



Australian Capital Territory

# Housing and Consumer Affairs Legislation Amendment Act 2024

A2024-29

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Australian Capital Territory

# Housing and Consumer Affairs Legislation Amendment Act 2024

**A2024-29**

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An Act to amend legislation about housing and consumer affairs, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Housing and Consumer Affairs Legislation Amendment Act 2024*.

### 2 Commencement

- (1) This Act (other than section 5 and parts 2, 8 and 9) commences on the 7th day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) Section 5 commences on this Act's notification day.
- (3) Part 2 commences, or is taken to have commenced, on 1 July 2024.
- (4) Parts 8 and 9 commence on a day fixed by the Minister by written notice.

*Note 1* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

*Note 2* If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see [Legislation Act](#), s 79).

### 3 Legislation amended

This Act amends the following legislation:

- [Agents Act 2003](#)
- [Charitable Collections Act 2003](#)
- [Charitable Collections Regulation 2003](#)
- [Fair Trading \(Australian Consumer Law\) Act 1992](#)
- [Land Titles Act 1925](#)
- [Land Titles Regulation 2015](#)

- [Residential Tenancies Act 1997](#)
- [Residential Tenancies Regulation 1998](#)
- [Unit Titles \(Management\) Act 2011](#).

*Note* This Act also amends other legislation (see sch 1).

#### **4 Legislation repealed**

The following instruments are repealed:

- [Unit Titles \(Management\) Certificate Determination 2023](#) (DI2023-3)
- [Unit Titles \(Management\) \(Fees\) Determination 2023](#) (DI2023-179).

#### **5 New Magistrates Court (Fair Trading Australian Consumer Law Infringement Notices) Regulation—sch 2**

- (1) The provisions set out in schedule 2 are taken to be a regulation made under the [Magistrates Court Act 1930](#), section 321.
- (2) The regulation—
  - (a) is taken to be notified under the [Legislation Act](#) on the day this Act is notified; and
  - (b) commences on the commencement of schedule 2; and
  - (c) is not required to be presented to the Legislative Assembly under the [Legislation Act](#), section 64 (1); and
  - (d) may be amended or repealed as if it had been made under the [Magistrates Court Act 1930](#), section 321.
- (3) This Act is taken to be an amending law for the [Legislation Act](#), section 89 (Automatic repeal of certain laws and provisions) despite this section not being a provision mentioned in section 89 (12), definition of *amending law*.

## Part 2                      Agents Act 2003

### 6                      Carrying on business as employment agent Section 12

*omit*

### 7                      Employees not taken to carry on business as agents Section 13 (d)

*omit*

### 8                      Employment agents must be licensed Section 22

*omit*

### 9                      Employment agents—further provisions Division 5.8

*omit*

### 10                     New part 5A

*insert*

## Part 5A                      Employment agents

### 98A                    Meaning of *carries on business as an employment agent*—pt 5A

- (1) For this part, a person *carries on business as an employment agent* if the person provides, or offers to provide, any of the following services for a principal for reward:
  - (a) finding, or helping to find, a person to carry out work for the principal;

- (b) any other service prescribed by regulation.
- (2) For subsection (1), it does not matter whether the work is to be carried out—
  - (a) under a contract of employment or otherwise; or
  - (b) in or outside the ACT.

**98B Employment agents must only take fee from employer**

- (1) A person commits an offence if—
  - (a) the person carries on business as an employment agent; and
  - (b) the person asks for, or accepts, a benefit from another person for a service provided as part of carrying on the business; and
  - (c) the other person is not—
    - (i) seeking to have work carried out; or
    - (ii) a model or performer.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

*model* includes a person employed—

- (a) to pose for a photographer, painter, sculptor or other artist; or
- (b) to wear and display clothes or other articles to potential customers or the public.

*performer* means an actor, singer, dancer, musician, acrobat, disc jockey, compere or any other kind of performer.

