship variation, or a written request to vary the terms of an existing loan held by the site owner;
- (l) any other prescribed document.

206ZZAG Repair provisions not applicable to certain damage

Sections 206ZZAC, 206ZZAD and 206ZZAE do not apply to damage caused by the misuse or the negligence of the site tenant or a site tenant's visitor."

217 New section 206ZZBAA inserted

Before section 206ZZB of the Principal Act
insert—

"206ZZBAA Only one committee if park occupied by residents under Parts 4 and 4A

If a Part 4A park is occupied by residents under Part 4 and site tenants under Part 4A—

- (a) only one committee may be formed for the park; and
- (b) the committee's members may include residents and site tenants."

218 Site owner's duties to site tenants committees

- (1) For the penalty at the foot of section 206ZZC(1) of the Principal Act **substitute—**

"Penalty: 60 penalty units."

- (2) After section 206ZZC(2) of the Principal Act **insert—**
- "(3) A site owner must consult with the site tenants committee about—
- (a) a proposed change to the Part 4A park rules; and
 - (b) a proposal to remove or substantially restrict a facility or service available within the park; and
 - (c) a proposal to provide a new facility or service within the park.
- (4) A site owner is taken to have consulted with a site tenants committee about a matter referred to in subsection (3) if the site owner—
- (a) has provided details of the proposal in writing to the committee; and
 - (b) has allowed at least 14 days for the committee to respond in writing; and
 - (c) has considered and responded in writing to any written response received from the committee.
- (5) The duty of a site owner under subsection (3) is in addition to any other duty of the site owner to consult with site tenants under this Act."

219 Assignment by a site tenant

- (1) After section 206ZZD(1) of the Principal Act **insert—**

- "(1A) In addition to subsection (1), if a Part 4A dwelling with a serious defect that is owned by a site tenant is being sold at the site occupied by the site tenant, the site owner may give consent to the assignment of the site agreement to the purchaser, subject to an undertaking that works to rectify the defect will be made to the dwelling within a reasonable time.
- (1B) An undertaking referred to in subsection (1A) may be made by the vendor or the purchaser of the site dwelling.
- (1C) If an undertaking referred to in subsection (1A) has been given to the site owner but the works to rectify the defect are not completed within a reasonable time, the site owner may apply to the Tribunal under section 452(3A) to seek an order compelling the person who made the undertaking to complete the works within a reasonable time.
- (1D) A site owner may reasonably refuse consent under subsection (1A) if—
- (a) the Part 4A dwelling being sold has a serious defect; and
 - (b) no undertaking has been given to the site owner to rectify the defect."

(2) After section 206ZZD(2) of the Principal Act **insert**—

"(2A) For the purposes of subsection (2), it is unreasonable to withhold consent on the

basis of an attribute set out in section 6
of the **Equal Opportunity Act 2010**.

Note

Section 210AA provides that a person may apply to the Tribunal for an order for compensation if the person has suffered a loss as a result of discrimination by the site owner or that person's agent in contravention of this section."

220 Sub-letting by a site tenant

After section 206ZZE(2) of the Principal Act
insert—

"(2A) For the purposes of subsection (2), it is unreasonable to withhold consent on the basis of an attribute set out in section 6 of the **Equal Opportunity Act 2010**.

Note

Section 210AA provides that a person may apply to the Tribunal for an order for compensation if the person has suffered a loss as a result of discrimination by the site owner or that person's agent in contravention of this section."

221 Site owner cannot ask for fee for giving consent

(1) For the penalty at the foot of section 206ZZG(1) and (2) of the Principal Act **substitute—**

"Penalty: 60 penalty units."

(2) For section 206ZZG(4) of the Principal Act **substitute—**

"(4) This section does not prevent a site owner from requiring a site tenant to bear any reasonable expenses that are reasonably incurred by the site owner because of the assignment of a site agreement."

222 Sale of Part 4A dwelling

(1) For the penalty at the foot of section 206ZZH(2) of the Principal Act **substitute**—

"Penalty: 100 penalty units."

(2) For the penalty at the foot of section 206ZZH(3) of the Principal Act **substitute**—

"Penalty: 60 penalty units."

(3) For the penalty at the foot of section 206ZZH(4) of the Principal Act **substitute**—

"Penalty: 150 penalty units in the case of a natural person;

750 penalty units in the case of a body corporate."

(4) After section 206ZZH(4) of the Principal Act **insert**—

"(5) For the purpose of subsection (4), a site owner does not hinder or obstruct the sale of a Part 4A dwelling owned by a site tenant if—

(a) the site owner refuses consent to the assignment of a site agreement under section 206ZZD(1D); and

(b) the Part 4A dwelling has a serious defect; and

- (c) no undertaking has been given to the site owner to rectify the serious defect.
- (6) A site owner may charge a commission for the sale of a Part 4A dwelling if—
 - (a) the services provided by the site owner as a selling agent caused the sale; and
 - (b) the purchaser of the site dwelling is not the site owner or a related party of the site owner.
- (7) In subsection (6)—

related party, in relation to a site owner, means—

 - (a) the partner, child, parent or sibling of the site owner; or
 - (b) the partner of the child, parent or sibling of the site owner; or
 - (c) a business partner of the site owner; or
 - (d) a corporation owned, managed or effectively controlled by the site owner or a person referred to in paragraph (a), (b) or (c)."

223 Site tenant has duty to permit entry

At the foot of section 206ZZM of the Principal Act **insert**—

"Note

This section is a duty provision and a contravention of this section may be dealt with as a breach of a duty under Part 5 and other provisions of this Act."

224 What if damage is caused during entry?

For section 206ZZN(1) of the Principal Act
substitute—

"(1) A site tenant may apply to the Tribunal for an order for compensation if, when the site owner or that person's agent exercises a right of entry under this Division, any person causes damage to or loss of the site tenant's goods on the Part 4A site, including the Part 4A dwelling."

225 Offence relating to entering a site occupied by a site tenant

For the penalty at the foot of section 206ZZP of the Principal Act **substitute—**

"Penalty: 25 penalty units."

Part 7—Amendments relating to compensation and compliance

226 Definitions

In Part 5 of the Principal Act, section 207 is
repealed.

227 Breach of duty notice

- (1) In section 208(2)(c)(i) of the Principal Act, for
"possible; or" **substitute** "possible; and".
- (2) At the foot of section 208(2)(f) of the Principal
Act **insert—**

"Note

Section 506(1)(da) provides that a document to be
served on or given to a person under this Act may
be served or given by electronic communication
in accordance with the **Electronic Transactions**
(Victoria) Act 2000.".

228 New section 209AAB inserted

After section 209AA of the Principal Act **insert—**

**"209AAB Application for compensation or
compliance order for cost of urgent
repairs**

- (1) A renter may apply to the Tribunal for a
compensation order or a compliance order
under section 212 if—
 - (a) the renter has arranged for urgent
repairs to be conducted at rented
premises in accordance with
section 72(1); and
 - (b) the renter has given written notice to
the residential rental provider of—

- (i) the urgent repairs; and
 - (ii) the cost of the urgent repairs; and
 - (c) the residential rental provider has not reimbursed the renter for the cost of the urgent repairs within 7 days after receiving written notice referred to in paragraph (b).
- (2) A resident of a rooming house may apply to the Tribunal for a compensation order or a compliance order under section 212 if—
- (a) the resident has arranged for urgent repairs to be conducted at a room or a rooming house in accordance with section 129(1); and
 - (b) the resident has given written notice to the rooming house operator of—
 - (i) the urgent repairs; and
 - (ii) the cost of the urgent repairs; and
 - (c) the rooming house operator has not reimbursed the resident for the cost of the urgent repairs within 7 days after receiving written notice referred to in paragraph (b).
- (3) A resident of a caravan park may apply to the Tribunal for a compensation order or a compliance order under section 212 if—
- (a) the resident has arranged for urgent repairs to be conducted to a caravan in accordance with section 188(1) or at a site in accordance with section 188A; and

- (b) the resident has given written notice to the caravan owner, or the caravan park owner, as the case requires, of—
 - (i) the urgent repairs; and
 - (ii) the cost of the urgent repairs; and
 - (c) the caravan owner or the caravan park owner, as the case requires, has not reimbursed the resident for the cost of the urgent repairs within 7 days after receiving written notice referred to in paragraph (b).
- (4) A site tenant may apply to the Tribunal for a compensation order or a compliance order under section 212 if—
- (a) the site tenant has arranged for urgent repairs to be conducted at a Part 4A site in accordance with section 206ZZAA(1); and
 - (b) the site tenant has given written notice to the site owner of—
 - (i) the urgent repairs; and
 - (ii) the cost of the urgent repairs; and
 - (c) the site owner has not reimbursed the site tenant for the cost of the urgent repairs within 7 days after receiving written notice referred to in paragraph (b)."

229 New section 210AA inserted

After section 209A of the Principal Act **insert—**

"210AA Application to Tribunal for compensation order for discrimination

- (1) Subject to subsection (2), the following persons may apply to the Tribunal for an order for payment of compensation—
 - (a) a renter, on the basis that the renter suffered loss or damage because the residential rental provider or that person's agent has contravened section 30A, 64(1B)(c) or 81;
 - (b) a resident, on the basis that the resident suffered loss or damage because—
 - (i) the rooming house operator, or that person's agent, failed to comply with section 94F or 115(2); or
 - (ii) the caravan park owner, the caravan owner, or that person's agent, has contravened section 145B or 171B;
 - (c) a site tenant, on the basis that the site tenant suffered loss or damage because the site owner, or that person's agent—
 - (i) has contravened section 206JC or 206ZMB; or
 - (ii) has unreasonably withheld consent under section 206ZZD(2) or 206ZZE(2) on the basis of an attribute set out in section 6 of the **Equal Opportunity Act 2010**.
- (2) A renter, a resident or a site tenant must not apply to the Tribunal under subsection (1) if

the renter, resident or site tenant has already brought a dispute under Part 8 of the **Equal Opportunity Act 2010** in respect of a claim or facts which could form the basis of the application under subsection (1)."

230 Application to Tribunal for compensation order on other grounds

(1) In section 210(1) of the Principal Act, for "tenancy agreement" (wherever occurring) **substitute** "residential rental agreement".

(2) For section 210(2) of the Principal Act **substitute**—

"(2) This section does not apply—

- (a) to a duty under a duty provision or section 66; or
- (b) if a residential rental provider has given a renter a notice to vacate under section 91ZM."

231 Matters which may be considered by Tribunal

In section 211 of the Principal Act—

- (a) after "section 209," **insert** "209AAB, 210AA,";
- (b) in paragraph (g), for "expense." **substitute** "expense; and";
- (c) after paragraph (g) **insert**—

- "(h) whether a renter who was required to give written notice under section 72AA gave that notice; and
- (i) if applicable, the matters referred to in section 211A."

232 New sections 211A and 211B inserted

After section 211 of the Principal Act **insert**—

"211A Further matters to be considered by Tribunal

- (1) Subsection (2) applies in respect of an application for compensation for damage to—
 - (a) rented premises under a residential rental agreement; and
 - (b) a rooming house, including a room or common areas of the rooming house; and
 - (c) a caravan park, caravan or movable dwelling; and
 - (d) a Part 4A park or a Part 4A site.
- (2) In calculating an amount of compensation payable by a renter, a resident or a site tenant (as the case requires) on an application referred to in subsection (1), the Tribunal must take into account any depreciation of the damaged part of the property referred to in subsection (1)(a), (b), (c) or (d) by having regard to—

- (a) the Uniform Capital Allowance System; or
 - (b) any other prescribed scale.
- (3) In calculating an amount of compensation payable on an application under section 210 or 210B for early termination of a residential rental agreement by the renter, or of a site agreement by the site tenant, the Tribunal must—
- (a) determine advertising costs and reletting fees (if any) incurred by the residential rental provider or the site owner (as the case requires) on a basis that is proportionate to the actual cost of securing the renter or the site tenant; and

Example

A renter has lived in rented premises under a residential rental agreement, on terms including a 12 month fixed term, rent of \$500 per week and a reletting fee of \$500. The renter notifies the property manager that the renter will terminate the rental agreement 6 months before the end of the fixed term. The property manager advertises the rented premises for rent immediately and finds a new renter. The advertising costs were \$250. The new renter enters the premises one week after the previous renter vacates the premises. The residential rental provider's costs of advertising and reletting fees are \$1000, which is the sum of one week's rent (\$500), the reletting fee pro-rated for 6 months of the unexpired term of the agreement (\$250) and advertising costs (\$250).

- (b) determine the amount of compensation for loss of rent (if any) by taking into account what loss could reasonably have been mitigated by the residential rental provider or the site owner (as the case requires) by promptly reletting the rented premises or the Part 4A site; and
- (c) have regard to any severe hardship the renter or the site tenant would have been expected to suffer due to an unforeseen change in circumstances, if the residential rental agreement or site agreement had continued; and
- (d) not award any compensation for loss of future rent to the residential rental provider, or the site owner (as the case requires), if the residential rental provider or the site owner served a notice to vacate on the renter or the site tenant, unless the notice was served because the renter or the site tenant terminated or repudiated the residential rental agreement or the site agreement; and
- (e) determine compensation payable after a renter or a site tenant has given the residential rental provider or the site owner a notice of intention to vacate under section 91ZB, 91ZC or 207S.

Note

Section 242 applies to advanced payments of rent by a renter to a residential rental provider after the rented premises have been abandoned by the renter.

- (4) If the Tribunal is determining an application under section 210 in respect of a claim by a residential rental provider for unpaid rent in a residential rental agreement for a fixed term of more than 5 years that has been terminated early, the Tribunal may not award an amount of compensation in excess of a maximum of one month's rent under the agreement for each 12 month period of the unexpired term of the agreement.
- (5) In the case of an application referred to in subsection (1)(a), the Tribunal must take into account whether a renter who was required to give written notice under section 72AA has given that notice to the residential rental provider.

211B Director's guidelines to be considered by Tribunal

The Tribunal must consider the Director's guidelines when hearing an application under section 209, 209AAB, 210, 210AA, 210A or 210B."

233 Orders of Tribunal

- (1) In section 212(1A) of the Principal Act, for "term of the tenancy agreement" **substitute** "prohibited term of the residential rental agreement".
- (2) After section 212(1A) of the Principal Act **insert—**

- "(1B) In the case of an application under section 209AAB, if the Tribunal is satisfied that the residential rental provider has not reimbursed the renter for the cost of the urgent repairs within 7 days after receiving written notice, the Tribunal may order the residential rental provider to pay the renter for the urgent repairs as specified in the order."
- (3) In section 212(2A) of the Principal Act, for "owner" (where three times occurring) **substitute** "operator".
- (4) In section 212(4) and (5) of the Principal Act—
- (a) for "a tenant" **substitute** "a renter";
 - (b) for "the tenant" **substitute** "the renter".

234 Compensation for unpaid rent

- (1) In section 213(1) of the Principal Act—
- (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter";
 - (c) for "tenancy agreement" **substitute** "residential rental agreement";
 - (d) for "unless the rent is unpaid" **substitute** "unless any amount of unpaid rent is not paid".
- (2) For section 213(2) of the Principal Act **substitute**—
- "(2) Subsection (1) does not apply if the renter, on at least 2 previous occasions, has failed to pay any amount of rent under the residential

rental agreement within 14 days after it has accrued due.

- (3) A residential rental provider is not entitled to claim compensation under this Act for loss of rent that has not yet accrued due if the residential rental provider has issued the renter a notice to vacate under section 91ZM."

235 New sections 215A and 215B inserted

After section 215 of the Principal Act **insert—**

"215A Compensation in relation to closure of caravan park or Part 4A park

- (1) Subject to subsection (3), if a caravan park owner gives a notice to vacate for closure of the caravan park, the caravan park owner must apply to the Tribunal for an order determining compensation for the park closure to be paid by the caravan park owner to eligible residents.
- (2) Subject to subsection (3), if a site owner gives a notice to vacate for closure of the Part 4A park, the site owner must apply to the Tribunal for an order determining compensation for the park closure to be paid by the site owner to eligible site tenants.
- (3) A caravan park owner or a site owner is not required to apply to the Tribunal for an order determining compensation for park closure if—
- (a) the caravan park owner or site owner is not the owner of the land on which the

caravan park or Part 4A park is located;
and

- (b) the closure of the park is due to the expiry of a head lease of that land.
- (4) An application under subsection (1) or (2) must be made within 30 days of the service of the relevant notice to vacate.
- (5) If an application under subsection (1) or (2) for a park closure compensation order is not made within the time set out in subsection (4), the relevant notice to vacate is void and of no effect.
- (6) In this section and section 215B, *notice to vacate* means—
 - (a) in relation to a caravan park, a notice to vacate—
 - (i) under section 311A; or
 - (ii) on and from the repeal of Part 6, under section 206AZA; and
 - (b) in relation to a Part 4A park, a notice to vacate—
 - (i) under section 317ZDA; or
 - (ii) on and from the repeal of Part 6, under section 207ZE.

215B Tribunal may make park closure compensation order

- (1) On an application under section 215A(1) or (2), the Tribunal may make a park closure compensation order if satisfied that—

- (a) the notice to vacate has been validly given; and
 - (b) in the case of a caravan park closure, the parties entitled to compensation are eligible residents; and
 - (c) in the case of a Part 4A park closure, the parties entitled to compensation are eligible site tenants; and
 - (d) the caravan park owner or site owner is the owner of the land and the closure is not due to the expiry of a head lease.
- (2) In making a park closure compensation order, the Tribunal must consider whether a dwelling to which the order relates—
- (a) is to be relocated by the eligible resident or eligible site tenant; or
 - (b) is not to be, or is unable to be, relocated by the eligible resident or eligible site tenant.
- (3) If a dwelling is to be relocated by an eligible resident or eligible site tenant, the Tribunal, in determining the amount of compensation payable by the caravan park owner or the site owner, is to have regard to the likely cost of the following—
- (a) removing the dwelling from the site, including disconnection of services;
 - (b) transporting the dwelling and contents to a new site;

- (c) installation of the dwelling at the new site (which is not to include any costs of landscaping the new site);
 - (d) any other matter the Tribunal considers relevant.
- (4) After a dwelling is relocated by an eligible resident or eligible site tenant, the owner of the dwelling may apply to the Tribunal for an order that the caravan park owner or site owner compensate the owner of the dwelling for any of the following—
 - (a) the cost of any repair or damage to the dwelling resulting from the relocation of the dwelling, other than damage due to the negligence of any person engaged by the owner of the dwelling to dismantle, transport or relocate that dwelling;
 - (b) any reasonable costs that were reasonably incurred as a result of the relocation of the dwelling and its contents.
- (5) On an application under subsection (4), the Tribunal may order that the caravan park owner or the site owner compensate the owner of the dwelling for any costs referred to in subsection (4).
- (6) If a dwelling is not to be relocated or is unable to be relocated by an eligible resident or eligible site tenant, the Tribunal, in determining the amount of compensation payable by the caravan park owner or the site owner, is to have regard to—

- (a) if the eligible resident or eligible site tenant has agreed to transfer ownership of the dwelling, free of encumbrances, to the caravan park owner or the site owner (as the case requires), the loss of residency, being a reasonable amount calculated having regard to the following—
 - (i) the original purchase price paid for the dwelling by the eligible resident or eligible site tenant;
 - (ii) the current on-site market value of the dwelling determined as if the closure were not to occur;
 - (iii) the rent and any other fees for the site payable by the eligible resident or eligible site tenant;
 - (iv) any other prescribed matter; and
- (b) the likely reasonable costs of removing the contents from the dwelling and the relocation costs of the eligible resident or eligible site tenant, being a reasonable amount calculated having regard to the following—
 - (i) the costs of removal of the possessions of the eligible resident or eligible site tenant;
 - (ii) the likely inconvenience to the eligible resident or eligible site tenant due to having to arrange alternative residential accommodation;

- (iii) the length of time the eligible resident or eligible site tenant has occupied the site;
 - (iv) any other matter the Tribunal considers relevant.
- (7) A park closure compensation order must specify the date by which the compensation under the order is to be paid to the eligible resident or eligible site tenant (as the case requires) which must not be less than 30 days before the end of the notice period specified in the relevant notice to vacate.
- (8) If a park closure compensation order is made in relation to the relocation of a dwelling and the eligible resident or eligible site tenant (as the case requires) relocates the dwelling before the caravan park owner or the site owner pays the compensation payable under the order, the caravan park owner or the site owner, as the case requires, remains liable to pay the compensation under the order."

Part 8—Amendments relating to termination

236 New Division 9 of Part 2 inserted

After Division 8 of Part 2 of the Principal Act
insert—

"Division 9—Termination of residential rental agreements

Subdivision 1—When can a residential rental agreement be terminated?

91B Termination of residential rental agreement

Despite any Act or law to the contrary,
a residential rental agreement does not
terminate and must not be terminated
except in accordance with this Division
or Part 7 or 8.

91C Termination by agreement

A residential rental agreement may be
terminated by agreement of the residential
rental provider and the renter.

91D Termination by consent

- (1) A residential rental agreement terminates if
the renter vacates the rented premises with
the consent of the residential rental provider.
- (2) The consent, once given, is irrevocable.

91E Termination after notice to vacate

- (1) A residential rental agreement terminates
if the residential rental provider or the
renter gives a notice to vacate or a notice

of intention to vacate the rented premises under this Division and—

- (a) the renter vacates the rented premises on or after the termination date specified in the notice; or
 - (b) the residential rental agreement terminates in accordance with section 334.
- (2) If a notice to vacate under section 91ZZL or 91ZZM or a notice of intention to vacate under section 91Z(3) is given in respect of a fixed term residential rental agreement between a rooming house operator and a resident of the rooming house, unless it terminates earlier in accordance with this Division, the fixed term residential rental agreement terminates on whichever is the earlier of—
- (a) the termination date specified in the notice to vacate under section 91ZZL or 91ZZM; or
 - (b) if a notice of intention to vacate has been given under section 91Z(3), the termination date specified in that notice of intention to vacate.

Example

Earlier termination may occur by a notice to vacate given under section 91ZI or 91ZQ.

91F Termination by abandonment

A residential rental agreement terminates if the renter abandons the rented premises.

91G Termination where premises are sub-let

A residential rental agreement terminates if—

- (a) the renter is not in possession of the rented premises because the renter has sub-let them; and
- (b) the residential rental provider or the renter gives a notice to vacate or a notice of intention to vacate the rented premises under this Division; and
- (c) the period (if any) between the date on which the notice is given and the termination date specified in the notice has expired.

91H Termination where residential rental provider not owner of premises

A residential rental agreement terminates if the owner of the rented premises gives a notice to vacate in accordance with section 91ZZJ and—

- (a) the renter vacates the rented premises on or after the termination date specified in the notice; or
- (b) the residential rental agreement terminates in accordance with section 334.

91I Termination by mortgagee

A residential rental agreement terminates if a mortgagee in respect of rented premises gives a notice to vacate under section 91ZZK and—

- (a) the renter vacates the rented premises on or after the termination date specified in the notice; or
- (b) the residential rental agreement terminates in accordance with section 334.

91J Termination by merger

A residential rental agreement may terminate by merger (that is, where the interests of the residential rental provider and the renter become vested in one person).

91K Termination by disclaimer

A residential rental agreement may terminate by disclaimer (for example, on repudiation of the agreement by the renter accepted by the residential rental provider).

91L Termination by renter before possession

A residential rental agreement terminates if the renter has not entered into possession of the rented premises and has given a notice of termination of the residential rental agreement to the residential rental provider on the ground that the premises—

- (a) are not in good repair; or
- (b) are unfit for human habitation; or
- (c) are destroyed totally or to such an extent as to be rendered unsafe; or

- (d) are not vacant; or
- (e) are not legally available for use as a residence; or
- (f) do not meet any rental minimum standards; or
- (g) are for any other reason unavailable for occupation.

91M Termination by residential rental provider before possession

A residential rental agreement terminates if the renter has not entered into possession of the rented premises and the residential rental provider has given a notice of termination of the residential rental agreement to the renter on the ground that the premises—

- (a) are unfit for human habitation; or
- (b) are destroyed totally or to such an extent as to be rendered unsafe.

91N Termination after death of sole renter

- (1) If a renter dies, the residential rental agreement terminates at the earliest of the following dates—
 - (a) the termination date specified in the notice of intention to vacate given under subsection (2); or
 - (b) the termination date specified in the notice to vacate given under subsection (3); or
 - (c) the termination date specified in the Tribunal order under subsection (5); or

- (d) a date agreed in writing between the residential rental provider and the legal personal representative or next of kin of the deceased renter.
- (2) The legal personal representative or next of kin of the deceased renter may give the residential rental provider a notice of intention to vacate the rented premises due to the death of the renter specifying a termination date, which, in the case of a fixed term residential rental agreement, may be a date before the end of that agreement.
- (3) The residential rental provider may give the legal personal representative or next of kin of the deceased renter a notice to vacate the rented premises due to the death of the renter specifying a termination date, which, in the case of a fixed term residential rental agreement, may be a date before the end of that agreement.
- (4) If a residential rental provider is unable to give notice to vacate under subsection (3) because the legal personal representative or next of kin of the deceased renter cannot be located, the residential rental provider may apply to the Tribunal for—
 - (a) an order to terminate the residential rental agreement; and
 - (b) if required, a possession order.
- (5) On an application under subsection (4), the Tribunal may—

- (a) make an order terminating the residential rental agreement; and
 - (b) make a possession order under Part 7.
- (6) Nothing in this section prevents the legal personal representative or next of kin of a deceased renter giving vacant possession of the rented premises to the residential rental provider at any time before any termination date referred to in subsection (1).
- (7) The estate of a deceased renter is not liable for any rent for any period between the date vacant possession of the rented premises is given under subsection (6) and any termination date specified in a notice to vacate or notice of intention to vacate given under this section (as the case requires).
- (8) This section does not apply if there is more than one renter under the residential rental agreement.

**910 Residential rental agreement—
cancellation of licence or failure
to renew licence**

A residential rental agreement does not terminate merely because—

- (a) an application for a licence, or for a renewal of a licence, to operate a rooming house under the **Rooming House Operators Act 2016** is refused; or
- (b) a licence to operate a rooming house under the **Rooming House Operators Act 2016** expires; or

- (c) the Tribunal cancels a licence to operate a rooming house under the **Rooming House Operators Act 2016**.

Note

See sections 16, 20 and 33(1)(a)(v) of the **Rooming House Operators Act 2016**.

91P Offence to obtain possession etc. of premises

- (1) Except in accordance with this Act, a residential rental provider or a person acting on behalf of a residential rental provider must not require or compel or attempt to compel the renter under the residential rental agreement to vacate the rented premises.

Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate.

- (2) Except in accordance with this Act, a residential rental provider or a person acting on behalf of a residential rental provider must not obtain or attempt to obtain possession of the rented premises by entering them, whether the entry is peaceable or not, unless there are reasonable grounds to believe that the renter has abandoned the premises.

Penalty: 150 penalty units in the case of a natural person;

750 penalty units in the case
of a body corporate.

**Subdivision 2—Variations or creations
of residential rental agreements**

**91Q Creation of periodic residential rental
agreement**

- (1) A renter is deemed to occupy rented premises under a periodic residential rental agreement if—
 - (a) the term of a fixed term residential rental agreement ends; and
 - (b) the renter under that agreement continues in occupation of the rented premises—
 - (i) otherwise than as a renter under a fixed term residential rental agreement; or
 - (ii) in the case of a fixed term residential rental agreement for more than 5 years, otherwise than in accordance with a term in the agreement permitting the extension of the term of that agreement at the end of the fixed term.
- (2) The rental period under the periodic residential rental agreement created by subsection (1) is—
 - (a) if the rental period under the fixed term residential rental agreement was more than one month, a monthly period; and

- (b) if the rental period under the fixed term residential rental agreement was one month or less, a period equivalent to that rental period.
- (3) Except as provided in subsection (2), the periodic residential rental agreement—
 - (a) in the case of a residential rental agreement for a fixed term not exceeding 5 years, is on the same terms, so far as applicable, as the terms of the fixed term residential rental agreement; and
 - (b) in the case of a residential rental agreement for a fixed term of more than 5 years, the periodic residential rental agreement is on the same terms, so far as applicable, as the terms of a standard form fixed term residential rental agreement not exceeding 5 years.
- (4) On the application of the residential rental provider or the renter, the Tribunal may make any variations to the terms of a periodic residential rental agreement created under this section that are necessary for or appropriate to the continuation of the agreement.

91R New residential rental agreement created where head residential rental agreement terminated

- (1) A person becomes the renter of the residential rental provider in respect of rented premises if—

- (a) the person is in possession of the premises under a residential rental agreement (a *sub-residential rental agreement*) granted to that person by a person who is a renter of the premises under another residential rental agreement (the *head residential rental agreement*) granted to the person who is the head renter by the residential rental provider; and
 - (b) the head residential rental agreement terminates or is terminated; and
 - (c) the sub-residential rental agreement does not terminate or is not terminated in accordance with this Act.
- (2) The residential rental agreement created under subsection (1) is deemed to be a residential rental agreement on the same terms, as far as applicable, as the terms of the sub-residential rental agreement.
- (3) Subsection (1) applies whether or not this Act applied at any time to the head residential rental agreement.

91S Application to Tribunal for creation of residential rental agreement

- (1) A person who has been residing in rented premises as that person's principal place of residence and who is not a party to a residential rental agreement applying to those premises may apply to the Tribunal for an order requiring the residential rental provider of the premises to enter into a

residential rental agreement with the person
if—

- (a) an application for a possession order for the premises has been made under Part 7; or
 - (b) the renter has abandoned the rented premises; or
 - (c) the renter has delivered up vacant possession of the rented premises; or
 - (d) the renter has given a notice of intention to vacate the rented premises; or
 - (e) the renter has died and there is no surviving renter.
- (2) This section does not apply to a person who becomes a renter of a residential rental provider under section 91R.

91T Order of Tribunal to enter into residential rental agreement

- (1) The Tribunal may make an order requiring the residential rental provider to enter into a residential rental agreement with the applicant under section 91S if satisfied that—
- (a) the applicant could reasonably be expected to comply with the duties of a renter under a residential rental agreement to which this Act applies; and

- (b) the applicant would be likely to suffer severe hardship if the applicant were compelled to leave the premises; and
 - (c) the hardship suffered by the applicant would be greater than any hardship that the residential rental provider would suffer if the order were made.
- (2) The residential rental agreement must—
- (a) be entered into before the end of the time stated in the order; and
 - (b) be on the same terms and conditions as the residential rental agreement which applied in respect of the rented premises before the order is made, subject to any changes that the Tribunal determines.

91U Reduction or termination of fixed term residential rental agreement because of hardship

- (1) On the application of a party to a fixed term residential rental agreement, the Tribunal may—
- (a) make an order—
 - (i) reducing the term of the agreement by a period stated in the order; and
 - (ii) making any variations to the terms of the agreement that are necessary because of the reduction of the term; or

- (b) make an order terminating the fixed term residential rental agreement.
- (2) The Tribunal may only make an order under this section if 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 agreement were not reduced or terminated would be greater than the hardship which the other party would suffer if the term were reduced or the agreement terminated.
- (3) In making an order under this section, the Tribunal may determine the compensation (if any) to be paid by the applicant for the order to the other party because of—
 - (a) the reduction in the term of the residential rental agreement; or
 - (b) the termination of the fixed term residential rental agreement.

Subdivision 3—Termination and new residential rental agreements because of family violence or personal violence

91V Application for termination or new residential rental agreement because of family violence or personal violence

- (1) A person specified in subsection (2) may apply to the Tribunal for—
 - (a) an order terminating the existing residential rental agreement; or
 - (b) an order—

- (i) terminating the existing residential rental agreement; and
 - (ii) requiring the residential rental provider of the premises to enter a residential rental agreement with the person and other persons (if any) specified in the application.