**11 Receipts  
Section 130 (1)**

*omit*

(or, for an employment agent, any money)

**12 Dictionary, definition of *agent*, paragraph (a) (iii)**

*omit*

**13 Dictionary, definition of *agents licence*, paragraph (c)**

*omit*

**14 Dictionary, definition of *carries on business as*,  
paragraph (b)**

*substitute*

(b) *an employment agent*, for part 5A (Employment agents)—see section 98A; or

**15 Dictionary, definitions of *employment agent service* and  
*licensed employment agent***

*omit*

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## Part 3 Charitable Collections Act 2003

### 16 New section 12A

*insert*

### 12A Meaning of *licence*

- (1) For this Act, *licence*—
- (a) means a licence authorising an entity to conduct a collection or collections for the purpose or purposes stated in the licence; and
  - (b) includes a deemed licence.
- (2) Subsection (1) (b) does not apply in relation to—
- (a) part 4 (other than sections 34 to 38); and
  - (b) part 5.

*Note* Pt 4 (other than ss 34 to 38) and pt 5 do not apply in relation to a deemed licence held by an ACNC registered entity (see s 42B).

### 17 Section 13

*substitute*

### 13 Meaning of *licensee*

For this Act, a *licensee* is—

- (a) for a licence (other than a deemed licence) held by an unincorporated body—
  - (i) the nominated person for the body; or
  - (ii) if there is not a nominated person for the body—any executive officer of the body; and
- (b) for a deemed licence held by an unincorporated body—any nominated person for the unincorporated body; and

(c) in any other case—the holder of a licence.

*Note 1* Div 4.2 provides for the licensee for a licence (other than a deemed licence) issued to an unincorporated body.

*Note 2* Section 42D provides for a licensee for a deemed licence held by an unincorporated body.

## **18 Unlawfully conducting collections**

### **Section 14 (2)**

*substitute*

- (2) This section does not apply if the person is authorised to conduct the collection by the licensee for the licence authorising the conduct of the collection.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

## **19 Unlawfully taking part in collections**

### **Section 15 (1)**

*substitute*

- (1) A person commits an offence if the person—
- (a) takes part in a collection; and
  - (b) is not authorised to take part in the collection by the relevant licensee; and
  - (c) either—
    - (i) knows that they are not authorised to take part in the collection; or
    - (ii) is reckless about whether they are authorised to take part in the collection.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.



**20 Sections 16 to 20**

*omit*

**21 Decision on application for licence  
Section 23 (4) (b) (iii)**

*omit*

the nominated person

*substitute*

a nominated person

**22 Section 24**

*substitute*

**24 Conditions of licence**

A licence is subject to—

- (a) the condition that the licensee must comply with the fundraising principles; and
- (b) any other condition stated in the licence or another document that forms part of the licence.

**23 Amendment, suspension or cancellation of licence—  
other grounds  
Section 35 (1), except examples and notes**

*substitute*

- (1) The director-general may amend, suspend or cancel a licence if satisfied on reasonable grounds that—
- (a) a circumstance mentioned in section 23 (2), (3) or (4) (Decision on application for licence) that would allow the director-general to refuse to issue a licence applies in relation to the licence; or
  - (b) the licensee has contravened a condition of the licence.

**24 Section 35 (1), notes 1 and 2**

*substitute*

*Note 1* **Licence** includes a deemed licence (see s 12A).

*Note 2* For the power to require information or documents, see s 53.

**25 New part 4A**

*insert*

**Part 4A ACNC registered entities****42A ACNC registered entities authorised by deemed licence**

- (1) An ACNC registered entity is taken to be authorised by a licence (a **deemed licence**) to conduct collections generally.
- (2) A deemed licence remains in force until the day—
- (a) the entity stops being an ACNC registered entity; or
  - (b) a suspension or cancellation of the licence takes effect under section 36.

- (3) Subsection (1) does not apply to an ACNC registered entity whose deemed licence ends because of subsection (2) (b).
- (4) A regulation may prescribe an ACNC registered entity or a class of ACNC registered entities to whom subsection (3) does not apply.

**42B ACNC registered entities—certain provisions not to apply to deemed licence**

The following provisions do not apply in relation to a deemed licence:

- (a) part 4 (other than sections 34 to 38);
- (b) part 5.

**42C ACNC registered entities—conditions of deemed licence**

A deemed licence is subject to—

- (a) the condition that the licensee must comply with the fundraising principles; and
- (b) any other condition imposed on the licence under section 35.

**42D ACNC registered entities—nominated person for unincorporated body**

- (1) This section applies in relation to an unincorporated body that—
  - (a) is an ACNC registered entity; and
  - (b) holds a deemed licence.
- (2) For this Act, a *nominated person* for the unincorporated body, in relation to the deemed licence, is each person who is a responsible entity of the ACNC registered entity.
- (3) A nominated person for the unincorporated body is taken to be a licensee for the deemed licence.