- (2) For the purposes of subsection (1), the following persons are specified—
 - (a) a party to the existing residential rental agreement—
 - (i) who has been or is being subjected to family violence by another party to the existing residential rental agreement; or
 - (ii) who is a protected person under a personal safety intervention order made against another party to the existing residential rental agreement;
 - (b) a person—
 - (i) who is residing in the rented premises as the person's principal place of residence; and
 - (ii) who is not a party to the existing residential rental agreement; and
 - (iii) who—

- (A) has been or is being subjected to family violence by a party to the existing residential rental agreement; or
 - (B) is a protected person under a personal safety intervention order made against a party to the existing residential rental agreement.
- (3) For the purposes of subsection (2), a reference to a person who has been or is being subjected to family violence includes a protected person under a family violence safety notice, family violence intervention order or recognised non-local DVO.
- (4) An application under subsection (1) may be made without the consent of the residential rental provider or any other party to the existing residential rental agreement.
- (5) If a person specified in subsection (2) is a child, an application under subsection (1) may be made on that child's behalf by a parent or guardian of the child who lives at the rented premises with the child.
- (6) For the purposes of a proceeding for an order under subsection (1), each of the following persons is a party to the proceeding—
 - (a) the applicant or the person on whose behalf the application is made;
 - (b) the residential rental provider;

- (c) any other party to the existing residential rental agreement;
 - (d) any other person specified in the application.
- (7) The Tribunal must hear an application under subsection (1)—
- (a) within 3 business days of the application being made; or
 - (b) if the application cannot be heard within the period referred to in paragraph (a), no later than the next available sitting day of the Tribunal after the end of that 3 business day period.

91W Tribunal orders

- (1) On an application under section 91V(1), if satisfied as to the matters set out in subsection (2), the Tribunal may make—
- (a) an order terminating the existing residential rental agreement; or
 - (b) an order—
 - (i) terminating the existing residential rental agreement; and
 - (ii) requiring the residential rental provider to enter into a new residential rental agreement with the specified person and

other persons (if any) referred
to in the application.

- (2) For the purposes of subsection (1), the matters are—
- (a) the specified person and other persons (if any) could reasonably be expected to comply with the duties of a renter under a residential rental agreement to which this Act applies; and
 - (b) the specified person or that person's dependent children would be likely to suffer severe hardship if the specified person were compelled to leave the premises; and
 - (c) the hardship suffered by the specified person would be greater than any hardship the residential rental provider would suffer if the order were made; and
 - (d) if a renter of the rented premises is excluded from the rented premises under a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order, it is reasonable to do so given the length of the exclusion under the notice or order and the length of the existing residential rental agreement; and
 - (e) it is reasonable to do so given the interests of any other renters (other than any excluded renter) under the existing residential rental agreement

and, in particular, whether the other renters support the specified person's application.

- (3) In determining an application under section 91V(1), the Tribunal must take into account the following matters in relation to family violence or personal violence—
- (a) whether an application for a family violence safety notice, family violence intervention order, non-local DVO or personal safety intervention order has been made by or in respect of the specified person;
 - (b) if an application for a family violence safety notice, family violence intervention order, non-local DVO or personal safety intervention order has been made by or in respect of the person—
 - (i) whether there is a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order in effect; and
 - (ii) if there is a notice or an order in effect, whether a renter of the rented premises is excluded from the rented premises under the notice or order;
 - (c) any prescribed matters;
 - (d) any other matter the Tribunal considers relevant.

- (4) If the Tribunal makes an order under subsection (1)(b), the new residential rental agreement—
 - (a) is subject to the same rent and frequency of rent payments as the existing residential rental agreement; and
 - (b) if the existing residential rental agreement is a fixed term agreement, runs for a term not longer than the remainder of that fixed term; and
 - (c) otherwise, is on the same terms and conditions as the existing residential rental agreement, subject to any changes the Tribunal determines.
- (5) If the Tribunal makes an order under subsection (1)(a), the Tribunal must specify the date on which the existing residential rental agreement terminates.
- (6) If the Tribunal makes an order under subsection (1)(b), the existing residential rental agreement is terminated on the signing of the new residential rental agreement.
- (7) If the Tribunal makes an order under subsection (1), it may also make the following order—
 - (a) an order that the residential rental provider or that person's agent must ensure that the specified person has access to the rented premises or former rented premises to remove the person's goods;

(b) an order that the residential rental provider or that person's agent must not list information about the specified person on a residential tenancy database within the meaning of Part 10A.

(8) In this section—

specified person means a person specified in section 91V(2).

91X Tribunal may determine parties' liability under terminated residential rental agreement

(1) If the Tribunal makes an order under section 91W(1), the Tribunal may determine the liability of the person specified in section 91V(2) or any renter under the existing residential rental agreement in relation to—

- (a) a bond paid for the rented premises; and
- (b) any existing liability under the existing agreement, including—
 - (i) liability relating to outstanding rent; and
 - (ii) liability relating to damage caused to the rented premises; and
 - (iii) liability relating to outstanding utility charges.

(2) To remove doubt, the termination of a residential rental agreement under section 91W does not give rise to a

right to claim compensation on the part of any party to the agreement for early termination of the agreement.

- (3) The Tribunal may adjourn the hearing to allow an inspection of the rented premises in accordance with section 86(1)(g).

91Y Cross-examination in a proceeding for termination or new residential rental agreement

- (1) Unless the Tribunal gives leave, in a proceeding on an application under section 91V(1)—
- (a) a person subjected to family violence must not be personally cross-examined by the person who subjected that person to the family violence; and
 - (b) a protected person under a personal safety intervention order must not be personally cross-examined by the person against whom the personal safety intervention order was made.
- (2) For the purposes of subsection (1), a reference to a person subjected to family violence includes a protected person under a family violence safety notice, family violence intervention order or recognised non-local DVO.
- (3) The Tribunal may give leave under subsection (1) with or without conditions.
- (4) If leave is given under subsection (1), the person may only cross-examine the person

subjected to family violence or the protected person—

- (a) as to those matters set out in sections 91T(1) and 91W(2); and
- (b) in accordance with any conditions to which the leave given is subject.

Subdivision 4—Notice or abandonment by renter

91Z Notice of intention to vacate

- (1) A renter may give a residential rental provider a notice of intention to vacate rented premises.
- (2) The notice under subsection (1) must specify a termination date that is not less than 28 days after the date on which the notice is given.
- (3) A resident of a rooming house who has entered into a fixed term residential rental agreement with a rooming house operator may give the rooming house operator a notice of intention to vacate if the resident has been given a notice to vacate under section 91ZZL or 91ZZM.

Note

See section 18.

- (4) The notice of intention to vacate under subsection (3) must specify a termination date that is not less than 28 days after the date on which that notice of intention to vacate is given.

91ZA Notice to have no effect in certain circumstances

- (1) A notice given under section 91Z in respect of a fixed term residential rental agreement is of no effect—
 - (a) if the agreement includes a provision enabling the residential rental provider or the renter to end the agreement by notice (otherwise than on the grounds of a breach of the agreement) if—
 - (i) the period after the giving of the notice and before the termination date specified in the notice is less than the period of notice required under that provision; or
 - (ii) the termination date specified in the notice is a date other than a date on which under that provision the agreement may be ended; or
 - (b) in any other case, if it specifies a termination date that is earlier than the end of the term of the residential rental agreement.
- (2) This section does not apply to a notice of intention to vacate given under section 91Z(3).

91ZB Reduced period of notice of intention to vacate in certain circumstances

- (1) This section applies to a renter if—
 - (a) the renter has been given a notice to vacate under section 91ZX, 91ZY,

91ZZ, 91ZZA, 91ZZB, 91ZZC, 91ZZD
or 91ZZE; or

- (b) the renter requires special or personal care and needs to vacate the rented premises in order to obtain that care; or
 - (c) the renter has been offered and accepted accommodation by the Director of Housing or a registered housing agency; or
 - (d) the renter requires temporary crisis accommodation and needs to vacate the rented premises in order to obtain that accommodation; or
 - (e) the renter has been given a notice of intention to sell by the residential rental provider in accordance with section 86, unless the renter was notified of the proposed sale of the rented premises in accordance with section 30D before entering into the residential rental agreement; or
 - (f) the residential rental provider has refused the request of a renter with a disability to make reasonable alterations to the rented premises pursuant to section 55 of the **Equal Opportunity Act 2010**.
- (2) A renter to whom this section applies may give a residential rental provider a notice of intention to vacate rented premises under a fixed term residential rental agreement specifying a termination date that is not less than 14 days after the date on which

the notice is given, irrespective of the date of the end of the fixed term.

- (3) A renter to whom this section applies may give a residential rental provider a notice of intention to vacate premises rented under a periodic residential rental agreement specifying a termination date that is not less than 14 days after the date on which the notice is given.
- (4) A renter who gives a notice of intention to vacate under subsection (2) or (3) must provide with that notice of intention to vacate documentary evidence that substantiates the existence of special circumstances of a kind referred to in subsection (1)(b), (c) or (d), as the case requires.
- (5) A renter who terminates a residential rental agreement under this section by notice of intention to vacate other than on receipt of a notice to vacate referred to in subsection (1)(a), is not liable to pay to the residential rental provider in relation to that termination any form of lease break fee (however described).
- (6) In this section *special or personal care* means—
 - (a) assistance with one or more of the following—
 - (i) bathing, showering or personal hygiene;
 - (ii) toileting;

- (iii) dressing or undressing;
 - (iv) meals; or
 - (b) physical assistance for persons with mobility problems; or
 - (c) assistance for persons who are mobile but require some form of supervision or assistance; or
 - (d) assistance or supervision in dispensing medicine; or
 - (e) the provision of substantial emotional support in a health or residential service.
- (7) This section applies despite anything to the contrary in section 91Z or 91ZA.

91ZC Residential rental agreement for a fixed term of more than 5 years does not comply with standard form

- (1) This section applies if a residential rental agreement for a fixed term of more than 5 years is not in the standard form.
- (2) Despite any term of the residential rental agreement to the contrary, the renter may give the residential rental provider a notice of intention to vacate the rented premises.
- (3) The notice of intention to vacate must specify a termination date that is not less than 28 days after the date on which the notice is given.
- (4) A renter who terminates a residential rental agreement under this section is not liable to pay to the residential rental provider in

relation to that termination any form of lease break fee (however described).

91ZD Premises destroyed or unfit for habitation

- (1) A renter may give a residential rental provider a notice of intention to vacate rented premises if the premises—
 - (a) are unfit for human habitation; or
 - (b) have been destroyed totally or to such an extent as to be rendered unsafe.
- (2) The notice may specify a termination date that is the date on which the notice is given or a later date.

91ZE Failure of residential rental provider to comply with Tribunal order

- (1) A renter may give a residential rental provider a notice of intention to vacate rented premises if the residential rental provider fails to comply with an order of the Tribunal under section 212.
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

91ZF Successive breaches by residential rental provider

- (1) A renter under a fixed term residential rental agreement may give a residential rental provider a notice of intention to vacate rented premises without first serving a breach of duty notice if—
 - (a) the residential rental provider has breached a duty provision; and

- (b) on 2 previous occasions the residential rental provider has been in breach of the same provision; and
 - (c) the renter has on each occasion referred to in paragraph (b) given a breach of duty notice to the residential rental provider.
- (2) If the renter gives a breach of duty notice to the residential rental provider in respect of the breach of a duty provision, the renter must not give the residential rental provider a notice of intention to vacate under this section unless the residential rental provider has not complied with the breach of duty notice within the required time.
 - (3) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

91ZG Order of Tribunal that premises are abandoned

- (1) If a residential rental provider believes that a renter has abandoned rented premises, the residential rental provider may apply to the Tribunal for an order declaring that the renter has abandoned them.
- (2) An application under subsection (1) must be heard by the Tribunal within 5 business days after the application is made.
- (3) On an application under subsection (1), the Tribunal by order may declare that the rented

premises were abandoned by the renter on a day specified by the Tribunal.

- (4) The renter is deemed to have abandoned the rented premises on that specified day.

91ZH Abandoned premises and rent in advance

- (1) If a renter abandons rented premises and the residential rental provider has received an amount of rent in respect of the premises that had not accrued due when the renter abandoned them, the residential rental provider is entitled to the lesser of—
- (a) that amount; or
 - (b) such part of that amount as does not exceed the amount of loss or damage suffered as a result of the abandonment.
- (2) If the residential rental provider knows the address of the renter, the residential rental provider must pay to the renter the amount of rent to which the residential rental provider is not entitled.
- (3) If the residential rental provider does not know the address of the renter, the amount to which the residential rental provider is not entitled must be dealt with in accordance with Part 3 of the **Unclaimed Money Act 2008** as if the residential rental provider were a business to which that Part applies.

Subdivision 5—Notice by residential rental provider, owner or mortgagee

91ZI Damage

- (1) A residential rental provider may give a renter a notice to vacate rented premises if the renter or the renter's visitor, whether by act or omission intentionally or recklessly causes serious damage to the premises, including any safety equipment, or to any common areas.

Example

Safety equipment such as smoke alarms.

- (2) The notice may specify a termination date that is the date on which the notice is given or a later date.

91ZJ Danger

- (1) A residential rental provider may give a renter a notice to vacate rented premises if the renter or the renter's visitor by act or omission endangers the safety of—
 - (a) occupiers of neighbouring premises; or
 - (b) the residential rental provider or the provider's agent; or
 - (c) a contractor or employee of a person referred to in paragraph (b).
- (2) The notice may specify a termination date that is the date on which the notice is given or a later date.
- (3) A residential rental provider is not entitled to give a notice to vacate under subsection (1) if a notice to leave under section 368 has been given in respect of that act or omission.

91ZK Threats and intimidation

- (1) A residential rental provider may give a renter a notice to vacate rented premises if the renter or any other person occupying or jointly occupying the rented premises has seriously threatened or intimidated—
 - (a) the residential rental provider or the provider's agent; or
 - (b) a contractor or employee of a person referred to in paragraph (a).
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

91ZL Condition of premises

- (1) A residential rental provider may give a renter a notice to vacate rented premises if the premises—
 - (a) are unfit for human habitation; or
 - (b) have been destroyed totally or to such an extent as to be rendered unsafe.
- (2) The notice may specify a termination date that is the date on which the notice is given or a later date.

91ZM Non-payment of rent

- (1) On the first, second, third and fourth occasion of non-payment of rent—
 - (a) the residential rental provider may give a notice to vacate under this section to the renter; and
 - (b) if the renter pays the unpaid rent on or before the termination date in the

notice under paragraph (a), the notice is of no effect; and

- (c) if the renter does not pay the unpaid rent on or before the termination date in the notice under paragraph (a), the residential rental provider may apply to the Tribunal for a possession order; and
 - (d) on an application for a possession order, if the Tribunal has made an assessment under section 331 in respect of the application, the Tribunal—
 - (i) may place the renter on a payment plan and adjourn the application for the possession order; or
 - (ii) may make a possession order.
- (2) On the fifth occasion of non-payment of rent—
- (a) the residential rental provider may give a notice to vacate under this section to the renter; and
 - (b) the notice given under paragraph (a) remains in effect despite the renter paying the unpaid rent on or before the termination date in the notice; and
 - (c) the residential rental provider may apply to the Tribunal for a possession order after the expiry of the notice under paragraph (a); and
 - (d) section 331 does not apply to an application under paragraph (c); and

- (e) on an application under paragraph (c), the Tribunal may make a possession order.
- (3) If the Tribunal places a renter on a payment plan under subsection (1)(d)(i) and the renter complies with the terms of the payment plan and has paid the unpaid rent—
- (a) the Tribunal is to dismiss the application for the possession order; and
 - (b) the residential rental agreement continues despite any notice to vacate that has already been given to the renter.
- (4) If the Tribunal places a renter on a payment plan under subsection (1)(d)(i) and the renter does not comply with the terms of the payment plan, the Tribunal may make a possession order.
- (5) A notice to vacate given under this section must specify a termination date that is not less than 14 days after the date on which the notice is given.
- (6) For the purposes of this section, a separate notice to vacate must be given for each separate occasion of non-payment of rent.
- (7) In this section—
- occasion of non-payment of rent*** means an occasion where the renter is given a notice to vacate under this section for owing at least 14 days rent within a 12 month period of the residential

rental agreement, but does not include any amount owing under a payment plan ordered by the Tribunal;

12 month period means—

- (a) the first 12 month period of the residential rental agreement that begins on the first day of the residential rental agreement; or
- (b) the second 12 month period of the residential rental agreement, if any, that begins on the day after the end of the first 12 month period of the residential rental agreement; or
- (c) any consecutive 12 month period of the residential rental agreement, if any, that begins immediately after the end of the first or a subsequent 12 month period of the residential rental agreement.

91ZN Failure to pay bond

- (1) The residential rental provider may give the renter a notice to vacate rented premises if the renter fails to comply with a provision of the residential rental agreement relating to the payment of a bond.
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

91ZO Failure to comply with Tribunal order

- (1) A residential rental provider may give a renter a notice to vacate rented premises if

the renter fails to comply with an order of the Tribunal under section 212.

- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

91ZP Successive breaches by renter

- (1) A residential rental provider may give a renter a notice to vacate rented premises without first serving a breach of duty notice if—
 - (a) the renter has breached a duty provision; and
 - (b) on 2 previous occasions the renter has been in breach of the same provision; and
 - (c) the residential rental provider or the residential rental provider's agent has on each occasion referred to in paragraph (b) given a breach of duty notice to the renter.
- (2) If the residential rental provider gives a breach of duty notice to the renter in respect of the breach of a duty provision, the residential rental provider must not give the renter a notice to vacate under this section unless the renter has not complied with the breach of duty notice within the required time.
- (3) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

91ZQ Use of premises for illegal purpose

- (1) A residential rental provider may give a renter a notice to vacate rented premises if the renter has used the rented premises or permitted their use for any purpose that is illegal at common law or under an Act.
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

91ZR Drug-related conduct in public housing

- (1) The Director of Housing may give a renter a notice to vacate rented premises of which the Director of Housing is the residential rental provider if the renter has, on the rented premises or in a common area, illegally—
 - (a) trafficked or attempted to traffick a drug of dependence; or
 - (b) supplied a drug of dependence to a person under 18 years of age; or
 - (c) possessed a preparatory item with the intention of using the item for the purpose of trafficking in a drug of dependence; or
 - (d) possessed, without lawful excuse—
 - (i) a tablet press; or
 - (ii) a precursor chemical; or
 - (e) intentionally caused another person to traffick in a drug of dependence by threatening to harm that person or another person or by using violence

against that person or another person;
or

(f) intentionally permitted another person to use those premises or the common area for—

(i) trafficking in a drug of dependence; or

(ii) cultivating a drug of dependence;
or

(g) cultivated or attempted to cultivate a narcotic plant.

(2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

(3) In this section—

cultivate, *narcotic plant* and *traffick* have the same meanings as in section 70(1) of the **Drugs, Poisons and Controlled Substances Act 1981**;

drug of dependence, *substance* and *supply* have the same meanings as in section 4(1) of the **Drugs, Poisons and Controlled Substances Act 1981**;

precursor chemical means a prescribed precursor chemical within the meaning of section 71D of the **Drugs, Poisons and Controlled Substances Act 1981**;

preparatory item means a substance, material, equipment or document containing instructions relating

to the preparation, cultivation or trafficking of a drug of dependence.

91ZS Prescribed indictable offences in public housing

- (1) The Director of Housing may give a renter a notice to vacate rented premises of which the Director of Housing is the residential rental provider if the renter has committed a prescribed indictable offence on the rented premises or in a common area.
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.
- (3) To avoid doubt, nothing in this section is to be taken to mean that the Director of Housing may only give a renter a notice to vacate in respect of a prescribed indictable offence if the renter has been convicted or found guilty of that offence.

91ZT Permitting child to reside in premises

- (1) A residential rental provider may give a renter a notice to vacate rented premises if the renter has failed to comply with a term of the residential rental agreement prohibiting the renter from permitting a child under the age of 16 years to reside on the rented premises.
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

91ZU False statement to housing authority

- (1) A residential rental provider which is a public statutory authority engaged in the provision of housing may give a renter a notice to vacate rented premises if the authority was induced to enter the residential rental agreement by a statement by the renter—
 - (a) which related to a matter on which eligibility to rent the premises depended; and
 - (b) which the renter knew to be false or misleading.
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

91ZV Assignment or sub-letting without consent

- (1) A residential rental provider may give a renter a notice to vacate rented premises if the renter has assigned or sub-let or purported to assign or sub-let the whole or any part of the premises without the residential rental provider's consent.
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

91ZW Residential rental provider's principal place of residence (fixed term residential rental agreement)

- (1) A residential rental provider under a fixed term residential rental agreement may, before the end of the term of the residential

rental agreement, give the renter a notice to vacate rented premises if—

- (a) the rented premises were the residential rental provider's principal place of residence—
 - (i) immediately before the residential rental agreement was entered into; or
 - (ii) if the residential rental agreement is the second residential rental agreement entered into since the premises were the residential rental provider's principal place of residence, immediately before the first residential rental agreement was entered into; and
- (b) the residential rental agreement states that the rented premises were the residential rental provider's principal place of residence—
 - (i) immediately before the residential rental agreement was entered into; or
 - (ii) if the residential rental agreement is the second residential rental agreement entered into since the premises were the residential rental provider's principal place of residence, immediately before the first residential rental agreement was entered into; and

- (c) the residential rental agreement states that the residential rental provider intends to resume occupancy of the premises on the termination of the agreement.
- (2) The notice may specify a termination date that is the date of the end of the term or a later date.
- (3) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.
- (4) A residential rental provider is not entitled to give a notice under this section if the residential rental provider has entered into more than 2 residential rental agreements in respect of the premises since the premises were the residential rental provider's principal place of residence.

Note

See section 91ZZO regarding requirements for accompanying documentary evidence.

91ZX Repairs

- (1) A residential rental provider may give a renter a notice to vacate rented premises if—
 - (a) the residential rental provider intends to repair, renovate or reconstruct the premises—
 - (i) in the case of a building owned by a residential rental provider containing 5 or more rented premises, immediately after the last renter vacates; or

- (ii) in any other case, immediately after the termination date; and
 - (b) the residential rental provider has obtained all necessary permits and consents to carry out the work; and
 - (c) the work cannot be properly carried out unless the renter vacates the rented premises.
- (2) The notice must specify a termination date that is not less than 60 days after the date on which the notice is given.

Note

See section 91ZZO regarding requirements for accompanying documentary evidence.

91ZY Demolition

- (1) A residential rental provider may give a renter a notice to vacate rented premises if—
- (a) the residential rental provider intends to demolish the premises—
 - (i) in the case of a building owned by a residential rental provider containing 5 or more rented premises, immediately after the last renter vacates; or
 - (ii) in any other case, immediately after the termination date; and
 - (b) the residential rental provider has obtained all necessary permits and consents to demolish the premises.

- (2) The notice must specify a termination date that is not less than 60 days after the date on which the notice is given.

Note

See section 91ZZO regarding requirements for accompanying documentary evidence.

91ZZ Premises to be used for business

- (1) A residential rental provider may give a renter a notice to vacate rented premises if the premises are immediately after the termination date to be used for the purposes of a business or for any purpose other than letting for use principally as a residence.
- (2) The notice must specify a termination date that is not less than 60 days after the date on which the notice is given.

Note

See section 91ZZO regarding requirements for accompanying documentary evidence.

91ZZA Premises to be occupied by residential rental provider or provider's family

- (1) A residential rental provider may give a renter a notice to vacate rented premises if the premises are immediately after the termination date to be occupied—
- (a) by the residential rental provider; or
 - (b) in the case of a residential rental provider who is an individual—
 - (i) by the residential rental provider's partner, child, parent or partner's parent; or

- (ii) by another person who normally lives with the residential rental provider and is wholly or substantially dependent on the residential rental provider.
- (2) The notice must specify a termination date that is not less than 60 days after the date on which the notice is given.

Note

See section 91ZZO regarding requirements for accompanying documentary evidence.

91ZZB Premises to be sold

- (1) A residential rental provider may give a renter a notice to vacate rented premises if the premises are immediately after the termination date to be sold or offered for sale with vacant possession.
- (2) If a residential rental provider has entered into a contract of sale of the rented premises and the contract of sale is subject to one or more conditions which, if not satisfied, entitle a party to the contract to terminate the contract, the residential rental provider, within 14 days after the last of those conditions is satisfied, may give a renter a notice to vacate the rented premises.
- (3) If a residential rental provider has entered into a contract of sale of the rented premises which is not a contract of sale of the kind referred to in subsection (2), the residential rental provider, within 14 days after the contract of sale is entered into, may give a renter a notice to vacate the rented premises.

- (4) A notice under this section must specify a termination date that is not less than 60 days after the date on which the notice is given.

Note

See section 91ZZO regarding requirements for accompanying documentary evidence.

91ZZC Premises required for public purposes

- (1) A residential rental provider may give a renter a notice to vacate rented premises if—
- (a) the premises are the property of a public statutory authority authorised to acquire land compulsorily for its purposes; and
 - (b) immediately after the termination date the premises are required for public purposes.
- (2) The notice must specify a termination date that is not less than 60 days after the date on which the notice is given.

Note

See section 91ZZO regarding requirements for accompanying documentary evidence.

91ZZD End of fixed term residential rental agreement of not more than 5 years

- (1) A residential rental provider under a fixed term residential rental agreement for a fixed term of not more than 5 years, before the end of the term of the residential rental agreement, may give the renter a notice to vacate the rented premises at the end of the initial fixed term.

- (2) The notice must specify a termination date that is on or after the date of the end of the initial fixed term.
- (3) The notice must be given—
 - (a) in the case of a fixed term residential rental agreement for 6 months or more (but not exceeding 5 years), not less than 90 days before the end of the initial fixed term; or
 - (b) in the case of a fixed term residential rental agreement for less than 6 months, not less than 60 days before the end of the initial fixed term.

91ZZE Renter no longer meets eligibility criteria

- (1) A residential rental provider which is a public statutory authority engaged in the provision of housing may give a renter a notice to vacate rented premises if—
 - (a) the rented premises are premises only available to be let to persons who meet the eligibility criteria for housing published by the public statutory authority under subsection (3); and
 - (b) the renter ceases to meet one or more of the eligibility criteria.
- (2) The notice must specify a termination date that is not less than 90 days after the date on which the notice is given.
- (3) A public statutory authority, by notice published in the Government Gazette, may publish its criteria for eligibility for the

provision of housing by that public statutory authority.

91ZZF Renter in transitional housing refuses alternative accommodation

- (1) A residential rental provider which is the Director of Housing or a delegate of the Director of Housing may give a renter a notice to vacate rented premises if—
 - (a) the rented premises were provided as transitional housing; and
 - (b) the Director of Housing, under this section, has published requirements for renters of transitional housing to seek alternative accommodation; and
 - (c) the renter has—
 - (i) unreasonably refused to seek alternative accommodation in accordance with those requirements; or
 - (ii) refused a reasonable offer of alternative accommodation made in accordance with those requirements.
- (2) The notice must specify a termination date that is not less than 30 days after the date on which the notice is given.
- (3) In this section *transitional housing* means accommodation for a period of more than 14 days and less than 12 months provided to

persons in crisis as a result of homelessness or impending homelessness.

- (4) The Director of Housing, by notice published in the Government Gazette, may publish its requirements for renters of transitional housing to seek alternative accommodation.

91ZZG Notice to vacate when pet kept without consent

- (1) A residential rental provider may give a renter a notice to vacate rented premises if—
- (a) the Tribunal has made an order under section 71E excluding a pet from the rented premises; and
 - (b) at least 14 days have passed since the order took effect; and
 - (c) the renter has not complied with the order.
- (2) The notice must specify a date that is not less than 28 days after the day on which the notice is given.

91ZZH Prohibition on letting premises after notice

- (1) A residential rental provider or a person acting on behalf of a residential rental provider who obtains possession of rented premises in respect of which a notice to vacate has been given under sections 91ZY to 91ZZB must not let the premises to a person for use primarily as a residence before the end of 6 months after the date on which the notice was given.

Penalty: 150 penalty units in the case
of a natural person;
750 penalty units in the case
of a body corporate.

- (2) Subsection (1) does not apply—
- (a) to the letting of the premises to a person referred to in section 91ZZA; or
 - (b) if the Tribunal determines that the premises may be let.

91ZZI Notice to have no effect in certain circumstances

- (1) A notice given under section 91ZX, 91ZY, 91ZZ, 91ZZA, 91ZZB, 91ZZC, 91ZZD or 91ZZE in respect of a fixed term residential rental agreement is of no effect—
- (a) if the agreement includes a provision enabling the residential rental provider or the renter to determine the agreement by notice (otherwise than on the grounds of a breach of the agreement) if—
 - (i) the period after the giving of notice and before the termination date specified in the notice is less than the period of notice required under that provision; or
 - (ii) the termination date specified in the notice is a date other than a date on which under that provision the agreement may be determined; or

- (b) in any other case, if it specifies a termination date that is earlier than the end of the term of the residential rental agreement.
- (2) A notice given under section 91ZX, 91ZY, 91ZZ, 91ZZA, 91ZZB, 91ZZC, 91ZZD or 91ZZE is of no effect if the giving of the notice would constitute direct discrimination within the meaning of the **Equal Opportunity Act 2010**.
- (3) A notice under section 91ZK is of no effect if it was given in response to the exercise, or proposed exercise, by the renter of a right under this Act.
- (4) A notice under section 91ZZD is of no effect if it was given in response to—
 - (a) the exercise, or proposed exercise, by the renter of a right under this Act; or
 - (b) the renter making a report under section 72AA.
- (5) A person is not entitled to apply to the Tribunal challenging the validity of a notice—
 - (a) in the case of a notice under section 91ZZD relating to a fixed term residential rental agreement for a fixed term of 6 months or more, after the end of 28 days after the date on which the notice is given; or

- (b) in the case of a notice under section 91ZZD relating to a fixed term residential rental agreement for a fixed term of less than 6 months, after the end of 21 days after the date on which the notice is given.

91ZZJ Notice by owner

- (1) If the residential rental provider under a residential rental agreement is not the owner of the rented premises, the owner may exercise a right of the residential rental provider—
 - (a) to give the renter a notice to vacate the premises (except under section 91ZW); or
 - (b) to recover possession of the premises; or
 - (c) to give a breach of duty notice that applies to the residential rental agreement.
- (2) A notice to vacate given in accordance with a right conferred by subsection (1) does not have effect unless it specifies a termination date on or after the day on which the residential rental provider's interest in the premises ends.
- (3) If the owner exercises a right conferred by subsection (1) in relation to a residential rental agreement, this Division, Part 5 and Part 7 have effect as if a reference to a residential rental provider under a residential

rental agreement included a reference to the owner.

91ZZK Notice by mortgagee

- (1) Subject to subsection (4), if a mortgagee in respect of rented premises under a mortgage entered into before the residential rental agreement was entered into becomes entitled to possession of, or to exercise a power of sale in respect of, the premises under a mortgage, the mortgagee may give the renter a notice to vacate the premises.
- (2) The notice must specify a termination date that is not less than 60 days after the date on which the notice is given.
- (3) If the mortgagee exercises a right conferred by subsection (1) in relation to a residential rental agreement, this Division, Part 5 and Part 7 have effect as if a reference to a residential rental provider under a residential rental agreement included a reference to the mortgagee.
- (4) A notice to vacate must not be given by a mortgagee if the mortgagee has expressly or impliedly consented to the mortgagor entering into a residential rental agreement in relation to the rented premises, regardless of when the residential rental agreement was entered into.

91ZZL Notice to vacate given by Tribunal order under Rooming House Operators Act 2016

- (1) A residential rental provider who is a rooming house operator must give a resident who is a renter under a residential rental agreement a notice to vacate if the Tribunal has made an order referred to in section 33(1)(b), 34(3)(c)(ii) or 83(3)(c)(iii) of the **Rooming House Operators Act 2016** in relation to the rooming house operator.
- (2) The notice must specify a termination date that is the date specified by the Tribunal as the termination date.

91ZZM Notice to vacate—refusal of licence under Rooming House Operators Act 2016

- (1) A rooming house operator who has entered into a residential rental agreement with a rooming house resident in accordance with section 94 may give the resident a notice to vacate under that residential rental agreement if—
 - (a) the rooming house operator's application for renewal of a licence under the **Rooming House Operators Act 2016** is refused by the Business Licensing Authority and section 29(1) or 29(2) of that Act apply; or
 - (b) the rooming house operator's application for a licence under the **Rooming House Operators Act 2016** is refused by the Business Licensing

Authority and section 82(2) of that Act applies.

- (2) The notice must specify a termination date that is 120 days after the date on which the notice is given.

Subdivision 6—Notices under this Division

91ZZN Form of notice of intention to vacate

A notice of intention to vacate rented premises is not valid unless—

- (a) it is in writing; and
- (b) it is signed by the person giving the notice or by that person's agent.

91ZZO Form of notice to vacate

A notice to vacate given under this Division is not valid unless—

- (a) it is in the relevant prescribed form; and
- (b) it is addressed to the renter; and
- (c) it is signed by the person giving the notice or by that person's agent; and
- (d) it specifies the reason or reasons for giving the notice; and
- (e) in the case of a notice to vacate given under section 91ZW, 91ZX, 91ZY, 91ZZ, 91ZZA, 91ZZB or 91ZZC, it is accompanied by documentary evidence, as approved by the Director from time to time, which supports the reason for giving the notice; and

Note

See section 486A.

- (f) it specifies the termination date which is the date by which compliance is required.

91ZZP What if 2 or more notices can be served?

If a person is or becomes entitled to give 2 or more notices of intention to vacate or notices to vacate under this Division—

- (a) the invalidity of any of the notices does not affect the validity of any other notice; and
- (b) each valid notice has full force and effect.

91ZZQ How can a notice be withdrawn?

- (1) A notice of intention to vacate or a notice to vacate given under this Division is withdrawn only if a notice of withdrawal is given.
- (2) A notice of withdrawal must be—
 - (a) in writing; and
 - (b) signed by the person who gave the notice; and
 - (c) signed by the person to whom the notice was given.

Subdivision 7—Can a notice to vacate be challenged?

91ZZR Application of Subdivision

Nothing in this Subdivision affects any right a renter may have to challenge the validity of any other notice to vacate under this Act.

91ZZS Renter may apply to Tribunal

- (1) On or before the hearing of an application for a possession order in respect of a notice to vacate given under section 91ZX, 91ZY, 91ZZ, 91ZZA, 91ZZB or 91ZZC, a renter who has received the notice to vacate may apply to the Tribunal challenging the validity of the notice to vacate.
- (2) An application under subsection (1) must be made within 30 days after the notice to vacate is given.

91ZZT What can the Tribunal order?

- (1) On an application under section 91ZZS, the Tribunal may determine whether or not the notice to vacate is valid.
- (2) If the Tribunal determines that the notice to vacate is valid, the renter is not entitled to further apply to the Tribunal to challenge the validity of the notice to vacate unless the Tribunal is satisfied that exceptional circumstances exist which justify reconsideration of the determination made under this section.
- (3) Nothing in subsection (2) affects the operation of section 479.

91ZZU Renter may challenge notice to vacate on grounds of family violence or personal violence

- (1) On or before the hearing of an application for a possession order, a renter who has received a notice to vacate under section 91ZI, 91ZJ, 91ZK, 91ZO, 91ZP, 91ZQ or 91ZR may apply to the Tribunal challenging the validity of the notice to vacate on the grounds that the relevant act or breach for which the notice to vacate was given was caused by the act of a person who has subjected the applicant to family violence or personal violence.
- (2) An application under subsection (1) must be made within 30 days after the notice to vacate is given.

91ZZV What can the Tribunal order?

On an application under section 91ZZU, the Tribunal must make an order that the notice to vacate is invalid if satisfied that—

- (a) the applicant has been, or is being, subjected to family violence or personal violence; and
- (b) the relevant act or breach on which the notice to vacate was given was caused by the act of a person who has subjected the applicant to family violence or personal violence."

237 New Division 10 of Part 3 inserted

After Division 9 of Part 3 of the Principal Act
insert—

**"Division 10—Termination of residency
rights in rooming houses**

**Subdivision 1—When does a
residency right end?**

142M Termination after notice

A residency right in respect of a room ends if—

- (a) the resident vacates the room after giving a notice of intention to vacate to the rooming house operator; or
- (b) the resident vacates the room after being given a notice to vacate.

142N Termination by Tribunal

A residency right in respect of a room ends on the date fixed in a possession order made by the Tribunal.

142O Termination by abandonment

A residency right ends if the room is abandoned by the resident who has that residency right and at least 14 days have passed since the last rent payment was due.

**142P Termination if room or rooming house
destroyed**

A residency right ends if the resident's room or the rooming house—

- (a) is unfit for human habitation; or
- (b) has been destroyed totally or to such an extent as to be rendered unsafe.

**142Q Residency rights—cancellation of licence
or failure to renew licence**

A residency right does not end merely because—

- (a) an application for a licence, or for a renewal of a licence, to operate a rooming house under the **Rooming House Operators Act 2016** is refused; or
- (b) a licence to operate a rooming house under the **Rooming House Operators Act 2016** expires; or
- (c) the Tribunal cancels a licence to operate a rooming house under the **Rooming House Operators Act 2016**.

Note

See sections 16, 20 and 33(1)(a)(v) of the **Rooming House Operators Act 2016**.

142R Offences relating to interference with rights

- (1) Except in accordance with this Act, a person must not—
 - (a) require or force or attempt to require or force a resident to vacate the resident's room; or
 - (b) take or attempt to take possession of a room in which a resident resides.

Penalty: 150 penalty units in the case of a natural person;

750 penalty units in the case of a
body corporate.

- (2) Except in accordance with this Act, a person must not, for the purposes of causing a resident to abandon a room—
- (a) interfere with the peace and comfort of a resident; or
 - (b) withdraw any services or facilities reasonably required to allow a resident to reside in the room; or
 - (c) prevent a resident from using any facilities; or
 - (d) do any other act or thing intended or designed to cause the resident to abandon the room.

Penalty: 150 penalty units in the case
of a natural person;
750 penalty units in the case
of a body corporate.

**Subdivision 2—Termination and new
rooming house agreements because of
family violence or personal violence**

**142S Application for termination or new
rooming house agreement because of
family violence or personal violence**

- (1) A person specified in subsection (2) may apply to the Tribunal for—
- (a) an order terminating the existing fixed term rooming house agreement or agreement under section 94(2); or

- (b) an order—
 - (i) terminating the existing fixed term rooming house agreement or agreement under section 94(2); and
 - (ii) requiring the rooming house operator to enter into a new fixed term rooming house agreement or agreement under section 94(2) with the person and other persons (if any) specified in the application.
- (2) For the purposes of subsection (1) the following persons are specified—
 - (a) a party to the existing fixed term rooming house agreement or agreement under section 94(2) and who—
 - (i) has been or is being subjected to family violence by another party to the existing fixed term rooming house agreement or agreement; or
 - (ii) is a protected person under a personal safety intervention order made against another party to the existing fixed term rooming house agreement or agreement;
 - (b) a person—
 - (i) who is residing in the room as the person's principal place of residence; and

- (ii) who is not a party to the existing fixed term rooming house agreement or agreement under section 94(2); and
- (iii) who—
 - (A) has been or is being subjected to family violence by a party to the existing fixed term rooming house agreement or agreement; or
 - (B) is a protected person under a personal safety intervention order made against a party to the existing fixed term rooming house agreement or agreement.
- (3) For the purposes of subsection (2), a reference to a person who has been or is being subjected to family violence includes a person who is a protected person under a family violence safety notice, family violence intervention order or recognised non-local DVO.
- (4) An application under subsection (1) may be made without the consent of the rooming house operator or any other party to the existing fixed term rooming house agreement or agreement under section 94(2).
- (5) If a person specified in subsection (2) is a child, an application under subsection (1) may be made on that child's behalf by a parent or guardian of the child who lives at the rooming house with the child.

- (6) For the purposes of a proceeding in relation to an application for an order under subsection (1), each of the following persons is a party to the proceeding—
- (a) the applicant or the person on whose behalf the application was made;
 - (b) the rooming house operator;
 - (c) any resident who is excluded from the rooming house under a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order that protects a person specified in subsection (2);
 - (d) any other existing residents of the room.
- (7) The Tribunal must hear an application under subsection (1)—
- (a) within 3 business days of the application being made; or
 - (b) if the application cannot be heard within the period referred to in paragraph (a), no later than the next available sitting day of the Tribunal after the end of that 3 business day period.

142T Tribunal orders

- (1) On an application under section 142S(1), if satisfied as to the matters set out in subsection (2), the Tribunal may make—

- (a) an order terminating the existing fixed term rooming house agreement or agreement under section 94(2); or
 - (b) an order—
 - (i) terminating the existing fixed term rooming house agreement or agreement under section 94(2); and
 - (ii) requiring the rooming house operator to enter into a new fixed term rooming house agreement or agreement under section 94(2) with the person and other persons (if any) specified in the application.
- (2) For the purposes of subsection (1), the matters are—
- (a) the specified person and other persons (if any) could reasonably be expected to comply with the duties of a resident under a fixed term rooming house agreement or agreement under section 94(2); and
 - (b) the specified person or that person's dependent children would be likely to suffer severe hardship if the specified person were compelled to leave the rooming house; and
 - (c) the hardship suffered by the specified person would be greater than any hardship the rooming house operator

would suffer if the order were made;
and

- (d) if a resident of the rooming house is excluded from the rooming house under a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order, it is reasonable to do so given the length of the exclusion under the notice or order and the length of the existing fixed term rooming house agreement; and
 - (e) it is reasonable to do so given the interests of any other residents (other than any excluded resident) under the existing fixed term rooming house agreement or agreement under section 94(2) and, in particular, whether the other residents support the specified person's application.
- (3) In determining an application under section 142S(1), the Tribunal must take into account the following matters in relation to family violence or personal violence—
- (a) whether an application for a family violence safety notice, family violence intervention order, non-local DVO or personal safety intervention order has been made by the specified person or in respect of the specified person;
 - (b) if an application for a family violence safety notice, family violence

intervention order, non-local DVO or personal safety intervention order has been made by or in respect of the specified person—

- (i) whether there is a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order in effect; and
 - (ii) if there is a notice or an order in effect, whether a resident of the rooming house is excluded from the rooming house under the notice or order;
- (c) any prescribed matters;
- (d) any other matter the Tribunal considers relevant.
- (4) If the Tribunal makes an order under subsection (1)(b), the new fixed term rooming house agreement or agreement under section 94(2)—
- (a) is subject to the same rent and frequency of rent payments as the existing agreement; and
 - (b) if the existing agreement is a fixed term rooming house agreement, runs for a term not longer than the remainder of that fixed term; and
 - (c) otherwise, is on the same terms and conditions as the existing agreement, subject to any changes the Tribunal determines.

- (5) If the Tribunal makes an order under subsection (1)(a), the Tribunal must specify the date on which the existing rooming house agreement or agreement under section 94(2) terminates.
- (6) If the Tribunal makes an order under subsection (1)(b), the existing fixed term rooming house agreement or agreement under section 94(2) is terminated on the signing of the new agreement.
- (7) If the Tribunal makes an order under subsection (1), it may also make the following orders—
 - (a) an order that the rooming house operator must ensure that the specified person has access to the room under the existing rooming house agreement or agreement under section 94(2) to remove the person's goods;
 - (b) an order that the rooming house operator must not list information about the specified person on a residential tenancy database within the meaning of Part 10A.
- (8) In this section—

specified person means a person specified in section 142S(2).

142U Tribunal may determine parties' liability under terminated agreement

- (1) If the Tribunal decides to make an order under section 142T(1), the Tribunal

may determine the liability of any of the following persons in relation to any of the matters specified in subsection (2)—

- (a) a resident who is excluded from a rooming house under—
 - (i) a family violence safety notice; or
 - (ii) a family violence intervention order; or
 - (iii) a recognised non-local DVO; or
 - (iv) a personal safety intervention order;
 - (b) a person specified in section 142S(2);
 - (c) any other resident under the existing fixed term rooming house agreement or agreement under section 94(2).
- (2) For the purposes of subsection (1), the specified matters are—
- (a) a bond paid for the room; and
 - (b) any other existing liability under the existing agreement, including—
 - (i) liability relating to outstanding rent; and
 - (ii) liability relating to damage caused to the rooming house; and
 - (iii) liability relating to outstanding utility charges.
- (3) To remove doubt, the termination of an agreement under section 142T does not

give rise to a right to claim compensation on the part of any party to the agreement for early termination of the agreement.

142V Cross-examination in a proceeding for termination or new agreement

- (1) Unless the Tribunal gives leave, in a proceeding on an application under section 142S(1)—
 - (a) a person subjected to family violence must not be personally cross-examined by the person who subjected that person to the family violence; and
 - (b) a protected person under a personal safety intervention order must not be personally cross-examined by the person against whom the personal safety intervention order was made.
- (2) For the purposes of subsection (1), a reference to a person subjected to family violence includes a protected person under a family violence safety notice, family violence intervention order or recognised non-local DVO.
- (3) The Tribunal may give leave under subsection (1) with or without conditions.
- (4) If leave is given under subsection (1), the resident may only cross-examine the person subjected to family violence or the protected person—
 - (a) as to those matters set out in section 142T(2); and

- (b) in accordance with any conditions to which the leave granted is subject.

Subdivision 3—Notice or abandonment by resident

142W Notice of intention to vacate room

- (1) Subject to subsection (2), a resident must give the rooming house operator at least 2 days notice of intention to vacate the room occupied by the resident.
- (2) A resident who has entered into a fixed term rooming house agreement must give the rooming house operator at least 14 days notice of intention to vacate the room occupied by the resident.

142X Rent payable on termination without notice

- (1) A resident who vacates a room without giving notice must pay to the rooming house operator the rent for the lesser of the following periods—
- (a) in the case of a resident who has entered into a fixed term rooming house agreement, 14 days after vacating the room; or
- (b) in any other case, 2 days after vacating the room; or
- (c) until another resident takes up occupancy of the room.

Penalty: 25 penalty units.

- (2) Subsection (1) does not apply if the rooming house or room has become unsafe or unfit for human habitation.

142Y Rent payable if room vacated early

A resident who vacates a room before the day specified in the notice of intention to vacate must pay to the rooming house operator the rent for the period from the day the resident vacated the room until the day specified in the notice.

142Z Order of abandonment

- (1) If a rooming house operator believes that a resident has abandoned a room, the operator may apply to the Tribunal for an order declaring that the resident has abandoned the room.
- (2) An application under subsection (1) must be heard by the Tribunal within 5 business days after the application is made.
- (3) On an application under subsection (1), the Tribunal may by order declare that the room was abandoned by the resident on a day specified by the Tribunal.
- (4) The resident is deemed to have abandoned the room on that specified day.

Subdivision 4—Notice by rooming house operator or rooming house mortgagee

142ZA End of fixed term rooming house agreement

- (1) A rooming house operator under a fixed term rooming house agreement, before the end of the term of that agreement, may give the resident a notice to vacate the room in the rooming house at the end of the fixed term.
- (2) The notice must specify a termination date that is on or after the date of the end of the fixed term and which is not less than 28 days after the date on which the notice is given.

142ZB Damage

- (1) A rooming house operator may give a resident a notice to vacate the room occupied by the resident if the resident or the resident's visitor, whether by act or omission intentionally or recklessly causes serious damage to any part of the rooming house, including any safety equipment, or to any common areas.

Example

Safety equipment such as smoke alarms.

- (2) The notice may specify a termination date that is the date on which the notice is given or a later date.

142ZC Danger

- (1) A rooming house operator may give a resident a notice to vacate the room occupied by the resident if the resident or the resident's visitor by act or omission endangers the safety of—

- (a) another resident of the rooming house;
or
 - (b) occupiers of neighbouring properties;
or
 - (c) the rooming house operator or the
operators' agent; or
 - (d) a contractor or employee of a person
referred to in paragraph (c).
- (2) The notice may specify a termination date that is the date on which the notice is given or a later date.
- (3) A rooming house operator is not entitled to give a notice to vacate under subsection (1) if a notice to leave under section 368 has been given in respect of that act or omission.

142ZD Threats and intimidation

- (1) A rooming house operator may give a resident a notice to vacate if the resident has seriously threatened or intimidated—
- (a) the rooming house operator or the operator's agent; or
 - (b) a contractor or employee of a person referred to in paragraph (a).
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

142ZE Disruption

- (1) A rooming house operator may give a resident a notice to vacate the room

occupied by the resident if the resident or the resident's visitor seriously interrupts the quiet and peaceful enjoyment of the rooming house by other residents.

- (2) The notice may specify a termination date that is the date on which the notice is given or a later date.

142ZF Non-payment of rent

- (1) A rooming house operator may give a resident a notice to vacate the room occupied by the resident if the resident owes at least 7 days rent to the rooming house operator.
- (2) The notice must specify a termination date that is not less than 2 days after the date on which the notice is given.

142ZG Failure of resident to comply with Tribunal order

- (1) A rooming house operator may give a resident a notice to vacate the room occupied by the resident if the resident fails to comply with an order of the Tribunal under section 212.
- (2) The notice must specify a termination date that is not less than 2 days after the date on which the notice is given.

142ZH Successive breaches by resident

- (1) A rooming house operator may give a resident a notice to vacate the room occupied by the resident without first serving a breach of duty notice if—

- (a) the resident has breached a duty provision; and
 - (b) on 2 previous occasions the resident has been in breach of the same provision; and
 - (c) the rooming house operator or the operator's agent has on each occasion referred to in paragraph (b) given a breach of duty notice to the resident.
- (2) If the rooming house operator gives a breach of duty notice to the resident in respect of the breach referred to in subsection (1)(a), the rooming house operator must not give the resident a notice to vacate under this section unless the resident has not complied with the breach of duty notice within the required time.
- (3) The notice must specify a termination date that is not less than 2 days after the date on which the notice is given.

142ZI Use of room for illegal purpose

- (1) A rooming house operator may give a resident a notice to vacate the room (other than a shared room) occupied by the resident if the resident has used the room or permitted its use for any purpose that is illegal at common law or under an Act.
- (2) A rooming house operator may give a resident of a shared room a notice to vacate that room if the resident has

used the room or permitted the resident's visitors to use the room for any purpose that is illegal at common law or under an Act.

- (3) A notice under this section must specify a termination date that is not less than 2 days after the date on which the notice is given.

142ZJ Sale of rooming house

- (1) A rooming house operator may give a resident a notice to vacate the room occupied by the resident if immediately after the termination date the rooming house is to be sold or offered for sale with vacant possession.
- (2) If a rooming house operator has entered into a contract of sale of the rooming house and the contract of sale is subject to one or more conditions which, if not satisfied, entitle a party to the contract to terminate the contract, the rooming house operator may, within 14 days after the last of those conditions is satisfied, give a resident a notice to vacate the room occupied by the resident.
- (3) If a rooming house operator has entered into a contract of sale of the rooming house which is not a contract of sale of the kind referred to in subsection (2), the rooming house operator may, within 14 days after the contract of sale is entered into, give a resident a notice to vacate the room occupied by the resident.

- (4) A notice under this section must specify a termination date that is not less than 60 days after the date on which the notice is given.

Note

See section 142ZT regarding requirements for accompanying documentary evidence.

142ZK Repairs or demolition

- (1) A rooming house operator may give a resident a notice to vacate the room occupied by the resident if—
- (a) the rooming house operator intends to repair, renovate, reconstruct or demolish the rooming house immediately after the termination date; and
 - (b) the rooming house operator has obtained all necessary permits and consents to carry out the work; and
 - (c) the work cannot be properly carried out unless the resident vacates the rooming house.
- (2) The notice must specify a termination date that is not less than 60 days after the date on which the notice is given.
- (3) If—
- (a) the proposed repairs, renovations or reconstruction will affect a resident's room but will not affect all the rooms in a rooming house; and

- (b) a room equivalent to the resident's room at an equivalent rent is available for rent in the rooming house—

the rooming house operator must not give the notice under subsection (1) unless the rooming house operator has first offered the equivalent room to the resident and the resident has refused to occupy that room in place of the resident's current room.

Note

See section 142ZT regarding requirements for accompanying documentary evidence.

142ZL Prohibition on renting after notice

- (1) A rooming house operator must not rent a room vacated after a notice under section 142ZK for 6 months after the room is vacated.

Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate.

- (2) Subsection (1) does not apply if—
- (a) the Tribunal determines that the room may be rented; or
 - (b) the repairs, renovations or reconstruction have been completed.

142ZM Notice to have no effect in certain circumstances

- (1) A notice given under sections 142ZA, 142ZJ and 142ZK is of no effect—

- (a) if the agreement includes a provision enabling the rooming house operator or the resident to determine the agreement by notice (otherwise than on the grounds of a breach of the agreement) if—
 - (i) the period after the giving of notice and before the termination date specified in the notice is less than the period of notice required under that provision; or
 - (ii) the termination date specified in the notice is a date other than a date on which under that provision the agreement may be determined; or
 - (b) in any other case, if it specifies a termination date that is earlier than the end of the term of the fixed term residency agreement.
- (2) A notice given under sections 142ZA, 142ZJ and 142ZK is of no effect if the giving of the notice would constitute direct discrimination within the meaning of the **Equal Opportunity Act 2010**.
- (3) A notice under section 142ZA is of no effect if it was given in response to—
- (a) the exercise, or proposed exercise, by the by the resident of a right under this Act; or

- (b) the resident making a report under section 116(2).
- (4) A notice under section 142ZD is of no effect if it was given in response to the exercise, or proposed exercise, by the resident of a right under this Act.
- (5) A person is not entitled to apply to the Tribunal challenging the validity of a notice—
 - (a) under section 142ZA after the end of 14 days after the date on which the notice is given; and
 - (b) under section 142ZJ or 142ZK after the end of 30 days after the date on which the notice is given.

142ZN Resident in transitional housing refuses alternative accommodation

- (1) A rooming house operator which is the Director of Housing or a delegate of the Director of Housing may give a resident a notice to vacate a room occupied by the resident if—
 - (a) the room was provided as transitional housing; and
 - (b) the Director of Housing, under this section, has published requirements for residents of transitional housing to seek alternative accommodation; and
 - (c) the resident has—
 - (i) unreasonably refused to seek alternative accommodation

in accordance with those requirements; or

(ii) refused a reasonable offer of alternative accommodation made in accordance with those requirements.

- (2) The notice must specify a termination date that is not less than 30 days after the date on which the notice is given.
- (3) In this section, *transitional housing* means accommodation for a period of more than 14 days and less than 12 months provided to persons in crisis as a result of homelessness or impending homelessness.
- (4) The Director of Housing, by notice published in the Government Gazette, may publish its requirements for residents of transitional housing to seek alternative accommodation.

142ZO Notice by owner of building or other person who is not rooming house operator

- (1) This section applies if a person who is not a rooming house operator leases a building to another person and the building is being used to operate a rooming house (whether by that lessee or another person and whether or not the lessee or building owner has consented to that use) and—
- (a) notice terminating the lease of the building is given by a party to that lease; or
- (b) if the person operating the rooming house is not the lessee, the person

- operating the rooming house or any other party to any lease or other agreement under which that person occupies the building gives notice terminating that lease or other agreement; or
- (c) the lease, or if the person operating the rooming house is not the lessee any lease or other agreement under which that person occupies the building, is terminated by consent or by agreement; or
- (d) the lessee or other person operating the rooming house abandons the building.
- (2) Subject to subsection (3), if this section applies, notice to vacate must be given to each resident of the rooming house by—
- (a) a lessee of the building who is not the rooming house operator, or that person's agent, if—
- (i) that person's lease is not terminated as set out in subsection (1)(a), (b) or (c); or
- (ii) that person has not abandoned the building; or
- (b) the owner of the building or the owner's agent.
- (3) Notice to vacate is not required to be given under subsection (2) if either of the following intends to directly operate the premises as a rooming house following

- any termination or abandonment under subsection (1)—
- (a) the owner of the building; or
 - (b) the lessee of the building who is not the rooming house operator.
- (4) A notice to vacate given to a resident under subsection (2) must specify a date for vacating the building which is the later of—
- (a) 45 days after the date on which that notice to vacate is given; or
 - (b) in a case referred to in subsection (1)(a) or (b), the date which is the end of the period specified in the notice referred to in subsection (1)(a) or (b), as the case requires.
- (5) A person who gives notice to vacate to a resident under this section, or that person's agent, must make reasonable enquiries to identify each resident of the rooming house for the purposes of giving the notice to vacate.
- (6) Despite section 506(3), a notice is taken to be served on a resident of the rooming house if a copy of the notice is affixed to the door of the resident's room.
- (7) If a notice to vacate is given under this section, a resident of the rooming house—
- (a) may continue to occupy the room in the rooming house on the same terms and

in the same state of repair or general condition that the resident occupied the room in the rooming house under the residency right granted by the rooming house operator; and

- (b) must pay rent to the owner of the building for the notice period, unless the resident can demonstrate that the resident has paid rent for the notice period to the rooming house operator.
- (8) Subject to subsection (10), nothing in this section imposes on a person required to give notice to vacate to a resident under this section the rights, duties and obligations of a rooming house operator.
- (9) Nothing in this section prevents a rooming house operator, in accordance with this Act, giving a notice to vacate to a resident with an earlier termination date than that referred to in subsection (3) for a notice to vacate under this section and such a notice to vacate given by the rooming house operator—
- (a) prevails over any notice to vacate given to a resident under this section; and
 - (b) must be complied with by the resident in accordance with this Act.
- (10) If a person required to give notice to vacate to a resident under this section, or that person's agent, exercises a right conferred by subsection (2) in relation to a residency right—

- (a) Part 3 (except sections 93, 94, 94A, 94B, 94C, 94D, 95, 96, 97, 98, 109, 124 and Division 8 of that Part), Part 5, sections 142ZB, 142ZC, 142ZD, 142ZE, 142ZF and 142ZI, Part 7 and Part 9 apply; and
 - (b) a reference to a rooming house operator in those provisions includes a reference to that person.
- (11) For the purposes of subsection (7), *notice period* means the period—
- (a) commencing on the day the person required to give notice to vacate to a resident under this section, or that person's agent, gives the resident a notice to vacate; and
 - (b) ending on the day specified in the notice to vacate on which the resident must vacate the building.

142ZP Notice by rooming house mortgagee

- (1) A rooming house mortgagee may give a resident a notice to vacate a room if the rooming house mortgagee becomes entitled to possession of, or to exercise a power of sale in respect of, the rooming house under a mortgage.
- (2) The notice must specify a termination date that is not less than 60 days after the date on which the notice is given.

142ZQ Notice to vacate given by Tribunal order under Rooming House Operators Act 2016

- (1) A rooming house operator must give a resident a notice to vacate the room occupied by the resident if the Tribunal has made an order referred to in section 33(1)(b), 34(3)(c)(ii) or 83(3)(c)(iii) of the **Rooming House Operators Act 2016** in relation to the rooming house operator.
- (2) The notice must specify a termination date that is the date specified by the Tribunal as the termination date.

142ZR Notice to vacate—refusal of licence under Rooming House Operators Act 2016

- (1) A rooming house operator may give a resident a notice to vacate the room occupied by the resident if—
 - (a) the rooming house operator's application for renewal of a licence under the **Rooming House Operators Act 2016** is refused by the Business Licensing Authority and section 29(1) or 29(2) of that Act apply; or
 - (b) the rooming house operator's application for a licence under the **Rooming House Operators Act 2016** is refused by the Business Licensing Authority and section 82(2) of that Act applies.
- (2) The notice must specify a termination date that is 120 days after the date on which the notice is given.

**Subdivision 5—Notices under
this Division**

142ZS Form of notice of intention to vacate

- (1) A notice of intention to vacate a room in a rooming house—
 - (a) may be given orally; or
 - (b) if required by the rooming house operator, must be given in writing.
- (2) If a notice of intention to vacate a room is required to be in writing, it is not valid unless it is signed by the person giving the notice or by that person's agent.

142ZT Form of notice to vacate

A notice to vacate a room in a rooming house given under this Division is not valid unless—

- (a) it is in the relevant prescribed form; and
- (b) it is addressed to the resident; and
- (c) it is signed by the person giving the notice or by that person's agent; and
- (d) it specifies the reason or reasons for giving the notice; and
- (e) in the case of a notice to vacate given under section 142ZJ or 142ZK, it is accompanied by documentary evidence, as approved by the Director from time to time, which supports the reason for giving the notice; and

- (f) it specifies the termination date which is the date by which compliance is required.

142ZU What if 2 or more notices can be served?

If a person is or becomes entitled to give 2 or more notices of intention to vacate or notices to vacate under this Division—

- (a) the invalidity of any of the notices does not affect the validity of any other notice; and
- (b) each valid notice has full force and effect.

142ZV How can a notice be withdrawn?

- (1) A notice of intention to vacate or a notice to vacate given under this Division is withdrawn only if a notice of withdrawal is given.
- (2) A notice of withdrawal must be—
 - (a) in writing; and
 - (b) signed by the person who gave the notice; and
 - (c) signed by the person to whom the notice was given.
- (3) A notice of intention to vacate a room given orally may be withdrawn orally.

Subdivision 6—Can a notice to vacate be challenged?

142ZW Application of Subdivision

Nothing in this Subdivision affects any right a resident may have to challenge the validity of any other notice to vacate under this Act.

142ZX Resident may apply to Tribunal

- (1) On or before the hearing of an application for a possession order in respect of a notice to vacate given under section 142ZJ or 142ZK, a resident who has received the notice to vacate may apply to the Tribunal challenging the validity of the notice to vacate.
- (2) An application under subsection (1) must be made within 30 days after the notice to vacate is given.

142ZY What can the Tribunal order?

- (1) On an application under section 142ZX, the Tribunal may determine whether or not the notice to vacate is valid.
- (2) If the Tribunal determines that the notice to vacate is valid, the resident is not entitled to further apply to the Tribunal to challenge the validity of the notice to vacate unless the Tribunal is satisfied that exceptional circumstances exist which justify reconsideration of the determination made under this section.
- (3) Nothing in subsection (2) affects the operation of section 479.

142ZZ Resident may challenge notice to vacate on grounds of family violence or personal violence

- (1) On or before the hearing of an application for a possession order, a resident who has received a notice to vacate under section 142ZB, 142ZC, 142ZD, 142ZE, 142ZG, 142ZH or 142ZI may apply to the Tribunal challenging the validity of the notice to vacate on the grounds that the relevant act or breach for which the notice to vacate was given was caused by the act of a person who has subjected the resident to family violence or personal violence.
- (2) An application under subsection (1) must be made within 30 days after the notice to vacate is given.

142ZZA What can the Tribunal order?

On an application under section 142ZZ, the Tribunal must make an order that the notice to vacate is invalid if satisfied that—

- (a) the applicant has been, or is being, subjected to family violence or personal violence; and
- (b) the relevant act or breach on which the notice to vacate was given was caused by the act of a person who has subjected the applicant to family violence or personal violence."

238 New Division 9 of Part 4 inserted

After Division 8 of Part 4 of the Principal Act
insert—

**"Division 9—Termination of residency
rights in caravan parks**

**Subdivision 1—When does a
residency right end?**

206AB Termination after notice

A residency right in respect of a site or caravan in a caravan park ends if—

- (a) the resident vacates the site or caravan after giving a notice of intention to vacate to the caravan park owner or caravan owner; or
- (b) the resident vacates the site or caravan after being given a notice to vacate.

206AC Termination by agreement

A residency right in respect of a site or caravan in a caravan park may be ended by agreement between the resident and the caravan park owner or caravan owner.

206AD Termination on execution of warrant

If the Tribunal makes a possession order in respect of a caravan or site, a residency right ends on the day that the warrant of possession is executed.

206AE Termination by abandonment

A residency right ends if the resident abandons the site or caravan.

206AF Offences relating to interference with rights

Except in accordance with this Act, a person must not—

- (a) require or force a resident to vacate a site or a caravan; or
- (b) take or attempt to take possession of a site by removing the caravan in which the resident resides; or
- (c) exclude or attempt to exclude from or restrict or attempt to restrict access to the site or the caravan or the caravan park in which either is situated; or
- (d) take or attempt to take possession of the caravan in which a resident resides; or
- (e) interfere with the peace and comfort of a resident for the purposes of causing the resident to abandon the site or the caravan; or
- (f) withdraw or restrict services or facilities which are reasonably required for the occupation of a site or a caravan as a residence for the purposes of causing the resident to abandon the site or caravan.

Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate.