- (4) If this Act authorises or requires the licensee of a deemed licence to do or not do something, all nominated people for the unincorporated body are jointly and severally authorised or required to do or not do the thing.
- (5) In this section:  
*responsible entity*, of an ACNC registered entity—see the [Australian Charities and Not-for-profits Commission Act 2012](#) (Cwlth), section 205-30.

## 26 New section 62A

*insert*

### 62A Minister may determine fundraising principles

- (1) The Minister may determine principles in relation to conducting, or taking part in, a collection (the *fundraising principles*).
- (2) A determination is a disallowable instrument.

## 27 Dictionary, new definitions

*insert*

*deemed licence*, in relation to an ACNC registered entity—see section 42A (1).

*fundraising principles*—see section 62A (1).

**28 Dictionary, definitions of *licence* and *nominated person***

*substitute*

*licence*—see section 12A.

*nominated person*, for an unincorporated body—

- (a) in relation to a licence other than a deemed licence—see section 30; and
- (b) in relation to a deemed licence—see section 42D (2).

## Part 4 Charitable Collections Regulation 2003

### 29 Sections 7 to 9

*omit*

### 30 Hours of participation Schedule 1, section 1.5

*omit*

### 31 Dictionary, definition of *licensee*

*omit*

## Part 5

# Fair Trading (Australian Consumer Law) Act 1992

### 32 Subdivision 5.1A.1 and 5.1A.2 headings

*omit*

### 33 Section 34F

*substitute*

#### 34F Attendance at conciliation

- (1) A party to a conciliation of a consumer complaint—
  - (a) must attend the conciliation; and
  - (b) if the commissioner agrees—may attend the conciliation by telephone or other electronic means.
- (2) A party to a conciliation must not be represented by a lawyer unless—
  - (a) another party to the conciliation is a lawyer; or
  - (b) each party to the conciliation agrees; or
  - (c) the commissioner is satisfied that the party would be unfairly disadvantaged if not represented by a lawyer.
- (3) However, a person other than a lawyer may attend the conciliation on behalf of the consumer who made the complaint if—
  - (a) the consumer is a child or person with disability; or
  - (b) the commissioner agrees to the person attending the conciliation on behalf of the consumer.
- (4) Also, the consumer may be accompanied by another person at the conciliation if the commissioner agrees.

**34 New section 34GA***insert***34GA Offence—business not attending conciliation**

- (1) A business commits an offence if the business—
- (a) receives a compulsory conciliation notice to attend a conciliation; and
  - (b) fails to attend the conciliation at the time and place stated in the notice.

Maximum penalty: 30 penalty units.

- (2) Subsection (1) does not apply if the business has a reasonable excuse for not attending the conciliation.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

- (3) An offence against this section is a strict liability offence.

**35 Civil penalties—business failing to attend conciliation  
Subdivision 5.1A.3***omit*



**36 New part 8***insert***Part 8 Transitional—Housing and Consumer Affairs Legislation Amendment Act 2024****68 Definitions—pt 8**

In this part:

*civil penalty order* means an order made by the Magistrates Court under the pre-amendment Act, section 34M (3).

*commencement day* means the day the *Housing and Consumer Affairs Legislation Amendment Act 2024*, part 5 commences.

*pre-amendment Act* means this Act as in force immediately before the commencement day.

**69 Alleged contravention of civil penalty provision before commencement day**

- (1) This section applies if, before the commencement day—
  - (a) a business was alleged to have contravened the civil penalty provision; and
  - (b) the commissioner had not applied for a civil penalty order in relation to the alleged contravention under the pre-amendment Act, section 34M.
- (2) The commissioner may make the application not later than 6 years after the alleged contravention.

(3) If the commissioner makes the application, the application is to be dealt with as if the pre-amendment Act, division 5.1A applied in relation to the application.

(4) In this section:

*civil penalty provision* means the pre-amendment Act, section 34F (3).

## **70 Applications for civil penalty order not determined before commencement day**

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

(a) the commissioner applied for a civil penalty order under the pre-amendment Act, section 34M; and

(b) the Magistrates Court had not determined the application.

(2) The pre-amendment Act, division 5.1A continues to apply in relation to the application.