Subdivision 2—Termination and new residency rights in caravan parks because of family violence or personal violence

206AG Application for termination or new agreement because of family violence or personal violence

- (1) A person specified in subsection (2) may apply to the Tribunal for—
- (a) an order terminating the existing agreement under section 144; or
 - (b) an order—
 - (i) terminating the existing agreement under section 144; and
 - (ii) requiring the caravan park owner or caravan owner (as the case may be) to enter into a new agreement under section 144 with the persons and other persons (if any) specified in the application.
- (2) For the purposes of subsection (1), the following persons are specified—
- (a) a party to the existing agreement under section 144 who—
 - (i) has been or is being subjected to family violence by another party to the existing agreement; or
 - (ii) is a protected person under a personal safety intervention order made against another party to the existing agreement;
 - (b) a person—

- (i) who is residing on the site or occupying a caravan as the person's principal place of residence; and
 - (ii) who is not a party to the agreement under section 144; and
 - (iii) who—
 - (A) has been or is being subjected to family violence by a party to the existing agreement; or
 - (B) is a protected person under a personal safety intervention order made against a party to the existing agreement.
- (3) For the purposes of subsection (2), a reference to a person who has been or is being subjected to family violence includes a person who is a protected person under a family violence safety notice, family violence intervention order or recognised non-local DVO.
- (4) An application under subsection (1) may be made without the consent of the caravan park owner or caravan owner (as the case may be) or any other party to the existing agreement under section 144.
- (5) If a person specified in subsection (2) is a child, an application under subsection (1) may be made on that child's behalf by a parent or guardian of the child who lives

in the caravan or at the caravan park (as the case may be) with the child.

- (6) For the purposes of a proceeding in relation to an application for an order under subsection (1), each of the following persons is a party to the proceeding—
- (a) the applicant or a person on whose behalf the application was made;
 - (b) the caravan park owner or caravan owner (as the case may be);
 - (c) any resident who is excluded from the site, caravan or caravan park under a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order that protects a person specified in subsection (2);
 - (d) any other existing residents of the site or caravan.
- (7) The Tribunal must hear an application under subsection (1)—
- (a) within 3 business days of the application being made; or
 - (b) if the application cannot be heard within the period referred to in paragraph (a), no later than the next available sitting day of the Tribunal after the end of that 3 business day period.

206AH Tribunal orders

- (1) On an application under section 206AG(1), if satisfied as to the matters set out in subsection (2), the Tribunal may make—
 - (a) an order terminating the existing agreement under section 144; or
 - (b) an order—
 - (i) terminating the existing agreement under section 144; and
 - (ii) requiring the caravan park owner or caravan owner (as the case may be) to enter into a new agreement under section 144 with the persons and other persons (if any) specified in the application.
- (2) For the purposes of subsection (1), the matters are—
 - (a) the specified person and other persons (if any) could reasonably be expected to comply with the duties of a resident under an agreement under section 144; and
 - (b) the specified person or that person's dependent children would be likely to suffer severe hardship if the specified person were compelled to leave the site, caravan or caravan park; and
 - (c) the hardship suffered by the specified person would be greater than any hardship the caravan park owner or caravan owner (as the case may be) would suffer if the order were made; and

- (d) if a resident is excluded from the site, caravan or caravan park under a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order, it is reasonable to do so given the length of the exclusion under the order or notice and the length of the existing agreement under section 144; and
 - (e) it is reasonable to do so given the interests of any other residents (other than any excluded resident) under the existing agreement under section 144 and, in particular, whether the other residents support the specified person's application.
- (3) In determining an application under section 206AG(1), the Tribunal must take into account the following matters in relation to family violence or personal violence—
- (a) whether an application for a family violence safety notice, family violence intervention order, non-local DVO or personal safety intervention order has been made by or in respect of the specified person;
 - (b) if an application for a family violence intervention safety notice, family violence intervention order, non-local DVO or personal safety intervention order has been made by or in respect of the person—

- (i) whether there is a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order in effect; and
 - (ii) if there is a notice or an order in effect, whether a resident is excluded from the site, caravan or caravan park under the notice or order;
 - (c) any prescribed matters;
 - (d) any other matter the Tribunal considers relevant.
- (4) If the Tribunal makes an order under subsection (1)(b), the new agreement under section 144—
- (a) is subject to the same rent and frequency of rent payments as the existing agreement; and
 - (b) if the existing agreement is for a specified period of occupancy, runs for a term not longer than the remainder of that specified period; and
 - (c) otherwise, is on the same terms and conditions as the existing agreement, subject to any changes the Tribunal determines.
- (5) If the Tribunal makes an order under subsection (1)(a), the Tribunal must specify the date on which the existing agreement under section 144 terminates.

- (6) If the Tribunal makes an order under subsection (1)(b), the existing agreement under section 144 is terminated on the signing of the new agreement.
- (7) If the Tribunal makes an order under subsection (1), it may also make the following orders—
 - (a) an order that the caravan park owner or caravan owner (as the case may be) must ensure that the specified person has access to the caravan and caravan park to remove the person's goods;
 - (b) an order that caravan park owner or caravan owner (as the case may be) must not list information about the person on a residential tenancy database within the meaning of Part 10A.
- (8) In this section—

specified person means a person specified in section 206AG(2).

206AI Tribunal may determine parties' liability under terminated agreement

- (1) If the Tribunal decides to make an order under section 206AH(1), the Tribunal may determine the liability of any of the following persons in relation to any of the matters specified in subsection (2)—

- (a) a resident who is excluded from a site, caravan or caravan park under—
 - (i) a family violence safety notice; or
 - (ii) a family violence intervention order; or
 - (iii) a recognised non-local DVO; or
 - (iv) a personal safety intervention order;
 - (b) a person specified in section 206AG(2);
 - (c) any other resident under the existing agreement under section 144.
- (2) For the purposes of subsection (1), the specified matters are—
- (a) liabilities relating to outstanding rent; and
 - (b) liabilities relating to damage caused to the site, caravan or caravan park; and
 - (c) liabilities relating to outstanding utility charges.
- (3) To remove doubt, the termination of an agreement under section 206AH does not give rise to a right to claim compensation on the part of any party to the agreement for early termination of the agreement.

206AJ Cross-examination in a proceeding for termination or new agreement

- (1) Unless the Tribunal gives leave, in a proceeding on an application under section 201AG(1)—
 - (a) a person subjected to family violence must not be personally cross-examined by the person who subjected that person to the family violence; and
 - (b) a protected person under a personal safety intervention order must not be personally cross-examined by the person against whom the personal safety intervention order was made.
- (2) For the purposes of subsection (1), a reference to a person subjected to family violence includes a protected person under a family violence safety notice, family violence intervention order or recognised non-local DVO.
- (3) The Tribunal may give leave under subsection (1) with or without conditions.
- (4) If leave is given under subsection (1), the resident may only cross-examine the person subjected to family violence or the protected person—
 - (a) as to those matters set out in section 206AH(2); and

- (b) in accordance with any conditions to which the leave granted is subject.

Subdivision 3—Notice of intention to vacate or abandonment by resident

206AK Notice of intention to vacate site or caravan

- (1) A resident must give the caravan park owner at least 7 days notice of intention to vacate the site occupied by the resident.
- (2) A resident who hires a caravan from a caravan owner must give the caravan owner at least 7 days notice of intention to vacate the caravan.

206AL Notice if caravan destroyed or unfit for habitation

- (1) A resident may give a notice of intention to vacate a caravan if the caravan—
 - (a) is unfit for human habitation; or
 - (b) has been destroyed totally or to such an extent as to be rendered unsafe.
- (2) The notice may specify a termination date that is the date on which the notice is given or a later date.
- (3) The notice under subsection (1) must be given to—
 - (a) the caravan owner or the caravan owner's agent; and

- (b) the caravan park owner or the caravan park owner's agent.

206AM Rent or hiring charge payable on termination without notice

- (1) A resident who vacates a site without giving notice must pay to the caravan park owner the rent for the lesser of the following periods—
 - (a) 7 days after vacating the site; or
 - (b) until another resident takes up occupancy of the site.

Penalty: 25 penalty units.

- (2) A resident who vacates a caravan without giving notice must pay to the caravan owner the hiring charge for the lesser of the following periods—

- (a) 7 days after vacating the caravan; or
- (b) until another resident takes up occupancy of the caravan.

Penalty: 25 penalty units.

206AN Rent or hiring charge payable if site or caravan vacated early

- (1) A resident who vacates a site before the day specified in the notice of intention to vacate the site must pay to the caravan park owner the rent for the period from the day the resident vacated the site until the day specified in the notice.

- (2) A resident who vacates a caravan before the day specified in the notice of intention to vacate the caravan must pay to the caravan owner the hiring charge for the period from the day the resident vacated the caravan until the day specified in the notice.

206AO Abandonment of site or caravan

- (1) A resident abandons a site or caravan if the resident leaves it without any intention of returning and—
- (a) without first giving notice of intention to vacate to the caravan park owner or the caravan owner; or
 - (b) without first obtaining the agreement of the caravan park owner or the caravan owner.
- (2) A resident may be regarded as having no intention of returning if—
- (a) the resident has not occupied the site or caravan for a period of at least 14 days and has not paid any rent or hiring charges for that period; or
 - (b) the resident has left the site or caravan and in all the circumstances it would be unreasonable to expect the resident to return.

206AP Order of abandonment

- (1) If a caravan park owner or caravan owner believes that a resident has abandoned a site or caravan, the caravan park owner or caravan owner may apply to the Tribunal

for an order declaring that the resident has abandoned the site or caravan.

- (2) An application under subsection (1) must be heard by the Tribunal within 5 business days after the application is made.
- (3) On an application under subsection (1), the Tribunal may by order declare that the site or caravan was abandoned by the resident on a day specified by the Tribunal.
- (4) The resident is deemed to have abandoned the caravan or site on that specified day.
- (5) The caravan park owner may also apply to the Tribunal for an order—
 - (a) requiring the caravan mortgagee to pay rent until the caravan is removed from the site; and
 - (b) fixing the amount of that rent.
- (6) The rent is payable by the caravan mortgagee from the seventh day after the caravan park owner gives notice in writing to the caravan mortgagee of the orders under subsections (3) and (5).

Subdivision 4—Notice by caravan park owner, caravan owner or caravan mortgagee

206AQ Damage

- (1) A caravan park owner may give a resident a notice to vacate a site if the resident or the resident's visitor, whether by act or omission, intentionally or recklessly causes serious damage to—
 - (a) the site; or
 - (b) the caravan park, including any common areas; or
 - (c) any facility in the caravan park, including any safety equipment.

Example

Safety equipment such as smoke alarms.

- (2) A caravan owner may give a resident a notice to vacate a caravan if the resident or a resident's visitor, whether by act or omission, intentionally or recklessly causes serious damage to a caravan hired from a caravan owner, including any safety equipment.

Example

Safety equipment such as smoke alarms.

- (3) The notice may specify a termination date that is the date on which the notice is given or a later date.

206AR Danger

- (1) A caravan park owner may give a resident a notice to vacate a site if the resident or the resident's visitor by act or omission endangers the safety of—
 - (a) any person or property in the caravan park; or

- (b) the caravan park owner or the owner's agent; or
 - (c) a contractor or employee of a person referred to in paragraph (b).
- (2) The notice may specify a termination date that is the date on which the notice is given or a later date.
- (3) A caravan park owner is not entitled to give a notice to vacate under subsection (1) if a notice to leave under section 368 has been given in respect of that act or omission.

206AS Threats and intimidation

- (1) A caravan park owner may give a resident a notice to vacate a site if the resident or any other person residing at the site occupied by the resident has seriously threatened or intimidated—
- (a) the caravan park owner or the owner's agent; or
 - (b) a contractor or employee of a person referred to in paragraph (a).
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

206AT Disruption

- (1) A caravan park owner may give a resident a notice to vacate a site if the resident or the resident's visitor seriously interrupts the quiet and peaceful enjoyment of the caravan park by other occupiers.

- (2) The notice may require the resident to vacate the site immediately.

206AU Non-payment of rent

- (1) A caravan park owner may give a resident a notice to vacate a site if the resident owes at least 7 days rent to the caravan park owner.
- (2) The notice must specify a termination date that is not less than 7 days after the date on which the notice is given.

206AV Non-payment of hiring charges

- (1) A caravan owner may give a resident a notice to vacate a caravan if the resident owes at least 7 days hiring charges to the caravan owner.
- (2) The notice must specify a termination date that is not less than 7 days after the date on which the notice is given.

206AW Failure of resident to comply with Tribunal order

- (1) A caravan park owner or caravan owner may give a resident a notice to vacate a site or caravan if the resident fails to comply with an order of the Tribunal under section 212.
- (2) The notice must specify a termination date that is not less than 7 days after the date on which the notice is given.

206AX Successive breaches by resident

- (1) A caravan park owner or caravan owner may give a resident a notice to vacate a site or caravan without first serving a breach of duty notice if—

- (a) the resident has breached a duty provision; and
 - (b) on 2 previous occasions the resident has been in breach of the same provision; and
 - (c) the caravan park owner or caravan owner or that person's agent has on each occasion referred to in paragraph (b) given a breach of duty notice to the resident.
- (2) If the caravan park owner or caravan owner gives a breach of duty notice to the resident in respect of the breach of a duty provision, the caravan park owner or caravan owner must not give the resident a notice to vacate under this section unless the resident has not complied with the breach of duty notice within the required time.
- (3) The notice must specify a termination date that is not less than 7 days after the date on which the notice is given.

206AY Use of site or caravan for illegal purpose

- (1) A caravan park owner or caravan owner may give a resident a notice to vacate a site or caravan if the resident has used the site or caravan or permitted its use for any purpose that is illegal at common law or under an Act.
- (2) The notice must specify a termination date that is not less than 7 days after the date on which the notice is given.

206AZ Sale of caravan

- (1) A caravan park owner may give a resident a notice to vacate a site if, immediately after the termination date, a caravan owned by the caravan park owner and occupied by the resident is to be sold.
- (2) If a caravan park owner has entered into a contract of sale of a caravan owned by the caravan park owner and the contract of sale is subject to one or more conditions which, if not satisfied, entitle a party to the contract to terminate the contract, the caravan park owner may, within 14 days after the last of those conditions is satisfied, give a resident a notice to vacate the caravan occupied by the resident.
- (3) If a caravan park owner has entered into a contract of sale of a caravan owned by the caravan park owner which is not a contract of sale of the kind referred to in subsection (2), the caravan park owner may, within 14 days after the contract of sale is entered into, give a resident a notice to vacate the caravan occupied by the resident.
- (4) A caravan owner may give a resident a notice to vacate a caravan if immediately after the termination date a caravan owned by the caravan owner and occupied by the resident is to be sold.
- (5) If a caravan owner has entered into a contract of sale of a caravan owned by the caravan owner and the contract of sale is subject to one or more conditions which, if not satisfied, entitle a party to the contract to terminate the contract, the caravan owner

may, within 14 days after the last of those conditions is satisfied, give a resident a notice to vacate the caravan occupied by the resident.

- (6) If a caravan owner has entered into a contract of sale of a caravan owned by the caravan owner which is not a contract of sale of the kind referred to in subsection (5), the caravan owner may, within 14 days after the contract of sale is entered into, give a resident a notice to vacate the caravan occupied by the resident.
- (7) A notice under this section must specify a termination date that is not less than 60 days after the date on which the notice is given.
- (8) If an agreement under section 144 specifies a day on which the term of occupancy is to end, a notice under this section cannot specify a termination date that is earlier than the day on which the occupancy is to end.

206AZA Closure of caravan park

- (1) Subject to subsection (2), a caravan park owner may give a resident a notice to vacate a site if the caravan park is to be closed.
- (2) At least 14 days before giving a notice to vacate under subsection (1), the caravan park owner must give written notification to the municipal council in which the caravan park is situated of the proposed closure of that park.

Penalty: in the case of a natural person, 60 penalty units;

in the case of a body corporate,
300 penalty units.

- (3) The notice must specify a termination date that is not less than 6 months after the date on which the notice is given.

Note

See also section 215A in relation to compensation for eligible residents and effect on validity of notice to vacate.

- (4) If an agreement under section 144 specifies a day on which the term of occupancy is to end, the notice cannot specify a termination date that is earlier than the day on which the occupancy is to end.
- (5) Failure to give the written notification under subsection (2) does not invalidate any notice to vacate given under subsection (1).

206AZB Occupation by caravan owner

- (1) This section applies if a resident has hired a caravan for a fixed term.
- (2) A caravan owner may give a resident a notice to vacate a caravan if—
- (a) the caravan owner intends to personally occupy the caravan; or
 - (b) the caravan owner intends to make it available for occupation by—
 - (i) the owner's partner, child, parent or partner's parent; or
 - (ii) another person who normally lives with the caravan owner

and is wholly or substantially
dependent on the caravan owner.

- (3) The notice must specify a termination date that is not less than 14 days after the end of the fixed term.

206AZC Prohibition on hiring of caravans or renting of sites after notice

- (1) A caravan park owner must not rent a site vacated under section 206AZ or 206AZA for 6 months after the site is vacated.

Penalty: 150 penalty units in the case of a natural person;

750 penalty units in the case of a body corporate.

- (2) A caravan owner must not hire out a caravan vacated under section 206AZ or 206AZB for 6 months after the caravan is vacated.

Penalty: 150 penalty units in the case of a natural person;

750 penalty units in the case of a body corporate.

- (3) Subsection (1) does not apply if the Tribunal determines that the site may be rented.

- (4) Subsection (2) does not apply if—

(a) the Tribunal determines that the caravan may be hired out; or

(b) the caravan is vacated under section 206AZB and the caravan is hired out to a person referred to in that section.

206AZD Notice under agreement with specified period of occupancy

- (1) A caravan park owner, before the end of a specified period of occupancy in an agreement under section 144, may give a resident a notice to vacate a site at the end of the specified period.
- (2) A caravan owner, before the end of a specified period of occupancy in an agreement under section 144, may give a resident a notice to vacate a caravan at the end of the specified period.
- (3) The notice to vacate must specify a termination date that is on or after the date of the end of the specified period of occupancy in the agreement under section 144.
- (4) The notice to vacate must specify a termination date that is not less than 60 days after the date on which the notice to vacate is given.

206AZE Notice of no effect

- (1) A notice to vacate under section 206AZ, 206AZA, 206AZB and 206AZD(1) or (2) is of no effect if it was given in response to—
 - (a) the exercise, or proposed exercise, by the resident of a right under this Act or the residency right; or
 - (b) the resident making a report under section 173(2).

- (2) A notice to vacate under section 206AS is of no effect if it was given in response to the exercise, or proposed exercise, by the resident of a right under this Act or the residency right.
- (3) A notice to vacate given under section 206AZ, 206AZA, 206AZB and 206AZD(1) or (2) is of no effect if the giving of the notice would constitute direct discrimination within the meaning of the **Equal Opportunity Act 2010**.
- (4) A person is not entitled to apply to the Tribunal challenging the validity of a notice to vacate referred to in subsection (1), (2) or (3) after the end of 60 days after the date on which the notice to vacate is given.

206AZF Notice by caravan park mortgagee

- (1) A caravan park mortgagee may give a resident a notice to vacate a site if the caravan park mortgagee becomes entitled to possession of, or to exercise a power of sale in respect of, the caravan park under a mortgage.
- (2) The notice must specify a termination date that is—
 - (a) not less than 90 days after the date on which the notice is given if the mortgage was given before the resident obtained a residency right; or
 - (b) not less than 6 months after the date on which the notice is given if the

mortgage was given after the resident obtained a residency right.

206AZG Notice by caravan mortgagee

- (1) A caravan mortgagee may give a resident who is not the caravan mortgagor a notice to vacate a caravan if the caravan mortgagee becomes entitled to possession of the caravan under a security.
- (2) The notice must specify a termination date that is—
 - (a) not less than 30 days after the date on which the notice is given if the security was given before the resident obtained a residency right; or
 - (b) not less than 6 months after the date on which the notice is given if the mortgage was given after the resident obtained a residency right.
- (3) If a caravan mortgagee becomes entitled to possession of a caravan under a security given by a resident who is the caravan mortgagor, the caravan mortgagee may exercise the rights given under the security.

**Subdivision 5—Notices under
this Division**

206AZH Form of notice of intention to vacate

A notice of intention to vacate a caravan or site in a caravan park is not valid unless—

- (a) it is in writing; and

- (b) it is signed by the person giving the notice or by that person's agent.

206AZI Form of notice to vacate

A notice to vacate a caravan or site in a caravan park given under this Division is not valid unless—

- (a) it is in the relevant prescribed form; and
- (b) it is addressed to the resident; and
- (c) it is signed by the person giving the notice or by that person's agent; and
- (d) it specifies the reason or reasons for giving the notice; and
- (e) in the case of a notice to vacate given under section 206AZ or 206AZB, it is accompanied by documentary evidence, as approved by the Director from time to time, which supports the reason for giving the notice to vacate; and

Note

See section 486A.

- (f) it specifies the termination date which is the date by which compliance is required.

206AZJ What if 2 or more notices can be served?

If a person is or becomes entitled to give 2 or more notices of intention to vacate or notices to vacate under this Division—

- (a) the invalidity of any of the notices does not affect the validity of any other notice; and
- (b) each valid notice has full force and effect.

206AZK How can a notice be withdrawn?

- (1) A notice of intention to vacate or a notice to vacate given under this Division is withdrawn only if a notice of withdrawal is given.
- (2) A notice of withdrawal must be—
 - (a) in writing; and
 - (b) signed by the person who gave the notice; and
 - (c) signed by the person to whom the notice was given.

Subdivision 6—Can a notice to vacate be challenged?

206AZL Application of Subdivision

Nothing in this Subdivision affects any right a resident may have to challenge the validity of any other notice to vacate under this Act.

206AZM Resident may apply to Tribunal

- (1) On or before the hearing of an application for a possession order in respect of a notice to vacate given under section 206AZ, a

resident who has received the notice to vacate may apply to the Tribunal challenging the validity of the notice to vacate.

- (2) An application under subsection (1) must be made within 30 days after the notice to vacate is given.

206AZN What can the Tribunal order?

- (1) On an application under section 206AZM, the Tribunal may determine whether or not the notice to vacate is valid.
- (2) If the Tribunal determines that the notice to vacate is valid, the resident is not entitled to further apply to the Tribunal to challenge the validity of the notice to vacate unless the Tribunal is satisfied that exceptional circumstances exist which justify reconsideration of the determination made under this section.
- (3) Nothing in subsection (2) affects the operation of section 479.

206AZO Resident may challenge notice to vacate on grounds of family violence or personal violence

- (1) On or before the hearing of an application for a possession order, a resident who has received a notice to vacate under section 206AQ, 206AR, 206AS, 206AT, 206AW, 206AX or 206AY may apply to the Tribunal challenging the validity of the notice to vacate on the grounds that the relevant act or breach for which the notice to vacate was given was caused by the act of a person who

has subjected the resident to family violence or personal violence.

- (2) An application under subsection (1) must be made within 30 days after the notice to vacate is given.

206AZP What can the Tribunal order?

On an application under section 206AZO, the Tribunal must make an order that the notice to vacate is invalid if satisfied that—

- (a) the applicant has been, or is being, subjected to family violence or personal violence; and
- (b) the relevant act or breach on which the notice to vacate was given was caused by the act of a person who has subjected the applicant to family violence or personal violence."

239 New Division 11 of Part 4A inserted

After Division 10 of Part 4A of the Principal Act **insert**—

"Division 11—Termination of site agreements in Part 4A parks

Subdivision 1—When can a site agreement be terminated?

207 Termination of site agreement

Despite any Act or law to the contrary, a site agreement does not terminate and must not be terminated except in accordance with this Division or Part 7 or 8.

207A Termination by agreement

A site agreement may be terminated by agreement of the site owner and site tenant.

207B Termination by consent

- (1) A site agreement terminates if the site tenant vacates the Part 4A site with the consent of the site owner.
- (2) The consent, once given, is irrevocable.

207C Termination after notice to vacate

A site agreement terminates if the site owner or the site tenant gives a notice to vacate or a notice of intention to vacate the Part 4A site under this Division and—

- (a) the site tenant vacates the Part 4A site on or after the termination date specified in the notice; or
- (b) the site agreement terminates in accordance with section 334.

207D Termination by abandonment

A site agreement terminates if the site tenant abandons the Part 4A site.

207E Termination if Part 4A site is sub-let

A site agreement terminates if—

- (a) the site tenant is not in possession, occupation or use of the Part 4A site because the site tenant has sub-let it; and
- (b) the site owner or site tenant gives a notice to vacate or a notice of intention to vacate the Part 4A site under this Division; and
- (c) the period (if any) between the date on which the notice is given and the termination date specified in the notice has expired.

207F Termination if site owner not owner of site

A site agreement terminates if the land owner gives a notice to vacate in accordance with section 207ZF and—

- (a) the site tenant vacates the Part 4A site on or after the termination date specified in the notice; or
- (b) the site agreement terminates in accordance with section 334.

207G Termination by merger

A site agreement may terminate by merger (that is, where the interests of the site owner and the site tenant become vested in one person).

207H Termination by disclaimer

A site agreement may terminate by disclaimer (for example, on repudiation

of the agreement by the site tenant accepted by the site owner).

207I Termination by site tenant before occupation or use

A site agreement terminates if the site tenant has not entered into occupation or use of the Part 4A site and has given a notice of termination of the site agreement to the site owner on the ground that the Part 4A site—

- (a) is unsafe; or
- (b) is not legally available for use as a Part 4A site; or
- (c) is for any other reason unavailable for occupation.

207J Offences relating to interference with rights

- (1) Except in accordance with this Act, a person must not require, compel or attempt to compel a site tenant to vacate a Part 4A site.

Penalty: 150 penalty units in the case of a natural person;

750 penalty units in the case of a body corporate.

- (2) Except in accordance with this Act, a person must not exclude a site tenant or attempt to exclude a site tenant from, or restrict or attempt to restrict a site tenant's access to—

- (a) a site tenant's Part 4A dwelling; or

- (b) a Part 4A site on which the site tenant's Part 4A dwelling is situated; or
- (c) the Part 4A park in which the site tenant's Part 4A dwelling is situated.

Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate.

- (3) Except in accordance with this Act, a person must not interfere with the peace, comfort or privacy of a site tenant for the purposes of causing the site tenant to abandon the Part 4A site.

Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate.

- (4) Except in accordance with this Act, a person must not, for the purposes of causing a site tenant to abandon a Part 4A site—

- (a) withdraw or restrict services or facilities which are reasonably required for the occupation of a Part 4A dwelling on a Part 4A site as a residence; or
- (b) prevent the site tenant from using any facilities; or
- (c) do any other act or thing intended or designed to cause the site tenant to abandon the Part 4A site.

Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate.

Subdivision 2—Variations of site agreement

207K Creation of periodic site agreement

- (1) A site tenant is taken to occupy a Part 4A site under a periodic site agreement if—
 - (a) the term of a fixed term site agreement to which this Act applies ends; and
 - (b) the site tenant under that agreement continues in occupation of the Part 4A site otherwise than as a site tenant under a fixed term site agreement.
- (2) The rental period under the periodic site agreement created by subsection (1) is—
 - (a) if the rental period under the fixed term site agreement was more than one month, a monthly period; and
 - (b) if the rental period under the fixed term site agreement was one month or less, a period equivalent to that rental period.
- (3) Except as provided in subsection (2), the periodic site agreement is on the same terms, so far as applicable, as the terms of the fixed term site agreement.
- (4) On the application of the site owner or the site tenant, the Tribunal may make any variations to the terms of a periodic site

agreement created under this section that are necessary for or appropriate to the continuation of a periodic site agreement.

207L Reduction of fixed term agreement

- (1) On the application of a party to a site agreement that is for a fixed term, the Tribunal may make an order—
 - (a) reducing the term of the agreement by a period stated in the order; and
 - (b) making any variations to the terms of the agreement that are necessary because of the reduction of the term.
- (2) The Tribunal may only make an order under this section if 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 agreement were not reduced would be greater than the hardship which the other party would suffer if the term were reduced.
- (3) In making an order under this section, the Tribunal may determine the compensation (if any) to be paid by the applicant for the order to the other party because of the reduction in the term of the agreement.

Subdivision 3—Termination and new site agreements because of family violence or personal violence

207M Application for termination or new site agreement because of family violence or personal violence

- (1) A person specified in subsection (2) may apply to the Tribunal for—
 - (a) an order terminating the existing site agreement for the Part 4A site; or
 - (b) an order—
 - (i) terminating the existing site agreement for the Part 4A site; and
 - (ii) requiring the site owner to enter into a new site agreement with the person and other persons (if any) specified in the application.
- (2) For the purposes of subsection (1), the following persons are specified—
 - (a) a party to the existing site agreement who—
 - (i) has been or is being subjected to family violence by another party to the existing site agreement; or
 - (ii) is a protected person under a personal safety intervention order made against another party to the existing site agreement;
 - (b) a person—
 - (i) who is the owner or co-owner of the Part 4A dwelling at law or in equity or who is residing in the Part 4A dwelling as the person's principal place of residence; and
 - (ii) who is not a party to the existing site agreement; and

(iii) who—

- (A) has been or is being subjected to family violence by a person who is a party to the existing site agreement; or
- (B) is a protected person under a personal safety intervention order made against a person who is a party to the existing site agreement.

- (3) For the purposes of subsection (2), a reference to a person who has been or is being subjected to family violence includes a protected person under a family violence safety notice, family violence intervention order or recognised non-local DVO.
- (4) An application under subsection (1) may be made without the consent of the site owner or any other party to the site agreement.
- (5) If a person specified in subsection (2) is a child, an application under subsection (1) may be made on that child's behalf by a parent or guardian of the child who lives in the Part 4A dwelling with the child.
- (6) For the purposes of a proceeding in relation to an application for an order under subsection (1), each of the following persons is a party to the proceeding—
 - (a) the person who made the application or on whose behalf the application was made;

- (b) the site owner;
 - (c) any site tenant who is excluded from the Part 4A dwelling under a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order that protects a person specified in subsection (2);
 - (d) any other existing joint site tenants of the Part 4A site.
- (7) The Tribunal must hear an application under subsection (1)—
- (a) within 3 business days of the application being made; or
 - (b) if the application cannot be heard within the period referred to in paragraph (a), no later than the next available sitting day of the Tribunal after the end of that 3 business day period.

207N Tribunal orders

- (1) On an application under section 207M(1), if satisfied as to the matters set out in subsection (2), the Tribunal may make—
- (a) an order terminating the existing site agreement for the Part 4A site; or
 - (b) an order—
 - (i) terminating the existing site agreement for the Part 4A site; and

- (ii) requiring the site owner to enter into a new site agreement with the person and other persons (if any) specified in the application.
- (2) For the purposes of subsection (1), the matters are—
- (a) the specified person and other persons (if any) could reasonably be expected to comply with the duties of a site tenant under a site agreement; and
 - (b) the specified person or that person's dependent children would be likely to suffer severe hardship if the specified person were compelled to leave the Part 4A dwelling; and
 - (c) the hardship suffered by the specified person would be greater than any hardship the site owner would suffer if the order were made; and
 - (d) if a site tenant is excluded from the Part 4A dwelling under a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order, it is reasonable to do so given the length of the exclusion under the notice or order and the length of the existing site agreement; and
 - (e) it is reasonable to do so given the interests of any other site tenants (other than any excluded site tenants) under the existing site agreement and, in particular, whether the other site

tenants support the specified person's application.

- (3) In determining an application under section 207M(1), the Tribunal must take into account the following matters in relation to family violence or personal violence—
- (a) whether an application for a family violence safety notice, family violence intervention order, non-local DVO or personal safety intervention order has been made by or in respect of the specified person;
 - (b) if an application for a family violence safety notice, family violence intervention order, non-local DVO or personal safety intervention order has been made by or in respect of the specified person—
 - (i) whether there is a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order in effect; and
 - (ii) if there is a notice or an order in effect, whether a site tenant is excluded from the Part 4A dwelling under the notice or order;
 - (c) the ownership of the Part 4A dwelling;
 - (d) any prescribed matters;

- (e) any other matter the Tribunal considers relevant.
- (4) If the Tribunal makes an order under subsection (1)(b), the new site agreement must—
 - (a) be subject to the same rent and frequency of rent payments as the existing site agreement; and
 - (b) if the existing site agreement is for a fixed term, run for a term not longer than the remainder of that fixed term; and
 - (c) otherwise, be on the same terms and conditions as the existing site agreement, subject to any changes the Tribunal determines.
 - (5) If the Tribunal makes an order under subsection (1)(a), the Tribunal must specify the date on which the site agreement terminates.
 - (6) If the Tribunal makes an order under subsection (1)(b), the existing site agreement is terminated on the signing of the new agreement.
 - (7) If the Tribunal makes an order under subsection (1), it may also make the following orders—
 - (a) an order that the site owner or that person's agent must ensure that the specified person has access to the Part 4A dwelling to remove the person's goods;

(b) an order that the site owner or that person's agent must not list information about the specified person on a residential tenancy database within the meaning of Part 10A.