## **71 Expiry—pt 8**

This part expires 5 years after the commencement day.

*Note* A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

## **37 Dictionary, definitions of *civil penalty order* and *civil penalty provision***

*omit*

## Part 6 Land Titles Act 1925

### 38 Registrar-general must give information about certain transactions and instruments to revenue commissioner Section 178B (2) (k) to (n)

*substitute*

(k) the kind of purchaser the entity is;

**Examples—entity**

trust, trustee, corporation, individual, government

(l) if the purchaser is an individual (including an individual that is a trustee)—

(i) the purchaser's date of birth; and

(ii) the purchaser's citizenship; and

(iii) if the purchaser is not an Australian citizen—whether the purchaser holds a visa allowing them to reside in Australia under the *Migration Act 1958* (Cwlth); and

(iv) the prescribed details for each document used to verify the purchaser's identity in accordance with the verification of identity rules as in force at the time of verification;

(m) if the purchaser is a trustee—

(i) the name of the trust administered by the purchaser; and

(ii) if the trust has an ABN—the trust's ABN;

(n) if the purchaser is a corporation (including a corporation that is a trustee)—

(i) the place where the purchaser is incorporated; and

(ii) the place where the purchaser is registered; and

- (iii) if the purchaser is incorporated in Australia—  
the purchaser’s ACN and ABN; and
- (iv) if the purchaser is a foreign company—any unique  
identifying number given to the company for  
identification;

**39 New section 178B (2) (w)**

*insert*

- (w) any other information prescribed by regulation.

---

## Part 7 Land Titles Regulation 2015

### 40 New section 3

*insert*

#### 3 Details in relation to documents used to verify purchaser's identity—Act, s 178B (2) (l) (iv)

- (1) The following details are prescribed:
  - (a) the kind of document;
  - (b) the entity that issued the document;
  - (c) if the document has a date of issue—the date of issue;
  - (d) if the document has an expiry date—the expiry date;
  - (e) any unique identifying number for the document;
  - (f) any individual reference number for the purchaser;
  - (g) if the document is a name change certificate or marriage certificate—any former name of the purchaser.

- (2) In this section:

***marriage certificate*** means a marriage certificate issued under a territory law, or a law of a State or foreign country.

***name change certificate***, in relation to a purchaser, means a document, issued under a territory law, or a law of a State or foreign country, certifying that the purchaser has changed their name.

*Note* ***State*** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

## Part 8 Residential Tenancies Act 1997

### 41 When does residential tenancy agreement start? New section 7 (2)

*insert*

- (2) However, a consecutive tenancy agreement starts on the day after the terminated residential tenancy agreement ends.

### 42 Terms included in residential tenancy agreements Section 8 (1) (g)

*omit*

### 43 Section 8 (4)

*substitute*

- (4) In this section:

***community housing provider termination clause*** means the clause in schedule 2, section 2.2.

***posting termination clause*** means the clause in schedule 2, section 2.1.

***public housing termination clauses*** means the clauses in schedule 2, section 2.3.

***subsidised accommodation clauses*** means the clauses in schedule 2, section 2.5.

***temporary housing assistance termination clauses*** means the clauses in schedule 2, section 2.4.

**44 Section 11A**

*substitute*

**11A Advertising—required information**

- (1) A person commits an offence if—
- (a) the person publishes an advertisement for the lease of premises; and
  - (b) the advertisement does not contain the required information.

Maximum penalty: 5 penalty units.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

- (3) An offence against this section is a strict liability offence.
- (4) In this section:

***adaptable housing dwelling***—see the [Civil Law \(Sale of Residential Property\) Act 2003](#), dictionary.

***required information*** means the following information:

- (a) if there is an existing energy efficiency rating of the habitable part of the premises—a statement of the energy efficiency rating;
- (b) if there is no existing energy efficiency rating of the habitable part of the premises—a statement to that effect;
- (c) if the premises are an adaptable housing dwelling—a statement that the premises are an adaptable housing dwelling;
- (d) if the premises are required to comply with the minimum housing standards—a statement about whether the premises comply;

- (e) if the premises are exempt from complying with a minimum housing standard—a statement that the premises are exempt;
- (f) anything else prescribed by regulation.

**11AAB Advertising—false or misleading required information**

- (1) A person commits an offence if—
  - (a) the person publishes an advertisement for the lease of premises; and
  - (b) the advertisement includes the required information; and
  - (c) the required information is false or misleading.