(8) In this section—

specified person means a person specified in section 207M(2).

207O Tribunal may determine parties' liability under terminated agreement

(1) If the Tribunal makes an order under section 207N(1), the Tribunal may determine the liability of the following persons in relation to any of the matters specified in subsection (2)—

- (a) a site tenant who is excluded from a Part 4A dwelling under—
 - (i) a family violence safety notice; or
 - (ii) a family violence intervention order; or
 - (iii) a recognised non-local DVO; or
 - (iv) a personal safety intervention order;
- (b) a person specified in section 207M(2);
- (c) any other site tenant under the existing site agreement.

(2) For the purposes of subsection (1), the specified liabilities are any existing liabilities under the existing agreement, including—

- (a) liabilities relating to unpaid rent; and

- (b) liabilities relating to damage caused to the site; and
 - (c) liabilities relating to outstanding utility charges.
- (3) To remove doubt, the termination of an agreement under section 207N does not give rise to a right to claim compensation on the part of any party to the agreement for early termination of the agreement.

207P Cross-examination in a proceeding for termination or new agreement

- (1) Unless the Tribunal gives leave, in a proceeding on an application under section 207M(1)—
- (a) a person subjected to family violence must not be personally cross-examined by the person who subjected that person to the family violence; and
 - (b) a protected person under a personal safety intervention order must not be personally cross-examined by the person against whom the personal safety intervention order was made.
- (2) For the purposes of subsection (1), a reference to a person subjected to family violence includes a protected person under a family violence safety notice, family violence intervention order or recognised non-local DVO.
- (3) The Tribunal may give leave under subsection (1) with or without conditions.

- (4) If leave is given under subsection (1), the site tenant may only cross-examine the person specified in subsection (2)—
- (a) as to those matters set out in section 207N(2); and
 - (b) in accordance with any conditions to which the leave granted is subject.

Subdivision 4—Notice of intention to vacate or abandonment by site tenant

207Q Notice of intention to vacate

- (1) A site tenant may give a site owner a notice of intention to vacate a Part 4A site.
- (2) The notice of intention to vacate must specify a termination date that is not less than 28 days after the date on which the notice of intention to vacate is given.

207R Notice to have no effect in certain circumstances

A notice of intention to vacate given under section 207Q in respect of a fixed term site agreement is of no effect if it specifies a termination date that is earlier than the end of the term of the site agreement.

207S Reduced period of notice of intention to vacate in certain circumstances

- (1) This section applies if—
 - (a) a site tenant has been given a notice to vacate under section 207ZG; or
 - (b) a site tenant requires special or personal care and needs to vacate the Part 4A site in order to obtain that care; or
 - (c) a site tenant has been offered and accepted accommodation from the Director of Housing or a registered housing agency; or
 - (d) a site tenant requires temporary crisis accommodation and needs to vacate the Part 4A site in order to obtain that accommodation.
- (2) A site tenant to whom this section applies may give a site owner a notice of intention to vacate the Part 4A site under a fixed term site agreement specifying a termination date that is on or after the end of the term of the site agreement if the period between the date on which the notice is given and the termination date is not less than 14 days.
- (3) A site tenant to whom this section applies may give a site owner a notice of intention to vacate a Part 4A site under a periodic site agreement specifying a termination date that is not less than 14 days after the date on which the notice is given.
- (4) In this section *special or personal care* means—
 - (a) assistance with one or more of the following—

- (i) bathing, showering or personal hygiene;
- (ii) toileting;
- (iii) dressing or undressing;
- (iv) meals; or
- (b) physical assistance for persons with mobility problems; or
- (c) assistance for persons who are mobile but require some form of supervision or assistance; or
- (d) assistance or supervision in dispensing medicine; or
- (e) the provision of substantial emotional support in a health or residential service.

207T Failure of site owner to comply with Tribunal order

- (1) A site tenant may give a site owner a notice of intention to vacate a Part 4A site if the site owner fails to comply with an order of the Tribunal under section 212.
- (2) The notice of intention to vacate must specify a termination date that is not less than 14 days after the date on which the notice is given.

207U Successive breaches by site owner

- (1) A site tenant under a fixed term site agreement may give a site owner a notice of intention to vacate a Part 4A site without first serving a breach of duty notice if—

- (a) the site owner has breached a site owner's duty provision; and
 - (b) on 2 previous occasions the site owner has been in breach of the same site owner's duty provision; and
 - (c) the site tenant or the site tenant's agent has on each occasion referred to in paragraph (b) given a breach of duty notice to the site owner.
- (2) If the site tenant gives a breach of duty notice to the site owner in respect of the breach of a site owner's duty provision, the site tenant must not give the site owner a notice of intention to vacate under this section unless the site owner has not complied with the breach of duty notice within the required time.
- (3) The notice of intention to vacate must specify a termination date that is not less than 14 days after the date on which the notice of intention to vacate is given.

207V Order of abandonment

- (1) If a site owner believes that a site tenant has abandoned a Part 4A site, the site owner may apply to the Tribunal for an order declaring that the site tenant has abandoned the Part 4A site.
- (2) An application under subsection (1) must be heard by the Tribunal within 5 business days after the application is made.

- (3) On an application under subsection (1), the Tribunal may by order declare that the Part 4A site was abandoned by the site tenant on a day specified by the Tribunal.
- (4) The site tenant is taken to have abandoned the Part 4A site on the day specified in the order.

Subdivision 5—Notice by site owner or mortgagee

207W Damage

- (1) A site owner may give a site tenant a notice to vacate a Part 4A site if the site tenant or the site tenant's visitor, whether by act or omission intentionally or recklessly causes serious damage to—
 - (a) the Part 4A site; or
 - (b) the Part 4A park, including any common areas; or
 - (c) any facility in the Part 4A park, including any safety equipment.
- (2) The notice may specify a termination date that is the date on which the notice is given or a later date.

207X Danger

- (1) A site owner may give a site tenant a notice to vacate a Part 4A site if the site tenant or the site tenant's visitor by act or omission endangers the safety of—
 - (a) any person in the Part 4A park; or

- (b) the site owner or the owner's agent; or
 - (c) a contractor or employee of a person referred to in paragraph (b).
- (2) The notice may specify a termination date that is the date on which the notice is given or a later date.
- (3) A site owner is not entitled to give a notice to vacate under subsection (1) if a notice to leave under section 368 has been given in respect of that act or omission.

207Y Threats and intimidation

- (1) A site owner may give a site tenant a notice to vacate a site if the site tenant or any other person residing at the Part 4A site occupied by the site tenant has seriously threatened or intimidated—
- (a) the site owner or the owner's agent; or
 - (b) a contractor or employee of a person referred to in paragraph (a).
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

207Z Disruption

- (1) A site owner may give a site tenant a notice to vacate a Part 4A site if the site tenant or the site tenant's visitor seriously interrupts the quiet and peaceful enjoyment of the Part 4A park by other occupiers.

- (2) The notice to vacate may require the site tenant to vacate the Part 4A site immediately.

207ZA Failure to comply with Tribunal order

- (1) A site owner may give a site tenant a notice to vacate a Part 4A site if the site tenant fails to comply with an order of the Tribunal under section 212.
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice to vacate is given.

207ZB Successive breaches by site tenant

- (1) A site owner may give a site tenant a notice to vacate a Part 4A site without first serving a breach of duty notice if—
- (a) the site tenant has breached a duty provision; and
 - (b) on 2 previous occasions the site tenant has been in breach of the same duty provision; and
 - (c) the site owner or the site owner's agent has on each occasion referred to in paragraph (b) given a breach of duty notice to the site tenant.
- (2) If the site owner gives a breach of duty notice to the site tenant in respect of the breach of a duty provision, the site owner

must not give the site tenant a notice to vacate under this section unless the site tenant has not complied with the breach of duty notice within the required time.

- (3) The notice must specify a termination date that is not less than 14 days after the date on which the notice is given.

207ZC Use of Part 4A site for illegal purpose

- (1) A site owner may give a site tenant a notice to vacate a Part 4A site if the site tenant has used the Part 4A dwelling on the Part 4A site or permitted its use for any purpose that is illegal at common law or under an Act.
- (2) The notice to vacate must specify a termination date that is not less than 14 days after the date on which the notice is given.

207ZD Assignment or sub-letting without consent

- (1) A site owner may give a site tenant a notice to vacate a Part 4A site if the site tenant has assigned or sub-let or purported to assign or sub-let the whole or any part of the Part 4A site without the site owner's consent.
- (2) The notice must specify a termination date that is not less than 14 days after the date on which the notice to vacate is given.

207ZE Closure of Part 4A park

- (1) Subject to subsection (2), a site owner may give a resident a notice to vacate a site if the Part 4A park is to be closed.
- (2) At least 14 days before giving a notice to vacate under subsection (1), the site

owner must give written notification to the municipal council in which the Part 4A park is situated of the proposed closure of that park.

Penalty: in the case of a natural person—
60 penalty units;
in the case of a body corporate—
300 penalty units.

- (3) The notice must specify a termination date that is not less than 365 days after the date on which the notice is given.

Note

See also section 215A in relation to compensation for eligible site tenants and effect on validity of notice to vacate.

- (4) If a site agreement specifies a day on which the site agreement is to end, the notice cannot specify a termination date that is earlier than the day on which the site agreement is to end.
- (5) Failure to give the written notification under subsection (2) does not invalidate any notice to vacate given under subsection (1).

207ZF Notice by land owner

- (1) If the site owner under a site agreement is not the owner of the Part 4A site, the owner may exercise a right of the site owner—
- (a) to give the site tenant a notice to vacate the site; or
 - (b) to recover possession of the Part 4A site; or

- (c) to give a breach of duty that applies to the site agreement.
- (2) A notice to vacate given under subsection (1) does not have effect unless it specifies a termination date on or after the day on which the site owner's interest in the Part 4A site ends.
- (3) If an owner exercises a right conferred by subsection (1) in relation to a site agreement, this Division, Part 5 and Part 7 have effect as if a reference to a site owner under a site agreement included a reference to the owner.

207ZG Notice under fixed term site agreement

- (1) A site owner under a fixed term site agreement may, before the end of the term of the site agreement, give the site tenant a notice to vacate the Part 4A site at the end of the fixed term.
- (2) The notice to vacate must specify a termination date that is on or after the date of the end of the term.
- (3) The notice to vacate must specify a termination date that is not less than 365 days after the date on which the notice to vacate is given.

207ZH Notice of no effect

- (1) A notice to vacate under section 207Y or 207ZG is of no effect if it was given in response to—

- (a) the exercise, or proposed exercise, by the site tenant of a right under this Act or the site agreement; or
 - (b) the site tenant making a report under section 206ZO(2).
- (2) A notice given under section 207ZG is of no effect if the giving of the notice would constitute direct discrimination within the meaning of the **Equal Opportunity Act 2010**.
- (3) A person is not entitled to apply to the Tribunal challenging the validity of a notice to vacate referred to in subsection (1) or (2) after the end of 60 days after the date on which the notice to vacate is given.

207ZI Notice by mortgagee of Part 4A park

- (1) A mortgagee of a Part 4A park may give a site tenant a notice to vacate a Part 4A site if the mortgagee becomes entitled to possession of, or to exercise a power of sale in respect of, the Part 4A park under a mortgage.
- (2) The notice to vacate must specify a termination date that is—
- (a) on or after the date of the end of the fixed term and not less than 365 days from the date of the notice to vacate, if the site agreement is a fixed term site agreement that was entered into—

- (i) before the mortgage was granted in respect of the Part 4A park; or
 - (ii) after the mortgage was granted in respect of the Part 4A park and is consistent with the terms of the mortgage agreement; or

- (b) not less than 365 days from the date of the notice to vacate, if the site agreement is a periodic site agreement that commenced—
 - (i) before the mortgage was granted in respect of the Part 4A park; or
 - (ii) after the mortgage was granted in respect of the Part 4A park and is consistent with the terms of the mortgage agreement; or

- (c) not less than 90 days from the date of the notice to vacate, if the site agreement—
 - (i) was entered into after the mortgage was granted in respect of the Part 4A park; and
 - (ii) is inconsistent with the terms of the mortgage agreement.

Subdivision 6—Notices under this Division

207ZJ Form of notice of intention to vacate

A notice of intention to vacate a Part 4A site is not valid unless—

- (a) it is in writing; and
- (b) it is signed by the person giving the notice or by that person's agent.

207ZK Form of notice to vacate

A notice to vacate a Part 4A site given under this Division is not valid unless—

- (a) it is in the relevant prescribed form; and
- (b) it is addressed to the Part 4A site tenant; and
- (c) it is signed by the person giving the notice or by that person's agent; and
- (d) it specifies the reason or reasons for giving the notice; and
- (e) it specifies the termination date which is the date by which compliance is required.

207ZL What if 2 or more notices can be served?

If a person is or becomes entitled to give 2 or more notices of intention to vacate or notices to vacate under this Division—

- (a) the invalidity of any of the notices does not affect the validity of any other notice; and

- (b) each valid notice has full force and effect.

207ZM How can a notice be withdrawn?

- (1) A notice of intention to vacate or a notice to vacate given under this Division is withdrawn only if a notice of withdrawal is given.
- (2) A notice of withdrawal must be—
 - (a) in writing; and
 - (b) signed by the person who gave the notice; and
 - (c) signed by the person to whom the notice was given.

Subdivision 7—Can a notice to vacate be challenged?

207ZN Site tenant may challenge notice to vacate on grounds of family violence or personal violence

- (1) On or before the hearing of an application for a possession order, a site tenant who has received a notice to vacate under section 207W, 207X, 207Y, 207Z, 207ZA, 207ZB or 207ZC may apply to the Tribunal challenging the validity of the notice to vacate on the grounds that the relevant act or breach for which the notice to vacate

was given was caused by the act of a person who has subjected the site tenant to family violence or personal violence.

- (2) An application under subsection (1) must be made within 30 days after the notice to vacate is given.

207ZO What can the Tribunal order?

On an application under section 207ZN, the Tribunal must make an order that the notice to vacate is invalid if satisfied that—

- (a) the applicant has been, or is being, subjected to family violence or personal violence; and
- (b) the relevant act or breach on which the notice to vacate was given was caused by the act of a person who has subjected the applicant to family violence or personal violence."

240 Part 6 repealed

Part 6 of the Principal Act is **repealed**.

Part 9—Amendments relating to regaining possession—possession orders and warrants

241 Section 322 substituted

For section 322 of the Principal Act **substitute**—

"322 Application for possession order by residential rental provider

- (1) A residential rental provider may apply to the Tribunal for a possession order for rented premises if the residential rental provider has given the renter a notice to vacate the rented premises.
- (2) A residential rental provider may apply to the Tribunal for a possession order for rented premises if—
 - (a) the renter has given the residential rental provider a notice of intention to vacate the premises; and
 - (b) the renter has not delivered up vacant possession of the premises."

242 Application for possession order by mortgagee

- (1) In section 325(1) of the Principal Act, for "tenant" (where twice occurring) **substitute** "renter".
- (2) After section 325(4) of the Principal Act **insert**—
 - "(5) An application under this section must be accompanied by a copy of any court order which shows the mortgagee's entitlement to possession and to exercise a power of sale."

243 Section 327 repealed

Section 327 of the Principal Act is **repealed**.

244 Order of Tribunal

- (1) In section 330(1) of the Principal Act—
 - (a) for "tenant" (where first occurring) **substitute** "renter";
 - (b) in paragraph (a)(i), (b) and (c), for "landlord, rooming house owner" **substitute** "residential rental provider, rooming house operator";
 - (c) in paragraph (b), for "tenant" (where first occurring) **substitute** "renter";
 - (d) in paragraph (d), for "tenant" (where first occurring) **substitute** "renter".
- (2) In section 330(1)(e) of the Principal Act, for "notice." **substitute** "notice; and".
- (3) After section 330(1)(e) of the Principal Act **insert**—
 - "(f) that in the circumstances of the particular application, it is reasonable and proportionate having regard to section 330A, to make a possession order taking into account the interests of, and the impact on, each of the following in making the possession order—
 - (i) the residential rental provider, rooming house operator, caravan park owner, site owner or mortgagee, as the case requires;
 - (ii) the renter, resident or site tenant;

- (iii) any co-tenants or co-site tenants or other residents;
 - (iv) any neighbours or any other person who may be, or who has been affected by, the acts or behaviour of the renter, resident or site tenant to whom the notice to vacate was given."
- (4) After section 330(2) of the Principal Act **insert**—
- "(3) The Tribunal must have regard to any guidelines issued by the Director when determining any application for a possession order which is supported by a notice to vacate under section 91ZK, 142ZD, 206AS or 207Y."

245 New section 330A inserted

After section 330 of the Principal Act **insert**—

"330A What is reasonable and proportionate?

For the purposes of determining whether it is reasonable and proportionate to make a possession order, the Tribunal must have regard to the following—

- (a) the nature, frequency and duration of the conduct of the renter, resident or site tenant which led to the notice to vacate being given, including whether the conduct is a recurring breach of obligations under a residential rental agreement, residency right or site agreement;
- (b) whether the breach is trivial;

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- (c) whether the breach was caused by the conduct of any person other than the renter, resident or site tenant;
- (d) whether the renter, resident or site tenant has made an application for a family violence safety notice, family violence intervention order, non-local DVO or personal safety intervention order and—
 - (i) if an application has been made, whether a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order has been made and whether the notice or order is still in force; and
 - (ii) if a notice or order was made, whether it included an exclusion condition; and
 - (iii) any other matter in relation to family violence or personal violence the Tribunal considers relevant;
- (e) whether the breach has been remedied as far as is practicable;
- (f) whether the renter, resident or site tenant has, or will soon have, capacity to remedy the breach and comply with any obligations under the residential rental agreement, residency right or site agreement, as the case requires;

- (g) the effect of the conduct of the renter, resident or site tenant on others as a renter, resident or site tenant;
- (h) whether any other order or course of action is reasonably available instead of making a possession order;
- (i) as the case requires, the behaviour of the residential rental provider, the provider's agent, the rooming house operator, the caravan park owner, the caravan owner or the site owner;
- (j) any other matter the Tribunal considers relevant."

246 Order to be dismissed or adjourned in certain circumstances

- (1) In section 331(1) of the Principal Act—
 - (a) for "The" **substitute** "Subject to subsection (4), the";
 - (b) in paragraph (b), for "landlord, rooming house owner" **substitute** "residential rental provider, rooming house operator".
- (2) After section 331(1) of the Principal Act **insert**—
 - "(1A) For the purposes of subsection (1)(b), the Tribunal may adjourn the application and—
 - (a) refer the renter to a financial counselling service or other prescribed services; and
 - (b) require the service to conduct an assessment of the person's ability to enter into and comply with a

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payment plan in relation to any
outstanding arrears of rent.

- (1B) The Tribunal may require the financial counselling service or other prescribed service to provide a report to the Tribunal on the assessment of the ability of the renter to enter into and comply with a payment plan.
- (1C) A report under subsection (1B)—
- (a) may be made orally or in writing; and
 - (b) must be made within the time required by the Tribunal."
- (3) In section 331(2) of the Principal Act, after "fit" **insert** ", including an order that the renter undergoes an assessment and enters into and complies with a payment plan for the payment of any arrears of rent".
- (4) In section 331(3) of the Principal Act, for "the tenant" (wherever occurring) **substitute** "the renter".
- (5) After section 331(3) of the Principal Act **insert**—
- "(4) The Tribunal must dismiss an application for a possession order which is supported with a notice to vacate given under section 91ZM if—
- (a) the arrears of rent have been paid by the renter after the renter was given the notice to vacate but before the termination date specified in the notice; and

- (b) the notice to vacate is the first, second, third or fourth notice to vacate under section 91ZM given to the renter within a period of 12 months."

247 Order not to be made in certain circumstances

- (1) Section 332(1)(b)(ii) of the Principal Act is **repealed**.
- (2) Section 332(2) of the Principal Act is **repealed**.

248 New section 332A inserted

After section 332 of the Principal Act **insert**—

"332A Tribunal may dismiss possession order application and make compliance order in certain circumstances

- (1) Despite section 330, if an application for a possession order is supported by a notice to vacate given under section 91ZI, 91ZJ, 91ZK, 142ZB, 142ZC, 142ZD, 206AQ, 206AR, 206AS, 207W, 207X or 207Y, the Tribunal, having regard to whether it is reasonable and proportionate in accordance with section 330A to do so—
- (a) may dismiss the application for a possession order; and
- (b) if it is appropriate to do so, may make a compliance order under section 212 as if the application for a possession order had been an application under section 209.
- (2) Without limiting section 212, the compliance order may require a renter, resident or site tenant, as the case requires—

- (a) to remedy the breach of duty to which the application for a possession order related; and
 - (b) to refrain from committing a further or similar breach.
- (3) If the Tribunal finds that the breach of duty to which the application for a possession order related was committed or caused by a person other than the renter, resident or site tenant, the Tribunal may order that the renter, resident or site tenant, as the case requires, does not permit the person who committed or caused the breach to enter, or remain in, the rented premises, room or site."

249 Contents of possession order

- (1) In section 333(1) of the Principal Act—
- (a) in paragraph (a)(i), for "tenant" **substitute** "renter";
 - (b) in paragraph (b), for "the tenant" **substitute** "the renter".
- (2) After section 333(1A) of the Principal Act **insert**—
- "(1B) For the purposes of subsection (1)(a), if the Tribunal makes a possession order for an application which is supported by a notice to vacate given under section 91ZI, 91ZJ, 91ZK, 142ZB, 142ZC, 142ZD, 206AQ, 206AR, 206AS, 207W, 207X or 207Y, in

determining the day on which the renter, resident or site tenant must vacate the rented premises, room, caravan or site, the Tribunal may take into account any special requirements the renter, resident or site tenant may have to access relevant social support or alternative accommodation."

- (3) In section 333(2) of the Principal Act, for "tenant" **substitute** "renter".

250 Division 2 of Part 7 repealed

Division 2 of Part 7 of the Principal Act is **repealed**.

251 Issue of warrant of possession

In section 351 of the Principal Act—

- (a) in subsection (1)(b), for "the tenant" **substitute** "the renter";
(b) subsection (2) is **repealed**.

252 Postponement of issue of warrant in certain cases

- (1) In section 352(1) of the Principal Act—

- (a) for "or Part 4A site" **substitute** ", a room in a rooming house, a caravan or site in a caravan park or a Part 4A site";
(b) in paragraph (a), for "tenant" (where first occurring) **substitute** "renter, resident";
(c) in paragraph (b), for "landlord" **substitute** "residential rental provider, rooming house operator, caravan park owner, caravan owner".

- (2) For section 352(3)(a) of the Principal Act **substitute**—

- "(a) an order made on the application of—
- (i) a residential rental provider who has given a notice to vacate the rented premises under section 91ZI, 91ZJ, 91ZK or 91ZL; or
 - (ii) a rooming house operator who has given a notice to vacate the room in the rooming house under section 142ZB, 142ZC, 142ZD or 142ZE; or
 - (iii) a caravan park owner or caravan owner who has given a notice to vacate under section 206AQ, 206AR, 206AS or 206AT; or
 - (iv) a site owner who has given a notice to vacate the Part 4A site under section 207W, 207X, 207Y or 207Z; or".

253 Section 353 substituted

For section 353 of the Principal Act **substitute—**

"353 Immediate issue of warrant if failure to comply during postponement

On the application of the residential rental provider, rooming house operator, caravan park owner, caravan owner, site owner or mortgagee of rented premises, a rooming house, a caravan, a caravan park, a Part 4A site or Part 4A park (as the case may be), the Tribunal may order that a warrant of possession be issued without delay if the Tribunal is satisfied that, during any period of postponement specified in an order under

section 352, the renter, resident or site
tenant—

- (a) has failed to pay any rent accrued due;
or
- (b) has otherwise failed to comply with the
residential rental agreement, residency
right, residency agreement or site
agreement; or
- (c) has contravened a provision of this
Act relating to the residential rental
agreement, residency right or site
agreement."

**254 Lapsing of possession order and lapsing or
cancellation of warrant of possession**

For section 356(1) of the Principal Act
substitute—

- "(1) A possession order under this Part is
discharged if the applicant for the order
does not apply for the issue of a warrant
of possession within 6 months after the
date of the possession order."

Part 10—Amendments relating to violence on certain premises

255 Manager may give person notice to leave—serious acts of violence

(1) After section 368(2) of the Principal Act **insert**—

"(2A) A manager of managed premises may give a resident a notice to leave the managed premises immediately if the manager has reasonable grounds to believe that—

- (a) a serious act of violence by a resident's visitor has occurred on the managed premises and the resident caused, counselled or permitted the resident's visitor to commit the serious act of violence; or
- (b) the safety of any person on the managed premises is in danger from a resident's visitor and the resident caused, counselled or permitted the resident's visitor commit the act that endangered the safety of the person."

(2) After section 368(4) of the Principal Act **insert**—

"(5) A manager of managed premises must not give a resident a notice to leave under subsection (2A) if—

- (a) the serious act of violence or the act that endangered the safety of a person is family violence; and
- (b) the resident's visitor is a family member of the resident."

256 Offence to give notice to leave or purported notice to leave without reasonable grounds

For the penalty at the foot of section 368A of the Principal Act **substitute**—

"Penalty: 150 penalty units."

257 Offence to remain on premises if given notice to leave

For the penalty at the foot of section 369 of the Principal Act **substitute**—

"Penalty: 60 penalty units."

258 Offence to re-enter premises during suspension

In section 372 of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

259 Increase in penalty in section 372

For the penalty at the foot of section 372 of the Principal Act **substitute**—

"Penalty: 60 penalty units."

260 New section 372A inserted

After section 372 of the Principal Act **insert**—

"372A Suspended resident may make arrangements for collection of personal items

A resident whose residential rental agreement, residency right or site

agreement has been suspended under this Part may make arrangements with the manager of managed premises for a person authorised by the resident to enter the managed premises to collect the resident's personal items."

261 Tribunal must hear application urgently

At the end of section 375 of the Principal Act
insert—

"(2) The Tribunal must not adjourn an application under section 374 for a total period of more than 5 days."

262 What can the Tribunal order?

(1) For section 376(1) of the Principal Act
substitute—

"(1) After hearing an application under section 374, the Tribunal must determine whether it was appropriate to give the resident the notice to leave the managed premises.

(1A) If the Tribunal determines that it was appropriate to give the resident the notice to leave the managed premises, the Tribunal may make an order terminating the residential rental agreement, residency right or site agreement as at the date of that order, if satisfied as to the matters set out in section 330A.

(1B) If the Tribunal determines it was not appropriate to give the resident the notice

to leave the managed premises, the Tribunal must order that—

- (a) the suspension of the residential rental agreement, residency right or site agreement cease; and
- (b) the resident be allowed to resume occupation of the rented premises, room, caravan, site or Part 4A site under the residential rental agreement, residency right or site agreement."

(2) In section 376(3) of the Principal Act—

- (a) for "subsection (1)(b)" **substitute** "subsection (1B)";
- (b) for "tenancy agreement" **substitute** "residential rental agreement".

263 Offence to allow occupation of premises pending application or hearing

(1) In section 377(1) of the Principal Act—

- (a) for "landlord" **substitute** "residential rental provider";
- (b) for "tenancy agreement" **substitute** "residential rental agreement".

(2) In section 377(2) of the Principal Act, for "owner" **substitute** "operator".

(3) For the penalty at the foot of section 377(1), (2), (3) and (3A) of the Principal Act **substitute**—
"Penalty: 150 penalty units in the case of a natural person;

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750 penalty units in the case of a
body corporate."

- (4) In section 377(4) of the Principal Act, for "owner"
substitute "operator".

Part 11—Amendments relating to goods left behind by renters, residents and site tenants

264 Definitions—Part 9

In section 379 of the Principal Act—

(a) **insert** the following definition—

"renter includes a resident or site tenant;"

(b) for the definition of *owner of premises*
substitute—

"owner of premises means—

- (a) in relation to rented premises in respect of which a residential rental agreement has been terminated—
 - (i) the former residential rental provider; or
 - (ii) if a mortgagee has taken possession of the rented premises, the mortgagee; and
- (b) in relation to a rooming house—
 - (i) the rooming house operator; or
 - (ii) if the rooming house operator is not the owner of the rooming house and has ceased operating the rooming house, the rooming house owner; or

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- (iii) if a mortgagee has taken possession of the rooming house, the mortgagee; and
- (c) in relation to a caravan park owner or caravan owner, the caravan park owner, caravan park mortgagee or caravan mortgagee; and
- (d) in relation to a Part 4A site—
 - (i) the site owner; or
 - (ii) if a mortgagee has taken possession of the Part 4A park, the mortgagee;"
- (c) in the definition of *stored goods*—
 - (i) in paragraph (a), for "tenancy agreement" **substitute** "residential rental agreement";
 - (ii) in paragraph (b), for "house, of which a rooming house owner must take reasonable care in accordance with section 387" **substitute** "house which are stored in accordance with section 386";
 - (iii) in paragraph (c), for "caravan, of which a caravan park owner, caravan park mortgagee, caravan owner or caravan mortgagee must take reasonable care in accordance with section 388" **substitute** "caravan which are stored in accordance with section 386";
 - (iv) in paragraph (d), for "of which a site owner must take reasonable care

in accordance with section 388A"
substitute "which are stored in
accordance with section 386".

265 What happens if personal documents are left behind?

In section 380 of the Principal Act, for "tenant, resident or site tenant" (where twice occurring) **substitute** "renter".

266 Reclaiming personal documents before disposal

- (1) In section 382(1) of the Principal Act, for "tenant, resident or site tenant" **substitute** "renter".
- (2) For the penalty at the foot of section 382(2) of the Principal Act **substitute**—
"Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate."

267 Disposal of certain goods left behind

- (1) For section 384(2) of the Principal Act **substitute**—
"(2) Despite subsection (1)(a), the owner of premises must not remove and destroy or dispose of goods that have been left behind if those goods are prescribed goods."
- (2) Section 384(3) of the Principal Act is **repealed**.

268 Sections 386, 387 and 388 substituted

For sections 386, 387 and 388 of the Principal
Act **substitute**—

**"386 What must an owner of premises do about
goods left behind?"**

- (1) If a former renter leaves behind goods
(other than goods which may be removed
and destroyed or disposed of under
section 384), the owner of premises must—
 - (a) take reasonable steps to give a notice,
in the form approved by the Director,
to the former renter that the goods have
been left behind; and
 - (b) store the goods for a period of at least
14 days, beginning on the day on which
the owner of premises gave the notice
to the former renter.
- (2) A notice under subsection (1)(a) must
include a statement informing the former
renter of the former renter's rights and
obligations in relation to the goods left
behind.
- (3) The owner of premises may remove the
goods from the premises and store them
at a safe place.

**387 Renters and other entitled persons may
reclaim goods left behind**

- (1) A former renter or other person who has a
lawful right to goods left behind may reclaim
the goods at any time before the destruction
or disposal of the goods.
- (2) If the owner of premises requires an
occupation fee in relation to stored goods,

the former renter or other person who has a lawful right to the stored goods must pay the occupation fee before reclaiming the stored goods.

388 Occupation fee for goods left behind

- (1) An owner of premises may require a former renter or other person who has a lawful right to stored goods to pay a fee in respect of the stored goods if the quantity of the goods is sufficient to prevent the owner of premises from renting the premises, room, caravan or site.
- (2) The occupation fee must not exceed—
 - (a) an amount that is equal to the rent that would have been payable under the former residential rental agreement, agreement for the room, caravan or site or site agreement for each day the goods are stored; and
 - (b) in any event, in total, the amount of rent for 14 days.

Note

An owner of premises may apply to the Tribunal for an order that a higher amount be paid by the former renter.

- (3) Despite subsection (2), if the Tribunal orders an owner of premises to store goods for more than 14 days, the former renter or other person who has a lawful right to the goods is liable to pay a fee that is equal to—
 - (a) for a former renter of rented premises, the rent that would have been payable

under the former residential rental agreement for each day the goods are stored; or

- (b) for a former renter of a room, caravan or site, the rent that would have been payable for the room, caravan or site for each day the goods are stored; or
- (c) for a former renter of a Part 4A site, the rent that would have been payable under the former site agreement for each day the goods are stored; or
- (d) for another person who has a lawful right to the goods, the rent that would have been payable under the relevant former residential rental agreement, or for the relevant room, caravan or site (as the case requires) for each day the goods are stored."

269 Sections 388A and 389 repealed

Sections 388A and 389 of the Principal Act are **repealed**.

270 Sections 391 and 392 substituted

For sections 391 and 392 of the Principal Act **substitute**—

"391 When owner of premises may sell or dispose of stored goods

- (1) An owner of premises may sell or dispose of stored goods if the former renter or other person who has a lawful right to the stored goods has not reclaimed them within 14 days, unless the owner of premises has

agreed or been ordered by the Tribunal to store the goods for longer than 14 days.

- (2) An owner of premises who has agreed or been ordered by the Tribunal to store stored goods for a period of more than 14 days may sell or dispose of the goods in any lawful manner after that period if the former renter or other person who has a lawful right to the stored goods has not reclaimed the goods.

392 Renter may request proceeds of sale of goods

- (1) A former renter or other person who has a lawful right to stored goods whose stored goods are sold under this Division may request payment of the proceeds of the sale less the following amounts—
- (a) the amount of any occupation fee required by the owner of premises;
 - (b) the amount of the reasonable costs of the sale.
- (2) The former renter or other person who has a lawful right to the stored goods must make a request under subsection (1) within 6 months from the date of the sale.
- (3) If the former renter or other person who has a lawful right to the stored goods has not made a request under subsection (1) within 6 months from the date of the sale, the owner of premises must pay into the Residential Tenancies Fund the proceeds of the sale less the amounts in subsection (1)(a) and (b)

within 30 days after the end of that 6 month
period.

Penalty: 30 penalty units."

271 Section 393 repealed

Section 393 of the Principal Act is **repealed**.

272 Purchaser takes good title

In section 394(a) of the Principal Act, for
"tenant, former resident or former site tenant"
substitute "renter".

**273 Section 395 substituted and new section 395A
inserted**

For section 395 of the Principal Act **substitute**—

**"395 What if an owner of premises refuses to
store goods for more than 14 days?**

If a former renter or other person who has a
lawful right to goods left behind requests
the owner of premises to store the goods for
more than 14 days and the owner of premises
refuses, the former renter or other person
may apply to the Tribunal for an order
requiring the owner to store the goods for a
period of more than 14 days.

**395A What if the occupation fee is not sufficient
to cover the costs of storage?**

If an owner of premises believes that the
total amount of the occupation fee that may
be charged under section 388 will not be
sufficient to cover the actual costs of storing
goods, the owner of premises may apply to
the Tribunal for an order that the former
renter or other person who has a lawful right

to the goods pay a higher occupation fee to
reclaim the goods.".

274 Sections 396, 397 and 398 substituted

For sections 396, 397 and 398 of the Principal Act
substitute—

**"396 What if goods or documents are disposed
of in contravention of this Part?**

If an owner of premises destroys, disposes
of or sells a former renter's goods or personal
documents otherwise than in accordance
with this Part, the former renter or other
person who has a lawful right to the goods
or documents may apply to the Tribunal for
an order that the owner of premises pay
compensation for the loss of the goods or
documents.

**397 What if goods or documents are
wrongfully retained?**

If an owner of premises wrongfully retains
and refuses to give up goods or personal
documents left behind, the former renter
or other person who has a lawful right to
the goods or documents may apply to the
Tribunal for the following—

- (a) an order for the return of the goods or
personal documents;
- (b) an order that the owner of premises
pay compensation for the loss of those
goods or documents.

**398 What if goods or documents are damaged
or lost?**

If the owner of premises wilfully or recklessly damages or loses stored goods or personal documents, a former renter or other person who has a lawful right to those goods or documents may apply to the Tribunal for an order that that the owner of premises pay compensation for the loss or damage of those goods or documents."

275 Sections 399 and 399A repealed

Sections 399 and 399A of the Principal Act are **repealed**.

276 What orders can the Tribunal make?

In section 401 of the Principal Act, for paragraphs (a), (b) and (c) **substitute**—

- "(a) in the case of an application under section 395, order that an owner of premises must store goods for a period of more than 14 days; or
- (b) in the case of an application under section 395A, order that a former renter or other person who has a lawful right to the goods pay a fee greater than the fee that may be charged under section 388; or
- (c) in the case of an application under section 396, order that an owner of premises pay compensation for the loss of the goods or documents; or
- (ca) in the case of an application under section 397—
 - (i) order that the owner of premises return the goods or personal documents; or

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site tenants

- (ii) order that the owner of premises pay compensation for the loss of the goods or documents; or
- (iii) order that the owner of premises both pay compensation and return the goods or personal documents; or
- (cb) in the case of an application under section 398, order that the owner of premises pay compensation for the loss or damage of the goods or documents; or".

277 Sections 402 and 403 repealed

Sections 402 and 403 of the Principal Act are **repealed**.

Part 12—Amendments relating to bonds and the Residential Tenancies Bond Authority

278 Definitions

- (1) In section 404 of the Principal Act **insert** the following definitions—

"renter includes—

- (a) a resident; and
- (b) a site tenant; and
- (c) in Divisions 3 and 4, a former renter, a former resident and a former site tenant;

residential rental agreement includes a residency right and a site agreement;

residential rental provider includes—

- (a) a rooming house operator;
- (b) a caravan park owner;
- (c) a caravan owner;
- (d) a site owner;
- (e) in Divisions 3 and 4, a former residential rental provider, a former rooming house operator, a former caravan park owner, a former caravan owner and a former site owner;
- (f) an agent of a residential rental provider or a person referred to in paragraphs (a) to (d);".

- (2) In section 404 of the Principal Act the definitions of *landlord*, *tenancy agreement* and *tenant* are **repealed**.
- (3) In section 404 of the Principal Act, for the definition of *amount of bond substitute*—
"amount of bond includes a partial or full amount of a bond in relation to—
- (a) an initial amount of bond paid by a renter at the commencement of a residential rental agreement; and
 - (b) subsequent amounts of bond paid by a renter in relation to modifications of the rented premises (if any); and
 - (c) additional amounts of bond required to be paid at agreed intervals under a residential rental agreement in the standard form for a fixed term of more than 5 years (if any);".
- (4) In section 404 of the Principal Act, in the definition of *bond lodgment form*—
- (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter".
- (5) In section 404 of the Principal Act, in the definition of *bond substitution form*, for "tenant" **substitute** "renter".
- (6) In section 404 of the Principal Act, in the definition of *Director of Housing voucher*, for "tenant" (where first occurring) **substitute** "renter".

279 Bond lodgment form

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- (1) In section 405(1) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" (where twice occurring) **substitute** "renter";
 - (c) for paragraph (a) **substitute**—

"(a) complete and sign a bond lodgment form in the form approved by the Authority for the type of bond being lodged; and".
- (2) For the penalty at the foot of section 405(1) of the Principal Act **substitute**—

"Penalty: 25 penalty units."
- (3) In section 405(2) and (3) of the Principal Act, for "tenant" **substitute** "renter".
- (4) In section 405(4) of the Principal Act—
 - (a) for "tenant" (where twice occurring) **substitute** "renter";
 - (b) for "landlord" **substitute** "residential rental provider".
- (5) For the penalty at the foot of section 405(4) of the Principal Act **substitute**—

"Penalty: 25 penalty units."
- (6) At the foot of section 405 of the Principal Act **insert**—

"Note

Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**."

280 Duty to pay bond to Authority

- (1) In section 406 of the Principal Act—
 - (a) for "landlord" (where twice occurring) **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter".

- (2) For the penalty at the foot of section 406 of the Principal Act **substitute**—
"Penalty: 150 penalty units."

281 Receipt for bond

- (1) In section 407 of the Principal Act—
 - (a) for "landlord" (where twice occurring) **substitute** "residential rental provider";
 - (b) for "tenant" (where twice occurring) **substitute** "renter".

- (2) At the foot of section 407 of the Principal Act **insert**—
Note
Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**."

282 Section 409 amended

- (1) **Insert** the following heading to section 409 of the Principal Act—
"What if the residential rental provider is late in lodging the bond?".

- (2) In section 409(1) of the Principal Act—
 - (a) for "tenant" (where twice occurring) **substitute** "renter";
 - (b) for "landlord" **substitute** "residential rental provider".
- (3) Section 409(2) of the Principal Act is **repealed**.

283 Section 410A substituted

For section 410A of the Principal Act
substitute—

"410A Payment of bond in prescribed manner and form

For the purposes of this Division, a residential rental provider receives an amount of bond from a renter if the renter gives the residential rental provider the amount of bond in the prescribed manner and form."

284 Payment of substitute bond

- (1) In section 410B(1) of the Principal Act—
 - (a) for "tenant" (wherever occurring) **substitute** "renter";
 - (b) for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement".

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- (2) In section 410B(2) of the Principal Act—
- (a) for "tenant" **substitute** "renter";
 - (b) in paragraph (b), for "Authority" **substitute** "Authority, in the form approved by the Authority,".
- (3) In section 410B(3) of the Principal Act—
- (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement";
 - (c) for "tenant" **substitute** "renter".

- (4) At the foot of section 410B of the Principal Act **insert**—

"Note

Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**."

285 Division 3 of Part 10 heading substituted

For the heading to Division 3 of Part 10 of the Principal Act **substitute**—

"Division 3—Repayment of bonds".

286 Section 411 substituted

For section 411 of the Principal Act **substitute**—

"411 Claims for rental bonds

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- (1) A claim may be made to the Authority for the repayment of a bond by—
 - (a) a renter or that person's agent—
 - (i) for repayment of the bond to the renter; or
 - (ii) for repayment of the bond to the residential rental provider; or
 - (iii) for apportionment of the bond as repayments to the renter and the residential rental provider; or
 - (b) the residential rental provider or that person's agent for repayment of the bond to the renter; or
 - (c) jointly by a residential rental provider and a renter (or either of those person's agents)—
 - (i) for repayment of the bond to the renter; or
 - (ii) for repayment of the bond to the residential rental provider; or
 - (iii) for apportionment of the bond as repayments to the renter and the residential rental provider.
- (2) A claim must—
 - (a) be in a form approved by the Authority; and
 - (b) include the address or email address of the claimant.

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- (3) A claim must not be made before the termination of a residential rental agreement unless—
- (a) it is made jointly by or on behalf of the residential rental provider and all of the renters; or
 - (b) it is made by or on behalf of the residential rental provider and directs that the bond be paid to all of the renters; or
 - (c) it is made by or on behalf of all of the renters and directs that the bond be paid to the residential rental provider.
- (4) If a claim is made under subsection (1)(c) for an amount of bond to be repaid to the residential rental provider, the claim form must be signed by the renters no earlier than 14 days before the termination date of the residential rental agreement.
- (5) A residential rental provider must not request or obtain a renter's signature to a claim form under this section if the claim form does not specify—
- (a) the amount of bond to be refunded; and
 - (b) the apportionment (if any) of that amount of bond.

Penalty: 60 penalty units."

287 Section 411A substituted and sections 411AB, 411AC, 411AD and 411AE inserted

For section 411A of the Principal Act
substitute—

"411A Notice of claim to be given to other parties

- (1) This section applies if a claim for the whole or part of a bond is made by a residential rental provider or a renter without the consent of all of the other parties to a residential rental agreement.
- (2) The Authority must give written notice of a claim referred to in subsection (1) to all of the other parties to the residential rental agreement known to the Authority.
- (3) The notice given by the Authority—
 - (a) may be addressed to one or more parties to the residential rental agreement; and
 - (b) must be given to the Director of Housing if the whole or part of the bond was paid by the Director of Housing; and
 - (c) must state that the Authority will pay the claim unless within 14 days after receiving notice under subsection (2) the party to the residential rental agreement gives written notice to the Authority that the claim is subject to an application to the Tribunal.

411AB Matters that may be subject of bond claim

Without limiting the matters for which a residential rental provider may claim from

a bond, a residential rental provider is entitled to claim an amount of bond for the following—

- (a) the reasonable cost of repairs to, or the restoration of, the rented premises or goods leased with the premises, as a result of damage caused by the renter or a renter's visitor, taking into account fair wear and tear;
- (b) any rent or other charges owing and payable under the residential rental agreement or this Act;
- (c) the reasonable cost of cleaning any part of the premises, if the premises were not left reasonably clean by the renter, having regard to the condition of the premises at the commencement of the residential rental agreement;
- (d) the reasonable cost of replacing locks or other security devices altered, removed or installed by the renter without the consent of the residential rental provider;
- (e) any other prescribed matter.

411AC Repayment of bond where no dispute

The Authority must repay the amount of bond if—

- (a) the claim is made under section 411(1)(c); or

- (b) the claim is made by the residential rental provider or that person's agent under section 411(1)(b) for repayment of the bond to the renter; or
- (c) the claim is made by the renter or the renter's agent and directs the repayment of an amount to the residential rental provider; or
- (d) one or more of the following apply—
 - (i) the claim is made by the renter or the agent of the renter;
 - (ii) the claim is for payment to the party who made the claim or on whose behalf the claim was made;
 - (iii) no party to the residential rental agreement has notified the Authority of an application within 14 days after notice is given under section 411A(2).

411AD Disputed bond claims

- (1) This section applies if the Authority is given notice by a party to a residential rental agreement that a claim for the repayment of bond is the subject of an application to the Tribunal.
- (2) The Authority may repay the amount of bond if—
 - (a) the party who disputes the claim has given the Authority written notice of the party's consent to the repayment of the bond; or

- (b) any applicable order of the Tribunal requiring action before the repayment of the bond has been satisfied; or
 - (c) the Authority is notified by the Tribunal that the application has been withdrawn or dismissed.
- (3) The Authority must not repay an amount of a claim until any proceeding affecting a claim is finally determined, including any appeal.

411AE Repayment of bond to other persons

If directed to do so by a person to whom a bond is payable, the Authority may repay the whole or part of an amount of the bond to another person."

288 Section 411B amended

- (1) In the heading to section 411B of the Principal Act, for "**Payment**" substitute "**Repayment**".
- (2) In section 411B(1) of the Principal Act—
 - (a) in paragraphs (a) and (b)(ii), for "tenant" (wherever occurring) substitute "renter";
 - (b) in paragraph (b), for "tenancy agreement" substitute "residential rental agreement".
- (3) In section 411B(3) of the Principal Act—
 - (a) for "tenancy agreement" substitute "residential rental agreement";
 - (b) for "tenant" substitute "renter".
- (4) After section 411B(3) of the Principal Act insert—

"(4) The Director of Housing must return an amount of bond received under subsection (2) to the Authority if, after receipt of the amount, the Tribunal makes an order requiring the Authority to repay the bond to a person other than the Director of Housing."

289 Repeal of sections 412, 413A, 414, 415, 416, 417, 418 and 419

Sections 412, 413A, 414, 415, 416, 417, 418 and 419 of the Principal Act are **repealed**.

290 New section 419A inserted

Before section 420 of the Principal Act **insert**—

"419A Person with interest in claim for bond may apply to Tribunal for bond repayment order

- (1) A residential rental provider, renter or any other person who has an interest in a claim for a bond (including a previous co-renter under the residential rental agreement) may apply to the Tribunal for an order requiring the Authority to repay the bond.
- (2) An application under subsection (1) must be made within 14 days after the residential rental agreement has terminated.
- (3) On an application under subsection (1), the Tribunal may make an order requiring the repayment of the bond by the Authority to any party for an amount that does not exceed the amount of bond held by the Authority."

291 Determination by Tribunal

In section 420 of the Principal Act, for
"416 or 417" **substitute** "419A".

292 New sections 420A, 420B and 420C inserted

After section 420 of the Principal Act **insert**—

**"420A Order by Tribunal if renter victim of
family violence or personal violence**

- (1) This section applies if—
 - (a) the Tribunal is hearing an application for the repayment of bond; and
 - (b) there is more than one renter under a residential rental agreement; and
 - (c) the Tribunal is satisfied, having regard to any matter it considers appropriate, that one of the renters is a victim of family violence or personal violence.
- (2) For the purpose of subsection (1)(c), an applicant is not required to prove that a person has been convicted of an offence or is subject to a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order.
- (3) If satisfied that one of the renters is a victim of family violence or personal violence, the Tribunal may order that—
 - (a) liability is apportioned between renters, including making a renter who committed the family violence or personal violence liable for all of the residential rental provider's loss and

damage including any unpaid rent
(if any); and

- (b) the portion of the bond paid by the renter who experienced family violence or personal violence is excluded from bond available to compensate the residential rental provider for loss and damage (if any).

420B Order by Tribunal in circumstances of family violence or personal violence

- (1) This section applies if—
 - (a) the Tribunal is hearing an application for the repayment of bond; and
 - (b) a renter under the residential rental agreement is or has been a victim of family violence or personal violence; and
 - (c) the alleged perpetrator of the family violence or personal violence is not a renter under the residential rental agreement.
- (2) The Tribunal may order that the victim of family violence or personal violence referred to in subsection (1) is not liable for any loss or damage suffered by the residential rental provider under the residential rental agreement if satisfied that—
 - (a) the loss or damage was caused by the actions of the alleged perpetrator of the family violence or personal violence; and

- (b) a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order is in force.

420C Tribunal may order Authority to disclose personal information of renter

- (1) The Tribunal may order the Authority to disclose to the residential rental provider, for a purpose referred to in subsection (2), any of the following information about a renter—
 - (a) the person's email address;
 - (b) the person's residential address;
 - (c) the person's facsimile number.
- (2) The purpose for which the Tribunal may disclose personal information under subsection (1) is to facilitate a residential rental provider serving any document on a renter.
- (3) A person must not disclose or use any personal information of a renter disclosed under this section for a purpose other than contacting the renter for a purpose referred to in this Act.

Penalty: 60 penalty units."

293 Section 424 amended

- (1) **Insert** the following heading to section 424 of the Principal Act—
"Notification of assignment or transfer by residential rental provider".
- (2) In section 424(1) of the Principal Act—

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- (a) for "landlord" (where twice occurring) **substitute** "residential rental provider";
 - (b) for "landlord's" **substitute** "residential rental provider's";
 - (c) for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement".
- (3) For the penalty at the foot of section 424(1) of the Principal Act **substitute**—
"Penalty: 60 penalty units."
- (4) In section 424(2) of the Principal Act—
- (a) for "A notice" **substitute** "A notification";
 - (b) for paragraph (a) **substitute**—
"(a) be in a form approved by the Authority;
and";
 - (c) in paragraph (b), for "landlord" **substitute** "residential rental provider".
- (5) For section 424(3) of the Principal Act **substitute**—
"(3) The residential rental provider must give the renter a copy of the notice under subsection (1).
Penalty: 60 penalty units."
- (6) At the foot of section 424 of the Principal Act **insert**—
Note
Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**."

294 Section 425 amended

- (1) **Insert** the following heading to section 425 of the Principal Act—
"Notice of assignment or transfer by renter".
- (2) In section 425(1) of the Principal Act—
 - (a) for "tenant" (where twice occurring) **substitute** "renter";
 - (b) for "tenant's" **substitute** "renter's";
 - (c) for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement";
 - (d) for "landlord" **substitute** "residential rental provider".
- (3) For the penalty at the foot of section 425(1) of the Principal Act **substitute**—
"Penalty: 60 penalty units."

- (4) In section 425(2) of the Principal Act—
 - (a) for paragraph (a) **substitute**—
"(a) be in a form approved by the Authority;
and";
 - (b) in paragraph (b), for "the tenant, the landlord" **substitute** "the renter, the residential rental provider".
- (5) At the foot of section 425 of the Principal Act **insert**—

"Note

Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**".

295 Agent to produce authorisation on request

- (1) In section 426 of the Principal Act, for "landlord" **substitute** "residential rental provider".
- (2) At the foot of section 426 of the Principal Act **insert**—

"Note

Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**".

296 Authority to record names

- (1) In section 427(1) of the Principal Act—
 - (a) in paragraph (a), for "landlord and tenant" **substitute** "residential rental provider and renter";
 - (b) in paragraph (ab), for "tenant" (where twice occurring) **substitute** "renter".
- (2) For section 427(2) of the Principal Act **substitute**—
 - "(2) The Authority must not repay an amount of bond to any person unless the name of that person is registered under subsection (1), except—
 - (a) in the prescribed circumstances; or

(b) in accordance with an order of the Tribunal."

(3) At the foot of section 427 of the Principal Act **insert**—

"Note

Section 506(1)(da) provides that a document to be served on or given to a person under this Act may be served or given by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**."

297 Section 428 amended

(1) **Insert** the following heading to section 428 of the Principal Act—

"Renter must not use bond as rent".

(2) In section 428 of the Principal Act, for "tenant" (wherever occurring) **substitute** "renter".

(3) For the penalty at the foot of section 428 of the Principal Act **substitute**—

"Penalty: 60 penalty units."

298 Residential Bonds Investment Income Account

After section 436(2) of the Principal Act **insert**—

"(2A) Any loss from an investment of the Residential Bonds Account and the Residential Bonds Investment Income Account must be deducted from or otherwise adjusted in the Residential Bonds Investment Income Account."

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299 Notice of usual use of database

- (1) In section 439C(1)(a) and (b) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement".
- (2) In section 439C(2) of the Principal Act—
 - (a) for "landlord" (wherever occurring) **substitute** "residential rental provider";
 - (b) in paragraph (a), for "tenancy agreement" **substitute** "residential rental agreement".
- (3) For the penalty at the foot of section 439C(2) of the Principal Act **substitute**—

"Penalty: 60 penalty units."
- (4) In section 439C(3) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement".
- (5) In section 439C(4) of the Principal Act, for "landlord" **substitute** "residential rental provider".
- (6) In the example at the foot of section 439C(4) of the Principal Act, for "landlord" **substitute** "residential rental provider".

300 Notice of listing if database used

- (1) In section 439D(1) of the Principal Act—
 - (a) in paragraphs (a) and (b), for "landlord" **substitute** "residential rental provider";
 - (b) in paragraph (a), for "tenancy agreement" **substitute** "residential rental agreement".
- (2) In section 439D(2) of the Principal Act, for "landlord" **substitute** "residential rental provider".
- (3) For the penalty at the foot of section 439D(2) of the Principal Act **substitute**—
"Penalty: 60 penalty units."

301 Listing can be made only for particular breaches by particular persons

- (1) In section 439E(1) of the Principal Act—
 - (a) for "landlord" (where twice occurring) **substitute** "residential rental provider";
 - (b) in paragraph (a), for "tenant" **substitute** "renter";
 - (c) in paragraphs (a) and (b), for "tenancy agreement" **substitute** "residential rental agreement".
- (2) In the examples at the foot of section 439E(2) of the Principal Act, for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement".
- (3) After section 439E(2) of the Principal Act **insert**—

- "(3) A residential rental provider or database operator must not list personal information about a person in a residential tenancy database if—
- (a) the person breached the residential rental agreement; and
 - (b) that breach was a result of an act or a circumstance of family violence or personal violence experienced by the person."

302 Further restriction on listing

- (1) In section 439F(1) of the Principal Act, for "landlord" (where twice occurring) **substitute** "residential rental provider".
- (2) For the penalty at the foot of section 439F(1) of the Principal Act **substitute**—
"Penalty: 60 penalty units."
- (3) In section 439F(2) of the Principal Act, for "landlord" (where twice occurring) **substitute** "residential rental provider".
- (4) For the penalty at the foot of section 439F(2) of the Principal Act **substitute**—
"Penalty: 60 penalty units."
- (5) In section 439F(3) of the Principal Act, for "landlord" (where twice occurring) **substitute** "residential rental provider".
- (6) For the penalty at the foot of section 439F(3) of the Principal Act **substitute**—
"Penalty: 60 penalty units."

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- (7) In section 439F(4) of the Principal Act, for "landlord" **substitute** "residential rental provider".
- (8) After section 439F(5) of the Principal Act **insert**—
- "(6) A residential rental provider or database operator must not list personal information about a person in a residential tenancy database if the information relates to—
- (a) termination of a residential rental agreement and entry into a new residential rental agreement as a result of an order under section 91W; or
 - (b) a notice to vacate that the Tribunal found is invalid under section 91ZZT, 91ZZV, 142ZY, 142ZZA, 206AZN, 206AZP or 207O.
- (7) A residential rental provider or database operator must not list personal information about a person in a residential tenancy database if—
- (a) the person has objected to the residential rental provider, that person's agent or the database operator about the listing of information on the database because the information relates to an act or a circumstance of family violence or personal violence experienced by the person; and

- (b) the objection is accompanied by a copy of any prescribed documentary evidence."

303 Section 439G amended

- (1) In the heading to section 439G of the Principal Act, for "landlord's" **substitute** "residential rental provider's".

- (2) For section 439G(1) of the Principal Act **substitute**—

"(1) This section applies if a residential rental provider who lists personal information in a residential tenancy database becomes aware that the information—

- (a) is inaccurate, incomplete, ambiguous or out of date; or
(b) relates to an act or a circumstance of family violence or personal violence experienced by the person whose personal information is listed."

- (3) In section 439G(2) of the Principal Act—

- (a) for "landlord" **substitute** "residential rental provider";
(b) in paragraph (b), for "removed." **substitute** "removed;";
(c) after paragraph (b) **insert**—

"(c) if the information relates to an act or circumstance of family violence or personal violence experienced by the

person whose personal information is listed—

- (i) that the information relates to an act or a circumstance of family violence or personal violence experienced by the person whose personal information is listed; and
- (ii) that the information must be removed."

(4) For the penalty at the foot of section 439G(2) of the Principal Act **substitute**—

"Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate."

(5) In the example at the foot of section 439G(2) of the Principal Act—

- (a) for "landlord" (wherever occurring) **substitute** "residential rental provider";
- (b) for "tenant" (where twice occurring) **substitute** "renter".

(6) In section 439G(3) of the Principal Act, for "landlord" **substitute** "residential rental provider".

(7) For the penalty at the foot of section 439G(3) of the Principal Act **substitute**—

"Penalty: 25 penalty units."

304 Ensuring quality of listing—database operator's obligation

- (1) In section 439H(1) of the Principal Act, for "landlord" **substitute** "residential rental provider".
- (2) For the penalty at the foot of section 439H(2) of the Principal Act **substitute**—
"Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate."

305 Providing copy of personal information listed

- (1) For the penalty at the foot of section 439I(1) and (2) of the Principal Act **substitute**—
"Penalty: 60 penalty units."
- (2) In section 439I(1) and (3) of the Principal Act, for "landlord" **substitute** "residential rental provider".
- (3) In section 439I(4) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) in paragraph (b), for "information." **substitute** "information; and";
 - (c) after paragraph (b) **insert**—
"(c) must not apply to the first instance of a database operator and a residential rental provider giving personal information to a person under subsection (2) within any 12 month period."

306 Keeping personal information listed

For the penalty at the foot of section 439K(1) of the Principal Act **substitute**—

"Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate."

307 Application to Tribunal for removal or amendment of listing

(1) In section 439L(1) of the Principal Act, for "landlord" (wherever occurring) **substitute** "residential rental provider".

(2) After section 439L(2) of the Principal Act **insert**—

"(2A) A person who is a victim of family violence or personal violence may apply to the Tribunal for an order requiring a residential rental provider, that person's agent or a database operator to remove or not list personal information about the person in a residential tenancy database.

(2B) A person may apply to the Tribunal for an order requiring a database operator to amend a listing of personal information on a residential tenancy database or to remove any information.

(2C) A person may apply to the Tribunal for an order requiring a residential rental provider, that person's agent or a database operator to remove or not list personal information about the person."

308 What can the Tribunal order?

- (1) In section 439M(1) of the Principal Act—
- (a) for "If an application" **substitute** "Subject to subsections (1A), (1B) and (1C), if an application";
 - (b) in paragraphs (a), (b) and (c), for "landlord" **substitute** "residential rental provider, that person's agent".
- (2) After section 439M(1) of the Principal Act **insert**—
- "(1A) Before making an order under subsection (1) in respect of an application under section 439L(2A), the Tribunal is to be satisfied that a breach of a residential rental agreement by the person was a result of family violence or personal violence committed by another person.
- (1B) Before making an order under subsection (1) in respect of an application under section 439L(2B), the Tribunal is to be satisfied that the personal information poses a risk to the person's personal safety because it is listed.
- (1C) Before making an order under subsection (1) in respect of an application under section 439L(2C), the Tribunal is to be satisfied that the listing is or would be unjust in all of the circumstances, having regard to—
- (a) the reason the information is listed; and
 - (b) the conduct of the renter; and
 - (c) whether there is a real likelihood that the listing would have a disproportionate impact on the ability

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Part 13—Amendments relating to residential tenancy databases

of the renter to access future rental accommodation.".

- (3) In section 439M(2)(a), (b) and (c) of the Principal Act, for "landlord" (wherever occurring) **substitute** "residential rental provider".

Part 14—Amendments relating to Rental Non-compliance Register

309 Orders of Tribunal

After section 212(5) of the Principal Act **insert—**

- "(6) The Tribunal may order the Director not to list the making of an order under this section for compensation or compliance against a residential rental provider on the Rental Non-compliance Register if it is satisfied that, in all the circumstances, it would be unfair to list the making of the order on the Register."

310 New Part 10B inserted

After Part 10A of the Principal Act **insert—**

"Part 10B—Rental Non-compliance Register

439O Definitions

In this Part—

registrable residential rental provider means a residential rental provider who the Director must register on the Rental Non-compliance Register under section 439P(2);

rented premises includes room, site, caravan and Part 4A site;

residential rental provider includes—

- (a) rooming house operator;
- (b) caravan park owner;

- (c) caravan owner;
- (d) site owner;
- (e) agent of a residential rental provider or a person referred to in paragraphs (a) to (d).

439P Rental Non-compliance Register

- (1) The Director must establish and maintain a register of registrable residential rental providers to be known as the Rental Non-compliance Register.
- (2) The Director must enter in the Rental Non-compliance Register the information specified in subsection (3) in respect of a residential rental provider if—
 - (a) the Tribunal has made an order under Part 5 that the residential rental provider must—
 - (i) remedy a breach; or
 - (ii) pay compensation; or
 - (iii) refrain from committing a breach; or
 - (b) the residential rental provider has committed an offence under this Act.
- (3) For the purposes of subsection (2), the information is—
 - (a) the name of the residential rental provider; and
 - (b) the address of the rented premises in respect of which the order was made or the offence was committed; and

- (c) if the residential rental provider has an agent, the business name and business address of the agent; and
- (d) if the Tribunal has made an order under Part 5 that the residential rental provider remedy a breach, pay compensation or refrain from committing a breach—
 - (i) the date of the order; and
 - (ii) the provision of this Act that the residential rental provider was found to have breached; and
- (e) if the person has committed an offence under this Act—
 - (i) the date of the conviction or finding of guilt; and
 - (ii) the relevant provision of this Act; and
- (f) any other information the Director determines is relevant to the order, conviction or finding of guilt.

439Q Form of Rental Non-compliance Register

- (1) The Rental Non-compliance Register may be kept in any form the Director considers appropriate.
- (2) The Director may publish the Rental Non-compliance Register, or any details in the Register, in any manner or form that the Director considers appropriate.

439R Restriction on listing personal information

- (1) The Director must not list personal information about a person on the Rental Non-compliance Register unless the Director has, without charging a fee—
 - (a) given the person a copy of the personal information; or
 - (b) taken other reasonable steps to disclose the personal information to the person.
- (2) The Director must not list personal information about a person on the Rental Non-compliance Register unless the Director has given the person at least 14 days to review the personal information and make submissions—
 - (a) objecting to its entry on the Register; or
 - (b) about its accuracy, completeness and clarity.
- (3) The Director must not list personal information about a person on the Rental Non-compliance Register unless the Director has considered any submissions made under subsection (2).
- (4) Subsections (1) and (2) do not apply if the Director cannot locate the person after making reasonable enquiries.
- (5) Subsections (2) and (3) do not apply—
 - (a) to information that, at the time of the listing, is contained in publicly available court or Tribunal records; or

- (b) to a listing involving only an amendment of personal information about a person under section 439T.

439S Personal information must not be kept on Rental Non-compliance Register for more than 3 years

- (1) The Director must not keep information about a residential rental provider on the Rental Non-compliance Register for longer than 3 years.
- (2) This section does not limit the operation of this Part or a provision of another law that requires the removal of personal information.