Maximum penalty: 5 penalty units.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) and s (3) (see [Criminal Code](#), s 58).

- (3) Also, subsection (1) (c) does not apply if the information is not false or misleading in a material particular.
- (4) An offence against this section is a strict liability offence.
- (5) In this section:

*required information*—see section 11A (4).

**45 Sections 11AAB and 11AA**

*renumber as sections 11AA and 11AB*

**46 Sections 11AAA and 11AB**

*omit*



**47 Lessor's obligations  
New section 12 (3) (k) and (l)**

*insert*

- (k) if the premises are a unit under the *Unit Titles Act 2001*—
- (i) a unit title rental certificate given to the lessor under the *Unit Titles (Management) Act 2011*, section 119; and
  - (ii) any changed information in relation to a unit title rental certificate given to the lessor under the *Unit Titles (Management) Act 2011*, section 119B;
- (l) any other information prescribed by regulation.

**48 Section 12 (4), new definition of *unit title rental certificate***

*insert*

*unit title rental certificate*—see the *Unit Titles (Management) Act 2011*, section 119 (1) (c).

**49 Section 22**

*substitute*

**22 Consecutive tenancy agreements**

- (1) This section applies if—
- (a) a bond is being held in relation to a residential tenancy agreement that terminates or is terminated; and
  - (b) 1 or more tenants under the terminated agreement continue to occupy the premises under a consecutive tenancy agreement.
- (2) The lessor must not require or accept a bond in relation to the consecutive tenancy agreement unless a bond release application has been made under division 3.4 (Release of bond money) in relation to the bond for the terminated agreement.

- (3) If a bond release application is not made under division 3.4 in relation to the bond for the terminated agreement, the bond held in relation to the agreement is taken to be a bond paid under the consecutive tenancy agreement.

## **50 Section 29**

*substitute*

### **29 Condition report—start of tenancy**

- (1) A lessor must, not later than the day after a tenant takes possession of the premises, give the tenant 2 copies of a report about the state of repair or general condition of the premises and of any goods leased with the premises (a *condition report*) on the day the tenant is given the report.
- (2) A condition report must be signed by the lessor.
- (3) The tenant must, within 2 weeks after receiving the copies of the condition report, return 1 copy to the lessor, either—
  - (a) signed by the tenant; or
  - (b) endorsed with a statement, signed by the tenant, indicating whether the tenant agrees or disagrees with the whole of the report or with specified parts of it.
- (4) If the tenant returns the copy signed but without further endorsement, the tenant is taken to have agreed with the whole of the condition report.
- (5) However, for a consecutive tenancy agreement, the lessor and tenant need not comply with this section if an original condition report or subsequent condition report exists for the premises.
- (6) To remove any doubt, a condition report for premises may, but need not, contain a list of items at the premises, other than goods leased with the premises.

**51 Evidence of condition of premises  
Section 30 (1) and (2)**

*omit*

a report mentioned in section 29

*substitute*

a condition report

**52 New section 30AA**

*after section 30, insert*

**30AA Evidence of condition of premises—consecutive tenancy agreement**

- (1) This section applies if a residential tenancy agreement is a consecutive tenancy agreement.
- (2) A statement in an original condition report for the premises under the consecutive tenancy agreement is evidence of the state of repair or general condition of the premises, and of any goods leased with the premises, on the day the tenant was given the report.
- (3) A statement in a subsequent condition report is evidence of the state of repair or general condition of the premises, and of any goods leased with the premises, on the day the condition report was signed by the tenant.
- (4) However, if a subsequent condition report is not signed by the tenant—
  - (a) a statement in the report cannot be relied on as evidence of the state of repair or general condition of the premises, or of any goods leased with the premises; and

- (b) the state of repair or general condition of the premises, and of any goods leased with the premises, is taken to be as stated in—
  - (i) if no subsequent condition report exists for the premises—the original condition report for the premises; or
  - (ii) if 1 subsequent condition report exists for the premises—that report; or
  - (iii) if more than 1 subsequent condition report exists for the premises—the most recent report.
- (5) In this section:  
*tenant*, for a consecutive tenancy agreement, includes—
  - (a) a tenant under the agreement; or
  - (b) a tenant, including a different tenant to the tenant mentioned in paragraph (a), under any terminated agreement for the premises.