439T Application to Tribunal for removal or amendment of listing

- (1) A person may apply to the Tribunal for an order requiring the Director to amend or remove information about the person that is listed on the Rental Non-compliance Register.
- (2) The Tribunal may make an order requiring the Director to amend or remove information about a person that is listed on the Rental Non-compliance Register if the Tribunal is satisfied that—
 - (a) the Director did not—
 - (i) give the person a copy of the information under section 439R(1)(a); or
 - (ii) take other reasonable steps to disclose the information to the

person under section 439R(1)(b);
or

- (b) the information has been on the Rental Non-compliance Register for longer than 3 years; or
 - (c) information about the person that is listed on the Rental Non-compliance Register is incorrect.
- (3) If the Tribunal makes an order under subsection (2), it may also order the Director to publish a statement on the Rental Non-compliance Register that—
- (a) the Register contained information about the person that was incorrect; and
 - (b) the Director has corrected the information on the Register.

439U What can the Tribunal order?

- (1) On an application under section 439T, the Tribunal, if satisfied as to the matters specified in subsection (2), may make an order—
- (a) prohibiting the Director from listing information about the applicant on the Rental Non-compliance Register; or
 - (b) requiring the Director to amend information about the applicant that is or is to be listed on the Rental Non-compliance Register; or
 - (c) requiring the Director to remove information about the applicant that is

listed on the Rental Non-compliance Register.

- (2) For the purposes of subsection (1), the specified matters are—
- (a) the Director has not given the applicant an opportunity to make submissions in accordance with section 439R(2); or
 - (b) the Director has listed information in the Rental Non-compliance Register in contravention of section 439R."

Part 15—Amendments relating to functions of Tribunal

311 Limits of jurisdiction of Tribunal

In section 447 of the Principal Act—

- (a) in subsection (1)(b), (c) and (d), for "\$10 000" **substitute** "\$40 000";
- (b) for subsection (1A)(a) **substitute**—
 - "(a) by a residential rental provider or renter under a residential rental agreement which involves a monetary claim for an amount exceeding \$40 000; or";
- (c) in subsection (1A)(b)—
 - (i) for "owner" **substitute** "operator";
 - (ii) for "\$10 000" **substitute** "\$20 000";
- (d) in subsection (1A)(c), for "\$10 000" **substitute** "\$20 000".

312 General applications to the Tribunal

- (1) In section 452(1) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter";
 - (c) for "tenancy agreement" (wherever occurring) **substitute** "residential rental agreement".
- (2) In section 452(2) of the Principal Act, for "owner" **substitute** "operator".

- (3) Before section 452(3) of the Principal Act
insert—
- "(3AA) A renter may apply to the Tribunal if the residential rental provider has breached any of the disclosure requirements in section 30D.
- (3AB) A resident of a rooming house may apply to the Tribunal if the rooming house operator has breached any of the disclosure requirements in section 94I.
- (3AC) A resident of a caravan park may apply to the Tribunal if the caravan owner or the caravan park owner has breached any of the disclosure requirements in section 145E.
- (3AD) A site tenant may apply to the Tribunal if the site owner has breached any of the disclosure requirements in section 206JF."
- (4) In section 452(4) of the Principal Act, for "landlord" **substitute** "residential rental provider".
- (5) In section 452(5) of the Principal Act—
- (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter";
 - (c) for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement".

- (6) In section 452(6) of the Principal Act, for "rooming house owner" **substitute** "rooming house operator".
- (7) In section 452(7) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".
- (8) After section 452(8) of the Principal Act **insert**—
 - "(9) Without limiting the matters which the Tribunal may consider, the Tribunal must consider the Director's guidelines in determining an application under this section."

313 General power of Tribunal to make determinations

In section 472(1) of the Principal Act—

- (a) in paragraphs (a) and (b), for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement";
- (b) in paragraph (e)—
 - (i) in subparagraph (i), for "tenancy agreement" **substitute** "residential rental agreement";
 - (ii) in subparagraph (ii), for "owner" **substitute** "operator";
- (c) before paragraph (g) **insert**—
 - "(fb) declaring that a term of a residential rental agreement is invalid under section 27;
 - (fc) declaring that a term of a fixed term rooming house agreement is invalid

under section 94AC or a term of an agreement under section 94(2) is invalid under section 94(3);

(fd) declaring that a term of an agreement under section 144 is invalid under section 144(4) or (4A);

(fe) declaring that a term of a site agreement is invalid under section 206F(4);".

314 Review of certain determinations and orders

(1) In section 479(1) of the Principal Act—

(a) in paragraph (ab), for "321C;" **substitute** "321C.";

(b) paragraph (b) is **repealed**.

(2) In section 479(3) of the Principal Act, for "tenant" **substitute** "renter".

315 New section 481 inserted

After section 480 of the Principal Act **insert**—

"481 Tribunal may order agent to provide details of residential rental provider

(1) The Tribunal, in any proceeding, may make an order requiring an agent of a residential rental provider to provide, for the purposes of the proceeding, the following information about the residential rental provider—

(a) the residential rental provider's full name;

- (b) if the residential rental provider is a corporation—
 - (i) the provider's ABN or ACN; and
 - (ii) the address of the provider's registered office;
 - (c) if the residential rental provider is not a corporation, the provider's street address.
- (2) A person to whom an order of the Tribunal under this section applies must comply with that order."

316 Rent Special Account

Division 6 of Part 11 of the Principal Act is **repealed**.

Part 16—Amendments relating to administration

317 Functions of Director

In section 486 of the Principal Act—

- (a) in paragraph (a)(iii)—
 - (i) for "tenant" **substitute** "renter";
 - (ii) for "tenancy agreement" **substitute** "residential rental agreement";
 - (iii) for "landlord" **substitute** "residential rental provider";
- (b) in paragraph (b)(i)—
 - (i) for "tenancy agreement" **substitute** "residential rental agreement";
 - (ii) for "landlord" (where twice occurring) **substitute** "residential rental provider";
 - (iii) for "tenant" (where twice occurring) **substitute** "renter";
- (c) in paragraph (f), for "tenancy agreements" **substitute** "residential rental agreements";
- (d) after paragraph (f) **insert**—

"(fa) to issue guidelines;"
- (e) in paragraph (g), for "tenancy agreements, rooming houses and caravan parks" **substitute** "residential rental agreements, rooming houses, caravan parks or Part 4A parks";
- (f) in paragraph (h)(iii), for "tenancy agreements, rooming houses or caravan

parks" **substitute** "residential rental agreements, rooming houses, caravan parks or Part 4A parks";

(g) after paragraph (h) of the Principal Act **insert—**

"(ha) to administer the Rent Special Account;

(hb) to monitor compliance with this Act;".

318 New section 486A inserted

After section 486 of the Principal Act **insert—**

"486A Director may approve documentary evidence

- (1) For the purposes of sections 91ZZO(e), 142ZT(e) and 206AZI(e), the Director, from time to time, may approve documentary evidence which supports the reason for giving a notice to vacate under a section referred to in each of those sections.
- (2) The Director must publish the approval of documentary evidence as soon as practicable after it is approved—
 - (a) in the Government Gazette; and
 - (b) on an Internet site maintained by the Director."

319 Director may authorise payments for research etc.

In section 495(c) of the Principal Act, for "tenancy agreements, rooming houses or caravan parks" **substitute** "residential rental agreements, rooming houses, caravan parks or Part 4A parks".

320 Sections 496, 497 and 498 repealed

Sections 496, 497 and 498 of the Principal Act are **repealed**.

321 New Divisions 3 and 4 inserted in Part 12

After Division 2 of Part 12 of the Principal Act **insert—**

'Division 3—Rent Special Account

498AB Director to administer Rent Special Account

- (1) The Director must establish a trust account to be called the "Rent Special Account".
- (2) There must be paid into the Rent Special Account all money paid under an order of the Tribunal authorising the payment of rent or hiring charges into that Account.
- (3) Money in the Rent Special Account may be paid out only in accordance with section 77, 134, 193 or 206ZZAF.
- (4) There must be paid into the Residential Tenancies Fund any amount of interest received on the investment of the Rent Special Account.
- (5) The Director must open and maintain accounts at an ADI for the purposes of the Rent Special Account.

Division 4—Pecuniary penalties

498AC Magistrates' Court may make orders under this Division

The Director may apply to the Magistrates' Court for an order under this Division.

498AD Pecuniary penalties

- (1) The Magistrates' Court may order a person to pay into the Residential Tenancies Fund a pecuniary penalty if the court is satisfied that the person—
 - (a) has contravened a pecuniary penalty provision; or
 - (b) has attempted to contravene a pecuniary penalty provision; or
 - (c) has intentionally assisted, encouraged or directed another person to contravene a pecuniary penalty provision; or
 - (d) entered into an agreement, arrangement or understanding with another person to contravene a pecuniary penalty provision; or
 - (e) has induced, or attempted to induce, a person, whether by threats or promises or otherwise, to contravene a pecuniary penalty provision; or
 - (f) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of a pecuniary penalty provision; or

- (g) has conspired with others to contravene a pecuniary penalty provision.
- (2) The Magistrates' Court may order the person to pay a pecuniary penalty for each act or omission under subsection (1) as the court considers appropriate.
- (3) In determining the appropriate pecuniary penalty, the Magistrates' Court must have regard to the following—
 - (a) the nature and extent of the act or omission and of any loss or damage suffered as a result of the act or omission;
 - (b) the circumstances in which the act or omission took place;
 - (c) whether the person has previously been found by a court in any proceeding under this Division to have engaged in any similar conduct.
- (4) The pecuniary penalty payable under this section for a contravention of a pecuniary penalty provision must not exceed—
 - (a) for a pecuniary penalty provision set out in Part 1 of Schedule 1A—
 - (i) in the case of a natural person—\$40 000;
 - (ii) in the case of a body corporate—\$200 000;
 - (b) for a pecuniary penalty provision set out in Part 2 of Schedule 1A—

- (i) in the case of a natural person—
\$60 000;
 - (ii) in the case of a body corporate—
\$300 000.
- (5) If a person's conduct constitutes a contravention of 2 or more pecuniary penalty provisions—
- (a) a proceeding may be commenced under this section against the person in relation to the contravention of any one or more of the provisions; and
 - (b) the person is not liable to more than one pecuniary penalty under this section for the same conduct.

498AE Pecuniary penalties and offences

- (1) The Magistrates' Court must not make an order under section 498AD against a person in relation to a residential rights contravention if the person has been convicted of an offence constituted by conduct that is substantially the same as the conduct constituting the contravention.
- (2) Any proceeding for an order under section 498AD against a person in relation to a pecuniary penalty provision is stayed if—
 - (a) a criminal proceeding commences or has already commenced against the person for an offence; and
 - (b) the offence is constituted by conduct that is substantially the same as the conduct alleged to constitute the residential rights contravention.

- (3) A proceeding for an order under section 498AD that has been stayed under subsection (2)—
 - (a) may be resumed if the person is not convicted of the offence; or
 - (b) is dismissed if the person is convicted of the offence.
- (4) A criminal proceeding may be commenced against a person for conduct that is substantially the same as conduct constituting a residential rights contravention regardless of whether an order under section 498AD has been made against the person in respect of the contravention.
- (5) Subject to subsection (6), evidence of information given, or evidence of the production of documents, by an individual is not admissible in any criminal proceeding against the individual if—
 - (a) the individual previously gave the evidence or produced the documents in any proceeding for an order under section 498AD against the individual in relation to a residential rights contravention (whether or not the order was made); and
 - (b) the conduct alleged to constitute the offence is substantially the same as the conduct that was claimed to constitute the contravention.
- (6) Subsection (5) does not apply to a criminal proceeding in respect of the falsity of the

evidence given by the individual in the proceeding for the order.

498AF Individuals acting honestly and reasonably

If, in a proceeding under section 498AD against an individual, it appears to the Magistrates' Court that the person has, or may have, engaged in conduct constituting a residential rights contravention but that the person acted honestly and reasonably and, having regard to all the circumstances of the case, ought fairly to be excused, the Court may relieve the person either wholly or partly from liability to a pecuniary penalty.

498AG Preference must be given to compensation for victims

The Magistrates' Court must give preference to making an order for compensation if the Court considers that—

- (a) it is appropriate to order a person to pay a pecuniary penalty under section 498AD in relation to a residential rights contravention; and
- (b) it is appropriate to order the person to pay compensation to another person who has suffered loss or damage as a result of that contravention; and
- (c) the person does not have sufficient financial resources to pay both the

pecuniary penalty and the
compensation.

498AH Civil action for recovery of pecuniary penalties

- (1) The Director may commence a proceeding in the Magistrates' Court for the recovery on behalf of the State of a pecuniary penalty.
- (2) A proceeding under subsection (1) may be commenced at any time within 6 years after the contravention or conduct.

498AI Indemnification of officers

- (1) A body corporate (the *first body*), or a body corporate related to the first body, must not indemnify a person (whether by agreement or by making a payment and whether directly or through an interposed entity) against either of the following liabilities if the person incurred them as an officer of the first body—
 - (a) a liability to pay a pecuniary penalty under section 498AD;
 - (b) legal costs incurred in defending or otherwise being a party to any proceeding in which the person is found to have such a liability.

Penalty: 30 penalty units.

- (2) For the purposes of subsection (1)(b), the outcome of a proceeding includes any appeal in relation to the proceeding.

(3) Anything that purports to indemnify a person against a liability is void to the extent that it contravenes this section.

(4) In this section—

officer has the same meaning as in the Corporations Act.'.

322 New Schedule 1A inserted

After Schedule 1 to the Principal Act insert—

"Schedule 1A—Pecuniary penalty provisions

Section 498AD

Part 1

<i>Item</i>	<i>Pecuniary penalty provision</i>	<i>Item</i>	<i>Pecuniary penalty provision</i>
1	Section 26(2)	17	Section 41
2	Section 26(2A)	18	Section 42(3)
3	Section 26A(1)	19	Section 42(4)
4	Section 27A(2)	20	Section 43(1)
5	Section 29(1)	21	Section 43(2)
6	Section 29(2)	22	Section 43(2A)
7	Section 30(1)	23	Section 49
8	Section 30E(3)	24	Section 50
9	Section 30F(1)	25	Section 51(1)
10	Section 30F(3)	26	Section 51(2)
11	Section 30G(2)	27	Section 51(3)
12	Section 31(1)	28	Section 56(1)
13	Section 34(1)	29	Section 65(1)
14	Section 35(1)	30	Section 65A(1)

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<i>Item</i>	<i>Pecuniary penalty provision</i>	<i>Item</i>	<i>Pecuniary penalty provision</i>
15	Section 37(1)	31	Section 66(1)
16	Section 40(1)	32	Section 84(1)
33	Section 91A	62	Section 160
34	Section 92C(1)	63	Section 166(1)
35	Section 94B(1)	64	Section 182
36	Section 96	65	Section 183(1)
37	Section 97(1)	66	Section 183(2)
38	Section 99	67	Section 186(1)
39	Section 99A(1)	68	Section 198(1)
40	Section 99A(2)	69	Section 206A
41	Section 100(1)	70	Section 206AM(1)
42	Section 100(2)	71	Section 206AM(2)
43	Section 100(2A)	72	Section 206E(2)
44	Section 107	73	Section 206I(1)
45	Section 124(2)	74	Section 206JG(1)
46	Section 127(1)	75	Section 206K(1)
47	Section 142A	76	Section 206N
48	Section 142D	77	Section 206O(1)
49	Section 142X(1)	78	Section 206Q(1)
50	Section 145	79	Section 206T
51	Section 145F(1)	80	Section 206TA(1)
52	Section 146(3)	81	Section 206TA(2)
53	Section 147	82	Section 206U(1)
54	Section 148(1)	83	Section 206U(2)
55	Section 150(1)	84	Section 206U(3)
56	Section 150(2)	85	Section 206ZC

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<i>Item</i>	<i>Pecuniary penalty provision</i>	<i>Item</i>	<i>Pecuniary penalty provision</i>
57	Section 150A(1)	86	Section 206ZH(1)
58	Section 150A(2)	87	Section 206ZR(1)
59	Section 151(1)	88	Section 206ZR(2)
60	Section 151(2)	89	Section 206ZS(1)
61	Section 151(2A)	90	Section 206ZZ(1)
91	Section 206ZZ(2)	104	Section 424(3)
92	Section 206ZZC(1)	105	Section 425(1)
93	Section 206ZZG(1)	106	Section 428
94	Section 206ZZG(2)	107	Section 439C(2)
95	Section 206ZZH(2)	108	Section 439D(2)
96	Section 206ZZH(3)	109	Section 439F(1)
97	Section 206ZZP	110	Section 439F(2)
98	Section 405(1)	111	Section 439F(3)
99	Section 405(4)	112	Section 439G(3)
100	Section 406	113	Section 439I(1)
101	Section 411(5)	114	Section 439I(2)
102	Section 420C(3)	115	Section 499(2)
103	Section 424(1)		

Part 2

<i>Item</i>	<i>Pecuniary penalty provision</i>	<i>Item</i>	<i>Pecuniary penalty provision</i>
1	Section 65(1)	13	Section 206AF
2	Section 91P(1)	14	Section 206AZC(1)
3	Section 91P(2)	15	Section 206AZC(2)
4	Section 91ZZH(1)	16	Section 206ZZH(4)

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<i>Item</i>	<i>Pecuniary penalty provision</i>	<i>Item</i>	<i>Pecuniary penalty provision</i>
5	Section 142B(1)	17	Section 207J(1)
6	Section 142B(2)	18	Section 207J(2)
7	Section 142B(3)	19	Section 207J(3)
8	Section 142BA	20	Section 207J(4)
9	Section 142R(1)	21	Section 207ZE(2)
10	Section 142R(2)	22	Section 382(2)
11	Section 142ZL(1)	23	Section 392(3)
12	Section 198(2)	24	Section 439G(2)
25	Section 439H(2)	30	Section 505(3)
26	Section 439K(1)	31	Section 505(4)
27	Section 501	32	Section 505A(1)
28	Section 505(1)	33	Section 505A(2)
29	Section 505(2)		

".

Part 17—General amendments

Division 1—Park closures

323 New section 311A inserted

After section 311 of the Principal Act **insert—**

"311A Closure of caravan park

- (1) Subject to subsection (2), a caravan park owner may give a resident a notice to vacate a site if the caravan park is to be closed.
- (2) At least 14 days before giving a notice to vacate under subsection (1), the caravan park owner must give written notification to the municipal council in which the caravan park is situated of the proposed closure of that park.

Penalty: in the case of a natural person—
60 penalty units;

in the case of a body corporate—
300 penalty units.

- (3) The notice must specify a termination date that is not less than 6 months after the date on which the notice is given.

Note

See also section 215A in relation to compensation for eligible residents and effect on validity of notice to vacate.

- (4) If an agreement under section 144 specifies a day on which the term of occupancy is to end, the notice cannot specify a termination date that is earlier than the day on which the occupancy is to end.

- (5) Failure to give the written notification under subsection (2) does not invalidate any notice to vacate given under subsection (1)."

324 Notice of no effect

In section 315(1) of the Principal Act, after "section" **insert** "311A or".

325 Form of notice to vacate

After section 319(d) of the Principal Act **insert**—

- "(da) in the case of a notice to vacate given under section 311A or 317ZDA, it is accompanied by documentary evidence, as approved by the Director from time to time, which supports the reason for giving the notice to vacate; and".

326 New section 317ZDA inserted

After section 317ZD of the Principal Act **insert**—

"317ZDA Closure of Part 4A park

- (1) Subject to subsection (2), a site owner may give a resident a notice to vacate a site if the Part 4A park is to be closed.
- (2) At least 14 days before giving a notice to vacate under subsection (1), the site owner must give written notification to the municipal council in which the Part 4A park is situated of the proposed closure of that park.

Penalty: in the case of a natural person—
60 penalty units;
in the case of a body corporate—
300 penalty units.

- (3) The notice must specify a termination date that is not less than 365 days after the date on which the notice is given.

Note

See also section 215A in relation to compensation for eligible site tenants and effect on validity of notice to vacate.

- (4) If a site agreement specifies a day on which the site agreement is to end, the notice cannot specify a termination date that is earlier than the day on which the site agreement is to end.
- (5) Failure to give the written notification under subsection (2) does not invalidate any notice to vacate given under subsection (1)."

327 Notice of no effect

In section 317ZH(1) of the Principal Act, after "section" **insert** "317ZDA,".

Division 2—Miscellaneous amendments

328 Repeal of Division 1 of this Part

Division 1 of this Part is **repealed**.

329 Confidentiality

- (1) For the penalty at the foot of section 499(2) of the Principal Act **substitute**—
"Penalty: 150 penalty units."
- (2) After section 499(3)(a)(i) of the Principal Act **insert**—
"(ia) to a law enforcement agency or other government agency, for a purpose

referred to in clause 2.1(g) and (h) of Schedule 1 to the **Privacy and Data Protection Act 2014**; or".

330 Section 501 amended

- (1) **Insert** the following heading to section 501 of the Principal Act—

"Offence to make false representation—residential rental agreement or residency right".

- (2) In section 501 of the Principal Act, for "tenancy agreement" (wherever occurring) **substitute** "residential rental agreement".

- (3) For the penalty at the foot of section 501 of the Principal Act **substitute**—

"Penalty: 150 penalty units in the case of a natural person;

750 penalty units in the case of a body corporate."

331 Offence to persuade person not to exercise rights or take proceedings

- (1) In section 502 of the Principal Act—

(a) for "tenancy agreement" (wherever occurring) **substitute** "residential rental agreement";

(b) in paragraph (c), for "owner" **substitute** "operator".

- (2) For the penalty at the foot of section 502 of the Principal Act **substitute**—

"Penalty: 150 penalty units in the case of a natural person;

750 penalty units in the case of a
body corporate.".

**332 Offence to aid, abet, counsel or procure commission
of offence**

(1) In section 503 of the Principal Act, for
"tenancy agreement" (where twice occurring)
substitute "residential rental agreement".

(2) For the penalty at the foot of section 503 of
the Principal Act **substitute**—

"Penalty: 150 penalty units in the case of a
natural person;

750 penalty units in the case of a
body corporate.".

333 Offence to give false information

For the penalty at the foot of section 504 of the
Principal Act **substitute**—

"Penalty: 150 penalty units in the case of a
natural person;

750 penalty units in the case of a body
corporate.".

334 Certain penalties prohibited

(1) In section 505(1) of the Principal Act—

(a) for "tenant" **substitute** "renter";

(b) for "tenancy agreement" (wherever occurring) **substitute** "residential rental agreement".

(2) In section 505(2) of the Principal Act, for "owner" **substitute** "operator".

(3) For the penalty at the foot of section 505(1), (2), (3) and (4) of the Principal Act **substitute**—
"Penalty: 150 penalty units in the case of a natural person;
750 penalty units in the case of a body corporate.".

335 Offences with respect to formal affiliation of premises with school or institution

(1) In section 505A(2) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

(2) For the penalty at the foot of section 505A(1) and (2) of the Principal Act **substitute**—
"Penalty: 600 penalty units.".

336 Offence not to display notice about affiliation of premises with school or institution

(1) In section 505B(b) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

(2) For the penalty at the foot of section 505B of the Principal Act **substitute**—
"Penalty: 25 penalty units.".

337 Service of documents

(1) In section 506(2) of the Principal Act—

- (a) for "landlord" (where first occurring) **substitute** "residential rental provider";
 - (b) in paragraph (a), for "landlord or to the landlord's agent" **substitute** "residential rental provider or to that person's agent";
 - (c) in paragraph (b)—
 - (i) in subparagraph (i), for "landlord at the landlord's" **substitute** "residential rental provider's at that person's";
 - (ii) in subparagraph (ii), for "landlord's" **substitute** "residential rental provider's";
 - (d) in paragraph (c), for "landlord's" **substitute** "residential rental provider's".
- (2) In section 506(3)(a) and (b) of the Principal Act, for "tenant" (where first occurring) **substitute** "renter".
- (3) In section 506(4) of the Principal Act, for "tenant" (where first occurring) **substitute** "renter".
- (4) In section 506(5) of the Principal Act, for "tenant" **substitute** "renter".
- (5) In section 506(6) of the Principal Act—
 - (a) for "a tenant" **substitute** "a renter";
 - (b) for "non-local DVO that is a recognised DVO" **substitute** "recognised non-local DVO".

338 Application of provisions of Australian Consumer Law and Fair Trading Act 2012

- (1) In section 507A(1) of the Principal Act, for "(except section 153)" **substitute** "(except sections 153 and 154 and Division 6)".
- (2) In section 507A(2) of the Principal Act, for "Sections 125, 126," **substitute** "Division 4 of Part 6.2 (except section 133), sections".

339 New Divisions 2B and 2C of Part 13 inserted

After section 510C of the Principal Act **insert**—

**"Division 2B—Public warning
statements**

510K Public warning statements

If satisfied it is in the public interest to do so, the Minister or Director may publish a public statement or issue a public warning identifying and giving information about the following—

- (a) premises offered for residential occupation under Part 2;
- (b) a rooming house or a room in a rooming house under Part 3;
- (c) a caravan or caravan park under Part 4;
- (d) a park under Part 4A;
- (e) premises, rooms, caravans or sites (as the case may be) occupied under agreements or residency rights to which Parts 2, 3, 4 and 4A apply;
- (f) persons who have engaged in conduct contrary to this Act.

Division 2C—Substantiation notices

510L Director may require claims to be substantiated

- (1) This section applies if a residential rental provider or that person's agent has made a claim or representation in trade or commerce in respect of rented premises prior to entering a residential rental agreement for the premises, unless the residential rental provider or that person's agent—
 - (a) makes the claim or representation as an information provider by publishing it on behalf of another person in the course of carrying on a business of providing information; and
 - (b) does not have a commercial relationship with the other person other than for the purpose of—
 - (i) publishing claims or representations promoting, or apparently intended to promote, the other person's business or other activities; or
 - (ii) the other person supplying insurance to the person.
- (2) The Director may give the residential rental provider or that person's agent who made the claim or representation a written notice requiring the residential rental provider or that person's agent to do either or both of the following, within 21 days after the notice is

- given to the residential rental provider or that person's agent—
- (a) give information or produce documents or both to the Director that could be capable of substantiating or supporting the claim or representation;
 - (b) give information or produce documents or both to the Director that are of a kind specified in the notice.
- (3) Any kind of information or documents that the Director specifies under subsection (2)(b) must be of a kind that the Director is satisfied is relevant to substantiating or supporting the claim or representation.
- (4) The substantiation notice must—
- (a) state the name of the person to whom it is to be given; and
 - (b) specify the claim or representation to which it relates; and
 - (c) give notice to the residential rental provider or that person's agent of—
 - (i) the right to extend the period of compliance with the notice; and
 - (ii) the proposed penalty for failing to comply with the notice; and
 - (iii) the proposed penalty for providing false or misleading information in response to the notice.
- (5) The substantiation notice may relate to more than one claim or representation that the person has made.

510M Extending period for complying with substantiation notice

- (1) At any time within the period of 21 days after a substantiation notice has been given to a person by the Director, the person may apply in writing to the Director for an extension of the period for complying with the substantiation notice.
- (2) The Director, by written notice given to the person, may extend the period within which the person must comply with the substantiation notice.

510N Compliance with a substantiation notice

- (1) Subject to subsection (2), a person who is given a substantiation notice must comply with the substantiation notice within the compliance period.

Penalty: 60 penalty units, in the case of a natural person;

300 penalty units, in the case of a body corporate.

- (2) A natural person may refuse or fail to give particular information or produce a particular document in compliance with a substantiation notice on the ground that the information or document may—
 - (a) incriminate the person; or
 - (b) expose the person to a penalty.
- (3) In this section, *compliance period* means—
 - (a) the period of 21 days specified in the compliance notice; or

- (b) if an application is made under section 510M, the period of 21 days specified in the compliance notice, in addition to the period up until the time when the applicant is given notice of the Director's decision on the application; or
- (c) if the period for complying with the notice has been extended under section 510M, the extended period.

510O False or misleading information

A person must not, in compliance or purported compliance with a substantiation notice—

- (a) knowingly give the Director false or misleading information; or
- (b) produce to the Director a document that contains false or misleading information unless the document is accompanied by a statement made by the person that identifies that the information is false or misleading.

Penalty: 60 penalty units, in the case of a natural person;
300 penalty units, in the case of a body corporate."

340 Regulations

In section 511(1) of the Principal Act—

- (a) after paragraph (a) **insert**—
 - "(ab) prescribing work to be urgent site repairs;

- (ac) prescribing rental minimum standards, including but not limited to the following—
 - (i) the cleanliness and state of repair of rented premises;
 - (ii) the privacy, security and amenity of rented premises;
 - (iii) prescribing or requiring compliance with any other standards prescribed under any other Act or law in relation to, or applicable to, the condition of any residential premises, including energy and water efficiency standards;"
- (b) in paragraph (f), for "tenancy agreement" **substitute** "residential rental agreement";
- (c) in paragraph (faa)—
 - (i) for "tenancy agreements" (wherever occurring) **substitute** "residential rental agreements";
 - (ii) in subparagraph (i), after "Division 2" **insert** "and Division 9";
 - (iii) in subparagraph (ii), for "tenancy agreement" (wherever occurring) **substitute** "residential rental agreement";
- (d) in paragraph (faab), for "tenancy agreements" (where twice occurring) **substitute** "residential rental agreements".

Part 18—Consequential amendments and transitional provisions

Division 1—Consequential amendments of the Principal Act

341 Consequential amendments of Division 2 of Part 1

- (1) In the heading to Division 2 of Part 1 of the Principal Act, for "**tenancy agreements**" substitute "**residential rental agreements**".
- (2) In the heading to Subdivision 1 of Division 2 of Part 1 of the Principal Act, for "**tenancy agreements**" substitute "**residential rental agreements**".

342 Further consequential amendments of Division 2 of Part 1

- (1) In section 5(1) of the Principal Act—
 - (a) in paragraph (a)—
 - (i) for "landlord" substitute "residential rental provider";
 - (ii) for "tenancy agreement" substitute "residential rental agreement";
 - (b) in paragraph (b)—
 - (i) for "tenant" substitute "renter";
 - (ii) for "tenancy agreement" substitute "residential rental agreement".
- (2) In section 5(2) of the Principal Act, for "tenant" substitute "renter".
- (3) **Insert** the following heading to section 6 of the Principal Act—

"Residential rental agreements exceeding 5 years".

- (4) In section 6(1) of the Principal Act—
- (a) for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement";
 - (b) in paragraph (b)—
 - (i) for "landlord" **substitute** "residential rental provider";
 - (ii) for "tenant" **substitute** "renter".
- (5) In section 6(2) of the Principal Act—
- (a) for "tenancy agreement" (wherever occurring) **substitute** "residential rental agreement";
 - (b) in paragraph (a), for "tenant" **substitute** "renter".
- (6) In section 7 of the Principal Act—
- (a) for "tenancy agreement" **substitute** "residential rental agreement";
 - (b) for "tenant" **substitute** "renter".
- (7) In section 8 of the Principal Act—
- (a) for "tenancy agreement" **substitute** "residential rental agreement";
 - (b) for "landlord" **substitute** "residential rental provider";
 - (c) for "tenant" (where twice occurring) **substitute** "renter".

- (8) In section 9 of the Principal Act—
- (a) for "tenancy agreement" (wherever occurring) **substitute** "residential rental agreement";
 - (b) in paragraph (a), for "landlord's" **substitute** "residential rental provider's";
 - (c) in paragraph (c)—
 - (i) in subparagraph (i), for "landlord's" **substitute** "residential rental provider's";
 - (ii) in subparagraph (ii), for "landlord" **substitute** "residential rental provider".
- (9) In section 10 of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".
- (10) In section 11 of the Principal Act—
- (a) for "tenancy agreement" **substitute** "residential rental agreement";
 - (b) for "tenant" **substitute** "renter";
 - (c) for "landlord" **substitute** "residential rental provider".
- (11) In section 12 of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".
- (12) In section 13 of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".
- (13) **Insert** the following heading to section 14 of the Principal Act—

"Prescribed premises and prescribed residential rental agreements".

(14) In section 14(1) and (2) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

(15) **Insert** the following heading to section 15 of the Principal Act—

"Certain provisions not to apply to residential rental agreements".

(16) In section 15(2) of the Principal Act, for "tenancy agreements" **substitute** "residential rental agreements".

(17) In the heading to Subdivision 3 of Division 2 of Part 1 of the Principal Act, for "**tenancy agreements**" **substitute** "**residential rental agreements**".

343 Further consequential amendments of Division 2 of Part 1

(1) In section 20(1) and (2) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

(2) In section 21(1) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

(3) In section 22 of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

(4) In section 23 of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

344 Consequential amendment of Part 2

- (1) In the heading to Part 2 of the Principal Act, for **"tenancy agreements"** substitute **"residential rental agreements"**.
- (2) In the heading to Division 1 of Part 2 of the Principal Act, for **"General requirements for tenancy agreements"** substitute **"General requirements for residential rental agreements"**.
- (3) In section 28(1) of the Principal Act—
 - (a) for "tenant" substitute "renter";
 - (b) for "tenancy agreement" substitute "residential rental agreement".
- (4) In section 28(2) of the Principal Act, for "tenancy agreement" substitute "residential rental agreement".

345 Consequential amendments of Division 2 of Part 2

- (1) In section 32 of the Principal Act—
 - (a) for "landlord" substitute "residential rental provider";
 - (b) for "tenancy agreement" (where twice occurring) substitute "residential rental agreement".
- (2) In section 33(a) of the Principal Act, for "tenancy agreement" (where twice occurring) substitute "residential rental agreement".
- (3) In sections 34A and 34B of the Principal Act—
 - (a) for "landlord" (wherever occurring) substitute "residential rental provider";
 - (b) for "tenant" (wherever occurring) substitute "renter";

- (c) for "tenancy agreement" (wherever occurring) **substitute** "residential rental agreement".
- (4) In section 34A(2)(c)(iii) of the Principal Act, for "periodic tenancy" **substitute** "periodic residential rental agreement".
- (5) In the heading to section 34B of the Principal Act for "**Tenant**" **substitute** "**Renter**".

346 Consequential amendments of Division 3 of Part 2

- (1) **Insert** the following heading to section 45 of the Principal Act—
"Renter may complain to Director about excessive rent".
- (2) In section 45(1) of the Principal Act—
 - (a) for "tenant" (wherever occurring) **substitute** "renter";
 - (b) in paragraph (a)—
 - (i) for "tenancy agreement" **substitute** "residential rental agreement";
 - (ii) for "landlord" **substitute** "residential rental provider".
- (3) In section 45(3)(b) of the Principal Act—
 - (a) for "tenant" **substitute** "renter";
 - (b) for "landlord" **substitute** "residential rental provider".
- (4) In section 45(4)(a) of the Principal Act—
 - (a) for "tenant" **substitute** "renter";

- (b) for "tenant's" **substitute** "renter's".
- (5) In section 46(1) of the Principal Act, for "tenant" **substitute** "renter".
- (6) In section 46(2)(a) of the Principal Act, for "tenant" **substitute** "renter".
- (7) In section 46(3) of the Principal Act, for "tenant" (wherever occurring) **substitute** "renter".
- (8) In section 46(5) of the Principal Act, for "tenant's" **substitute** "renter's".
- (9) In section 47(3) of the Principal Act—
 - (a) for "tenant" **substitute** "renter";
 - (b) in paragraph (a)—
 - (i) for "tenancy agreement" **substitute** "residential rental agreement";
 - (ii) for "landlord" **substitute** "residential rental provider";
 - (c) in paragraph (d)—
 - (i) for "landlord" **substitute** "residential rental provider";
 - (ii) for "tenancy agreement" **substitute** "residential rental agreement";
 - (d) in paragraph (e)—
 - (i) for "tenant" **substitute** "renter";
 - (ii) for "tenancy agreement" **substitute** "residential rental agreement";
 - (e) in paragraph (f)—
 - (i) for "tenant" **substitute** "renter";

- (ii) for "tenancy agreement" **substitute** "residential rental agreement";
- (f) in paragraph (g)—
 - (i) for "tenant" **substitute** "renter";
 - (ii) for "landlord's" **substitute** "residential rental provider's";
 - (iii) for "landlord" **substitute** "residential rental provider";
- (g) in paragraph (h), for "tenancy agreement" **substitute** "residential rental agreement".
- (10) In section 47(4) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter".
- (11) In section 48(1) of the Principal Act—
 - (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" **substitute** "renter".
- (12) In section 48(1)(a) of the Principal Act—
 - (a) for "tenancy agreement" **substitute** "residential rental agreement";
 - (b) for "tenant" **substitute** "renter".
- (13) In section 48(2) of the Principal Act, for "tenant" **substitute** "renter".

347 Consequential amendments of Division 4 of Part 2

- (1) In section 55(1) of the Principal Act—

- (a) for "landlord" (where twice occurring)
substitute "residential rental provider";
 - (b) for "tenant" (where twice occurring)
substitute "renter".
- (2) In section 55(2) of the Principal Act—
- (a) for "tenant" (where twice occurring)
substitute "renter";
 - (b) for "landlord" (where twice occurring)
substitute "residential rental provider".
- (3) In section 58(1) of the Principal Act—
- (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement";
 - (c) for "tenant" (where twice occurring)
substitute "renter".
- (4) In section 58(2)(b) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

348 Consequential amendments of Division 5 of Part 2

- (1) **Insert** the following heading to section 59 of the Principal Act—
- "Renter must not use premises for illegal purposes".**

- (2) In section 59 of the Principal Act, for "tenant" **substitute** "renter".
- (3) **Insert** the following heading to section 60 of the Principal Act—
"Renter must not cause nuisance or interference".
- (4) In section 60(1) and (2) of the Principal Act, for "tenant" **substitute** "renter".
- (5) In section 71(1) of the Principal Act—
 - (a) for "tenant" (where twice occurring) **substitute** "renter";
 - (b) for "landlord" (where twice occurring) **substitute** "residential rental provider".
- (6) In section 71(2) of the Principal Act—
 - (a) for "tenant" **substitute** "renter";
 - (b) for "landlord's" **substitute** "residential rental provider's".

349 Consequential amendments of Division 6 of Part 2

- (1) In section 80(1) of the Principal Act, for "landlord" **substitute** "residential rental provider".
- (2) In section 80(2) of the Principal Act, for "tenant" **substitute** "renter".

350 Consequential amendments of Division 7 of Part 2

- (1) **Insert** the following heading to section 82 of the Principal Act—
"Renter may apply to Tribunal".
- (2) In section 82(1) of the Principal Act—
 - (a) for "tenant" (wherever occurring) **substitute** "renter";
 - (b) for "landlord" (wherever occurring) **substitute** "residential rental provider".
- (3) In section 82(2) of the Principal Act, for "landlord's" **substitute** "residential rental provider's".
- (4) In section 83 of the Principal Act, for "landlord" (where twice occurring) **substitute** "residential rental provider".

351 Consequential amendments of Division 8 of Part 2

- (1) In section 87(b) of the Principal Act, for "tenant's" **substitute** "renter's".
- (2) In section 88 of the Principal Act—
 - (a) in paragraph (b), for "landlord or landlord's agent" **substitute** "residential rental provider or that person's agent";
 - (b) in paragraph (c)(ii), for "tenant" **substitute** "renter";
 - (c) in paragraph (d)—
 - (i) for "landlord" **substitute** "residential rental provider";
 - (ii) for "tenant's" **substitute** "renter's".
- (3) In section 91(1) of the Principal Act—

- (a) for "landlord or the landlord's agent"
substitute "residential rental provider
or that person's agent";
 - (b) for "tenant" **substitute** "renter";
 - (c) for "landlord and the landlord's agent"
substitute "residential rental provider
and that person's agent".
- (4) In section 91(2)(a) of the Principal Act, for
"landlord and the landlord's agent" **substitute**
"residential rental provider and that person's
agent".

352 Consequential amendments of Division 1 of Part 3

- (1) In section 92(3)(a) of the Principal Act, for
"owner" **substitute** "operator".
- (2) In the example at the foot of section 92A of the
Principal Act, for "owner" **substitute** "operator".
- (3) In section 92B of the Principal Act, for "owner"
substitute "operator".

353 Consequential amendments of Division 1A of Part 3

- (1) In section 94C(1) of the Principal Act, for
"owner" (where three times occurring) **substitute**
"operator".
- (2) In section 94C(2) and (3) of the Principal Act, for
"owner" **substitute** "operator".
- (3) In section 94D(3) of the Principal Act, for
"owner" **substitute** "operator".

354 Consequential amendments of Division 2 of Part 3

In section 95 of the Principal Act, for "owner"
substitute "operator".

355 Consequential amendments of Division 3 of Part 3

- (1) In section 102(3)(b) of the Principal Act, for "owner" **substitute** "operator".
- (2) In section 102A(2) of the Principal Act, for "owner" **substitute** "operator".
- (3) In section 104(4) of the Principal Act, for "owner" **substitute** "operator".
- (4) In section 105(1A), (2) and (2A) of the Principal Act, for "owner" **substitute** "operator".
- (5) In section 106(1) of the Principal Act, for "owner" (where twice occurring) **substitute** "operator".
- (6) In section 106(2) of the Principal Act—
 - (a) in paragraph (a), for "owner" **substitute** "operator";
 - (b) in paragraph (b), for "owner" (where twice occurring) **substitute** "operator".
- (7) In section 106A of the Principal Act, for "owner" **substitute** "operator".

356 Consequential amendments of Division 4 of Part 3

In section 109 of the Principal Act, for "owner" (where three times occurring) **substitute** "operator".

357 Consequential amendments of Division 5 of Part 3

- (1) In the heading to Division 5 of Part 3 of the Principal Act, for "owners" **substitute** "operators".
- (2) In section 112(1) and (2) of the Principal Act, for "owner" **substitute** "operator".

- (3) In section 117 of the Principal Act, for "owner's" **substitute** "operator's".
- (4) **Insert** the following heading to section 118 of the Principal Act—
"Resident must give key to rooming house operator".
- (5) In section 118 of the Principal Act, for "owner" **substitute** "operator".
- (6) **Insert** the following heading to section 120 of the Principal Act—
"Rooming house operator must keep room and house in good repair".
- (7) In section 120(1) of the Principal Act, for "owner" (where twice occurring) **substitute** "operator".
- (8) In section 120(2) of the Principal Act, for "owner" (where twice occurring) **substitute** "operator".
- (9) In the heading to section 120A of the Principal Act, for "owner" **substitute** "operator".
- (10) In section 120A(1), (2) and (3) of the Principal Act, for "owner" **substitute** "operator".
- (11) **Insert** the following heading to section 121 of the Principal Act—
"Rooming house operator must provide access".
- (12) In section 121 of the Principal Act, for "owner" **substitute** "operator".
- (13) **Insert** the following heading to section 122 of the Principal Act—

"Quiet enjoyment—rooming house operator's duty".

- (14) In section 122(1), (2) and (3) of the Principal Act, for "owner" **substitute** "operator".
- (15) In section 123 of the Principal Act, for "owner" **substitute** "operator".
- (16) In section 126 of the Principal Act, for "owner" **substitute** "operator".

358 Consequential amendments of Division 6 of Part 3

In section 131A(1), (2)(a) and (2)(b) of the Principal Act, for "owner" **substitute** "operator".

359 Consequential amendments of Division 7 of Part 3

- (1) In section 137 of the Principal Act—
 - (a) in paragraphs (c) and (d), for "owner" **substitute** "operator";
 - (b) in paragraph (d), for "owner's" **substitute** "operator's".
- (2) In section 139(b) of the Principal Act—
 - (a) for "owner" **substitute** "operator";
 - (b) for "owner's" **substitute** "operator's".
- (3) In section 142(1) of the Principal Act—
 - (a) for "owner" (where twice occurring) **substitute** "operator";
 - (b) for "owner's" (where twice occurring) **substitute** "operator's".
- (4) In section 142(2)(a) of the Principal Act—
 - (a) for "owner" **substitute** "operator";

(b) for "owner's" **substitute** "operator's".

360 Consequential amendments of Part 5

- (1) In section 210A of the Principal Act, for "owner" **substitute** "operator".
- (2) In section 211 of the Principal Act—
 - (a) in paragraphs (a) and (b), for "tenancy agreement" **substitute** "residential rental agreement";
 - (b) in paragraph (bb), for "owner" **substitute** "operator".
- (3) In section 213A(1) of the Principal Act—
 - (a) for "a tenant" **substitute** "a renter";
 - (b) for "the tenant" **substitute** "the renter".
- (4) In section 213A(2)(a) and (b) of the Principal Act, for "rooming house owner" **substitute** "rooming house operator".
- (5) In section 213A(2) of the Principal Act—
 - (a) in paragraph (a), for "landlord" **substitute** "residential rental provider";
 - (b) in paragraph (b)—
 - (i) for "tenancy agreement" **substitute** "residential rental agreement";
 - (ii) for "landlord" **substitute** "residential rental provider".
- (6) In section 213B(1) of the Principal Act—
 - (a) for "tenant" (wherever occurring) **substitute** "renter";

(b) for "landlord" (where twice occurring)
substitute "residential rental provider".

(7) In section 215 of the Principal Act, for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement".

361 Consequential amendments of Part 7

(1) **Insert** the following heading to section 323 of the Principal Act—

"Application for possession order by rooming house operator".

(2) In section 323 of the Principal Act, for "owner" (where three times occurring) **substitute** "operator".

(3) In section 334(1) of the Principal Act—

(a) for "tenancy agreement" **substitute** "residential rental agreement";

(b) for "landlord" **substitute** "residential rental provider".

(4) In section 344(1) of the Principal Act—

(a) in paragraphs (a) and (b), for "tenancy agreement" **substitute** "residential rental agreement";

(b) in paragraph (b), for "tenant" **substitute** "renter".

362 Consequential amendments of Part 8

(1) In section 367 of the Principal Act—

(a) in the definition of *manager*, for "rooming house owner" **substitute** "rooming house operator";

- (b) in paragraph (a) of the definition of *resident*, for "tenant" **substitute** "renter".
- (2) In section 370(1) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".
- (3) In section 370(2)(a) of the Principal Act, for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement".
- (4) In section 374(1) of the Principal Act—
 - (a) for "tenancy agreement" (where twice occurring) **substitute** "residential rental agreement";
 - (b) for "landlord, rooming house owner" **substitute** "residential rental provider, rooming house operator".
- (5) In section 374(2) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".
- (6) In section 377A of the Principal Act—
 - (a) in paragraph (a), for "landlord" **substitute** "residential rental provider";
 - (b) in paragraph (b), for "owner" **substitute** "operator".

363 Consequential amendments of Part 9

- (1) In the heading to Part 9 of the Principal Act, for "by tenants" **substitute** "by renters".
- (2) In section 378(a) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

- (3) In section 400(2) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

364 Consequential amendments of Part 10

- (1) In section 408 of the Principal Act—
- (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenant" (where twice occurring) **substitute** "renter".
- (2) In section 411C of the Principal Act—
- (a) for "tenant" **substitute** "renter";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement".
- (3) In section 413 of the Principal Act—
- (a) for "landlord" **substitute** "residential rental provider";
 - (b) for "tenancy agreement" **substitute** "residential rental agreement".
- (4) In section 421(1) of the Principal Act, for "tenant" **substitute** "renter".
- (5) In section 421(3) of the Principal Act, for "tenant" (wherever occurring) **substitute** "renter".

365 Consequential amendments of Part 10A

- (1) In section 439A of the Principal Act **insert** the following definitions—
- "renter** includes—
- (a) resident; and

- (b) site tenant; and
- (c) former renter, former resident
or former site tenant;

residential rental agreement includes residency
right and site agreement;

residential rental provider includes—

- (a) rooming house operator;
- (b) caravan park owner;
- (c) caravan owner;
- (d) site owner;
- (e) agent of a residential rental provider
or a person referred to in paragraphs (a)
to (d)."

(2) In section 439A of the Principal Act the
definitions of ***landlord***, ***tenancy agreement***
and ***tenant*** are **repealed**.

(3) In section 439A of the Principal Act, in
paragraphs (a) and (b) of the definition of
inaccurate, for "landlord" **substitute**
"residential rental provider".

(4) In section 439A of the Principal Act, in
paragraph (a) of the definition of ***out of***
date, for "landlord" (where twice occurring)
substitute "residential rental provider".

(5) In section 439A of the Principal Act, in the
definition of ***residential tenancy database***—

- (a) in paragraphs (a)(i) and (ii) and (b),
for "tenancy agreement" **substitute**
"residential rental agreement";
- (b) in paragraph (b)—
 - (i) for "landlords" **substitute**
"residential rental providers";
 - (ii) for "person;" **substitute** "person."

366 Consequential amendments of Part 11

- (1) In section 446(a) of the Principal Act, for
"tenancy agreement" (where twice occurring)
substitute "residential rental agreement".
- (2) **Insert** the following heading to section 473 of
the Principal Act—
**"Powers of Tribunal where 2 or more
residential rental agreements affect same
premises"**.
- (3) In section 473(1) of the Principal Act—
 - (a) for "tenancy agreements" **substitute**
"residential rental agreements";
 - (b) for "landlord" (where twice occurring)
substitute "residential rental provider";
 - (c) for "tenant" (where first occurring)
substitute "renter";
 - (d) in paragraph (a)—
 - (i) for "tenant" **substitute** "renter";
 - (ii) for "tenancy agreement" **substitute**
"residential rental agreement";
 - (e) in paragraph (b), for "tenant" **substitute**
"renter".

- (4) In section 473(2) of the Principal Act, for "tenancy agreements" **substitute** "residential rental agreements".

367 Consequential amendment of Part 13

In section 510(1)(a) of the Principal Act, for "tenancy agreement" **substitute** "residential rental agreement".

Division 2—Transitional provisions

368 New Division 5 of Schedule 1 inserted

After Division 4 of Schedule 1 to the Principal Act **insert**—

**"Division 5—Residential Tenancies
Amendment Act 2018**

15 Definitions

In this Division—

fixed term tenancy agreement has the same meaning as the definition of *fixed term tenancy agreement* had in section 3(1) immediately before its repeal by the **Residential Tenancies Amendment Act 2018**;

periodic tenancy agreement has the same meaning as the definition of *periodic tenancy agreement* had in section 3(1) immediately before its repeal by the **Residential Tenancies Amendment Act 2018**;

tenancy agreement has the same meaning as the definition of *tenancy agreement*

had in section 3(1) immediately before its repeal by the **Residential Tenancies Amendment Act 2018**;

tenant has the same meaning as the definition of *tenant* had in section 3(1) immediately before its repeal by the **Residential Tenancies Amendment Act 2018**.

16 Fixed term tenancy agreements

- (1) The amendments made to sections 17, 19, 26, 26A, 27, 27A, 30, 36, 37, 38, 39, 40, 41, 42, 43, 44, 49, 50, 66 by the **Residential Tenancies Amendment Act 2018** do not apply to—
 - (a) a fixed term tenancy agreement entered into before the commencement of the applicable amendment until that agreement is terminated; and
 - (b) a periodic tenancy agreement that commenced before the commencement of the applicable amendment until that agreement is terminated.
- (2) Sections 17, 19, 26, 26A, 27, 27A, 30, 36, 37, 38, 39, 40, 41, 42, 43, 44, 49, 50 and 66 as in force immediately before the applicable amendment by the **Residential Tenancies Amendment Act 2018** continue to apply to—
 - (a) a fixed term tenancy agreement entered into before the commencement of that amendment until the end of that agreement; and

- (b) a periodic tenancy agreement that commenced before the commencement of that amendment until the end of that agreement.
- (3) Sections 3A, 27B, 27C, Divisions 1A, 1B and 1C of Part 2 and sections 35A and 65A, as inserted by the **Residential Tenancies Amendment Act 2018**, do not apply to a fixed term tenancy agreement or a periodic tenancy agreement referred to in subclause (1).

17 Pets

Despite clause 16, Division 5B of Part 2 does not apply to a tenancy agreement in existence before the commencement of that Division, unless the renter who was the tenant, on or after that commencement, introduces or wishes to keep a pet at the rented premises.

18 Residential rental agreements

Without limiting section 3B—

- (a) a reference in a tenancy agreement to a landlord is taken to be a reference to a residential rental provider, unless the context requires otherwise; and
- (b) a reference in a tenancy agreement to a tenant is taken to be a reference to a renter, unless the context requires otherwise; and
- (c) a reference in a tenancy agreement to a tenancy agreement is taken to be a reference to a residential rental

agreement, unless the context requires otherwise.

19 Rooming house operators

On and from the commencement of the definition of *rooming house operator* in section 3(1), as inserted by the **Residential Tenancies Amendment Act 2018**, unless the context requires otherwise, a reference to a rooming house owner in any agreement under section 94 or in relation to a residency right under Part 3 is taken to be a reference to a rooming house operator.

20 Regulations dealing with transitional matters

- (1) The Governor in Council may make regulations containing provisions of a transitional nature, including matters of an application or savings nature, arising as a result of the enactment of the **Residential Tenancies Amendment Act 2018**, including the repeals and amendments made by that Act.
- (2) Regulations made under this clause may—
 - (a) have a retrospective effect to a day on or from the day on which the **Residential Tenancies Amendment Act 2018** received the Royal Assent; and
 - (b) be of limited or general application; and
 - (c) leave any matter or thing to be decided by a specified person or class of person; and

- (d) provide for the exemption of persons or things or a class of persons or things from any of the regulations made under this clause.
- (3) Regulations under this clause have effect despite anything to the contrary—
 - (a) in any Act (other than the **Residential Tenancies Amendment Act 2018** or the **Charter of Human Rights and Responsibilities Act 2006**); or
 - (b) in any subordinate instrument.
- (4) This clause is **repealed** on the second anniversary of the day on which it comes into operation."

Division 3—Consequential amendments to other Acts

369 Australian Consumer Law and Fair Trading Act 2012

In the note at the foot of section 115(3) of the **Australian Consumer Law and Fair Trading Act 2012**, for "sections 209 and 399A" substitute "section 209".

370 Estate Agents Act 1980

In section 59(8)(a) of the **Estate Agents Act 1980**, for "tenant" substitute "renter".

371 Family Violence Protection Act 2008

For the note at the foot of section 82 of the **Family Violence Protection Act 2008** substitute—

"Note

See the **Residential Tenancies Act 1997**, which provides that a protected person may apply under that Act for an existing residential rental agreement to be terminated and a new agreement entered into."

372 Fences Act 1968

In section 10(4)(a) of the **Fences Act 1968**, for "tenant under a tenancy agreement" substitute "renter under a residential rental agreement".

373 Fines Reform Act 2014

In the note at the foot of section 104(1) of the **Fines Reform Act 2014**, for "tenant" substitute "renter".

374 Gambling Regulation Act 2003

In section 2.5.25(5) of the **Gambling Regulation Act 2003**, for "tenancy agreement" substitute "residential rental agreement".

375 Housing Act 1983

- (1) In section 18(3) of the **Housing Act 1983**, for "260" substitute "91ZZC".
- (2) In section 109(2)(a) of the **Housing Act 1983**, for "tenancy agreement" substitute "residential rental agreement".

376 Owners Corporations Act 2006

For section 51(2) of the **Owners Corporations Act 2006** substitute—

- "(2) Despite subsection (1), if the lot is occupied under a residential rental agreement within the meaning of the **Residential Tenancies**

Act 1997, the owners corporation must give the same notice to the occupier as that required to be given by a residential rental provider under section 85 of that Act."

377 Rooming House Operators Act 2016

- (1) In section 3(1) of the **Rooming House Operators Act 2016**, in the definition of *notice to vacate*, for "under Part 6" **substitute** "within the meaning".
- (2) In section 29(1)(a) and (2)(a) of the **Rooming House Operators Act 2016**, for "section 268B or section 290B" **substitute** "section 91ZZM or section 142ZR".
- (3) In section 29(3) of the **Rooming House Operators Act 2016**, for "section 243, 244, 245, 246, 248, 249, 250, 251, 253, 278, 279, 280, 281, 282, 283 or 284" **substitute** "section 91ZI, 91ZJ, 91ZK, 91ZL, 91ZM, 91ZO, 91ZP, 91ZQ, 91ZT, 91ZV, 142ZB, 142ZC, 142ZD, 142ZE, 142ZF, 142ZG, 142ZH or 142ZI".
- (4) In the note at the foot of section 29 of the **Rooming House Operators Act 2016**—
 - (a) for "section 268B" **substitute** "section 91ZZM";
 - (b) for "section 219(2)" **substitute** "section 91E(2)".
- (5) In section 30(1) of the **Rooming House Operators Act 2016**—
 - (a) for "section 289A(2)" **substitute** "section 142ZO(2)";
 - (b) for "section 289A(3)" **substitute** "section 142ZO(4)";

- (c) for "section 289A(1)" **substitute** "section 142ZO(1)".
- (6) In section 30(2) of the **Rooming House Operators Act 2016**—
 - (a) for "section 289A(2A)" **substitute** "section 142ZO(3)";
 - (b) for "section 289A(1)" **substitute** "section 142ZO(1)".
- (7) In section 30(3) of the **Rooming House Operators Act 2016**—
 - (a) for "section 289A(2A)" **substitute** "section 142ZO(3)";
 - (b) for "section 289A(3)" **substitute** "section 142ZO(4)".
- (8) In section 34(3)(c)(ii) of the **Rooming House Operators Act 2016**, for "section 268A or section 290A" **substitute** "section 91ZZL or section 142ZQ".
- (9) In the note at the foot of section 34 of the **Rooming House Operators Act 2016**—
 - (a) for "section 268A" **substitute** "section 91ZZL";
 - (b) for "section 219(2)" **substitute** "section 91E(2)".
- (10) In the heading to section 38 of the **Rooming House Operators Act 2016**, for "Tenancy" **substitute** "Residential rental".
- (11) In section 38(1) of the **Rooming House Operators Act 2016**, for "tenancy agreement" **substitute** "residential rental agreement".

- (12) In the note at the foot of section 38(1) of the **Rooming House Operators Act 2016**, for "Subdivision 1 of Division 1 of Part 6" **substitute** "Subdivision 1 of Division 9 of Part 2".
- (13) In the note at the foot of section 38(2) of the **Rooming House Operators Act 2016**, for "Subdivision 1 of Division 2 of Part 6" **substitute** "Subdivision 1 of Division 10 of Part 3".

378 Victorian Civil and Administrative Tribunal Act 1998

- (1) For clause 67AA(b) of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998 substitute—**

"(b) clauses 71, 72, 73, 73A, 73B, 74 and 75;".

- (2) For clause 67A(1) of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998 substitute—**

"(1) The following parties to a proceeding under the **Residential Tenancies Act 1997** may be accompanied at a hearing by a person (*support person*) for the purposes of that person providing support to the party—

- (a) a party who is a protected person;
- (b) a party who is a respondent under a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order."

- (3) For clause 67A(3) of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998** substitute—

"(3) In this clause—

family violence intervention order has the same meaning as in the **Family Violence Protection Act 2008**;

family violence safety notice has the same meaning as in the **Family Violence Protection Act 2008**;

personal safety intervention order has the same meaning as in the **Personal Safety Intervention Orders Act 2010**;

protected person has the same meaning as in the **Residential Tenancies Act 1997**;

recognised non-local DVO has the same meaning as in the **Residential Tenancies Act 1997**."

- (4) For clause 68 of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998** substitute—

"68 Notification of commencement in circumstances of family violence

- (1) The principal registrar must undertake service of a copy of an application on an applicant's behalf under section 72 if—
- (a) the applicant is a protected person; and
 - (b) the applicant has made an application under section 91V, 142S, 206AG or 207M of the **Residential Tenancies Act 1997**; and

- (c) the applicant is required under section 72(1) to serve a copy of the application on a person who is a respondent under a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order under which the applicant is a protected person; and
- (d) the applicant requests the principal registrar to undertake service on the respondent on behalf of the protected person; and
- (e) the applicant gives the principal registrar the last known residential or business address of the respondent.

(2) In this clause—

family violence intervention order has the same meaning as in the **Family Violence Protection Act 2008**;

family violence safety notice has the same meaning as in the **Family Violence Protection Act 2008**;

personal safety intervention order has the same meaning as in the **Personal Safety Intervention Orders Act 2010**;

protected person has the same meaning as in the **Residential Tenancies Act 1997**;

recognised non-local DVO has the same meaning as in the **Residential Tenancies Act 1997**."

- (5) After clause 72 of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998** insert—

"72A Notification of certain orders and application withdrawals for bonds

The principal registrar must give written notice to the Residential Tenancies Bond Authority established under section 429 of the **Residential Tenancies Act 1997** of—

- (a) an order by the Tribunal under section 420B of that Act; or
 - (b) the withdrawal of any application made under section 419A of that Act."
- (6) For clause 73A of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998** substitute—

"73A Evidence

- (1) Despite section 102(1)(b), in a proceeding under the **Residential Tenancies Act 1997**, unless the Tribunal gives leave—
 - (a) a person subjected to family violence must not be personally cross-examined by the person who subjected that person to the family violence; and
 - (b) a protected person under a personal safety intervention order must not be personally cross-examined by the person against whom the personal safety intervention order was made.
- (2) For the purposes of subclause (1), a reference to a person subjected to family

violence includes a protected person under a family violence safety notice, family violence intervention order or recognised non-local DVO.

(3) In this clause—

family violence intervention order has the same meaning as in the **Family Violence Protection Act 2008**;

family violence safety notice has the same meaning as in the **Family Violence Protection Act 2008**;

personal safety intervention order has the same meaning as in the **Personal Safety Intervention Orders Act 2010**;

recognised non-local DVO has the same meaning as in the **Residential Tenancies Act 1997**."

(7) In the heading to clause 77 of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998**, for "landlords" substitute "residential rental providers".

(8) In clause 77 of Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998**—

(a) for "landlord" substitute "residential rental provider";

(b) in paragraphs (a), (b) and (c), for "landlord's" substitute "residential rental provider's".

379 Water Act 1989

In section 273A(1)(a)(i) of the **Water Act 1989**, for "a tenant under a tenancy agreement"

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Part 18—Consequential amendments and transitional provisions

substitute "a renter under a residential rental agreement".

Part 19—Consequential amendments relating to Specialist Disability Accommodation

Division 1—Amendment of Part 12A

380 When does Part not apply to occupation of SDA enrolled dwelling

In section 498C(1) and (2) of the Principal Act, for "tenancy" (wherever occurring) **substitute** "residential rental".

381 Information statement required to be given to SDA resident

- (1) In section 498D(1)(a) and (2)(a) of the Principal Act, for "tenancy" **substitute** "residential rental".
- (2) In section 498D(2)(a) and (b) of the Principal Act, for "tenant" **substitute** "renter".

382 Grounds for entry of SDA enrolled dwelling

In section 498V of the Principal Act, for "tenancy" **substitute** "residential rental".

Division 2—Other amendments

383 Definitions

In section 3(1) of the Principal Act, in paragraph (c)(iii) of the definition of *SDA enrolled dwelling*, for "tenancy" **substitute** "residential rental".

384 Tenancy agreements to be in standard form

In the note at the foot of section 26 of the Principal Act, for "landlord" **substitute** "residential rental provider".

385 Copy of agreement to be made available to tenant

In the note at the foot of section 29 of the Principal Act, for "landlord" **substitute** "residential rental provider".

386 Assignment and sub-letting by a tenant

In the note at the foot of section 81 of the Principal Act, for "landlord" **substitute** "residential rental provider".

387 New section 91DA inserted

After section 91D of the Principal Act **insert—**

"91DA Termination of residential rental agreement by SDA resident

- (1) A residential rental agreement between an SDA provider who is a residential rental provider and an SDA resident who is a renter terminates if—
- (a) the SDA provider has not given an information statement to an SDA resident in accordance with 498D(1)(a); and
 - (b) the SDA resident wishes to terminate the residential rental agreement because the SDA resident was not given the information statement; and
 - (c) the SDA resident gives a notice of intention to vacate the SDA enrolled dwelling.

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- (2) If the SDA resident gives a notice of intention to vacate under subsection (1), the residential rental agreement terminates on the date specified in the notice.

- (3) The SDA resident must vacate the SDA enrolled dwelling on or after the termination date specified in the notice of intention to vacate."

388 Section 91Z amended

After section 91Z(2) of the Principal Act **insert**—

- "(2A) Subsection (2) does not apply to a notice of intention to vacate under section 91DA."

Part 20—Repeal of amending Act

389 Repeal of amending Act

This Act is **repealed** on 1 July 2021.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

† *Minister's second reading speech—*

Legislative Assembly: 9 August 2018

Legislative Council: 24 August 2018

The long title for the Bill for this Act was "A Bill for an Act to amend the **Residential Tenancies Act 1997**, to make consequential amendments to that Act and other Acts and for other purposes."