**53 Final inspection and condition report—end of tenancy  
New section 30A (4)**

*insert*

- (4) Also, the lessor and tenant need not comply with this section if at least 1 tenant under the residential tenancy agreement has agreed with the lessor to enter into a consecutive tenancy agreement for the premises.

**54 Bond release application—lessor's obligations  
New section 34 (4)**

*insert*

- (4) However, the lessor need not comply with this section if 1 or more tenants under the terminated agreement continue to occupy the premises under a consecutive tenancy agreement.

**55 Bond release application—discrepancy in named tenant  
New section 34F (1) (b) (iiia)**

*insert*

- (iiia) section 35BA (2) (b) (Repayment of bond to former co-tenant—consecutive tenancy agreement); or

**56 New section 34F (1) (b) (v)**

*insert*

- (v) section 35FA (2) (b) (Payment of bond by new co-tenant—consecutive tenancy agreement).

**57 Co-tenant may leave residential tenancy agreement  
New section 35A (1) (c)**

*insert*

- (c) in accordance with section 46D (Termination for family violence).

**58 Repayment of bond to leaving co-tenant  
New section 35B (1) (a) (iii)**

*insert*

- (iii) in accordance with section 46D (Termination for family violence); and

**59 New section 35BA***insert***35BA Repayment of bond to former co-tenant—consecutive tenancy agreement**

- (1) This section applies if—
  - (a) premises are occupied under a consecutive tenancy agreement; and
  - (b) a person (the *former co-tenant*)—
    - (i) was a party to the residential tenancy agreement that terminates or is terminated; but
    - (ii) is not a party to the consecutive tenancy agreement; and
  - (c) the former co-tenant paid some or all of the bond in relation to the terminated agreement; and
  - (d) 1 or more of the remaining co-tenants under the terminated agreement are parties to the consecutive tenancy agreement.
- (2) The remaining co-tenants must, not more than 14 days after the day the consecutive tenancy agreement starts—
  - (a) pay to the former co-tenant an amount equal to the share of the bond paid by the former co-tenant under the terminated agreement; and
  - (b) notify the Territory that the former co-tenant has been paid under paragraph (a).
- (3) The remaining co-tenants may deduct from that amount—
  - (a) any portion of rent unpaid by the former co-tenant; and
  - (b) other reasonable costs in relation to the premises.

- (4) A former co-tenant is not entitled to payment of any other amount of the bond under the terminated agreement.
- (5) Subsection (2) does not apply if the amount that may be deducted under subsection (3) is more than the amount of the bond paid by the former co-tenant.
- (6) A former co-tenant may apply to the ACAT for resolution of a dispute in relation to subsection (2) or (3) as a tenancy dispute even if the former co-tenant is not a party to the consecutive tenancy agreement.

*Note* The ACAT may make orders requiring the payment of an amount to a person—see s 83 (1) (c).

**60** **Becoming a co-tenant under existing residential tenancy agreement—generally**  
**Section 35C (7) (b)**

*substitute*

- (b) not later than the day after the new person becomes a co-tenant, the existing tenants must give the new person a copy of—
  - (i) if the agreement is a consecutive tenancy agreement—the original condition report and any subsequent condition report for the premises; or
  - (ii) in any other case—the condition report for the premises.

**61** **New section 35EA**

*insert*

**35EA** **Becoming a co-tenant at start of consecutive tenancy agreement**

- (1) This section applies if a person becomes a co-tenant under a consecutive tenancy agreement on the day the agreement starts.

*Note* See s 35C for becoming a co-tenant at any time after the day the consecutive tenancy agreement starts.

- (2) The consecutive tenancy agreement starts with the person becoming a co-tenant with the existing tenants.
- (3) The existing tenants must give the other person a copy of the original condition report and any subsequent condition report for the premises not later than the day after the day the agreement starts.
- (4) In this section:  
*existing tenants*, in relation to a consecutive tenancy agreement, means 1 or more tenants under the terminated residential tenancy agreement for the premises.

**62 New section 35FA**

*insert*

**35FA Payment of bond by new co-tenant—consecutive tenancy agreement**

- (1) This section applies if—
  - (a) a person (the *new co-tenant*) becomes a co-tenant under a consecutive tenancy agreement; and
  - (b) section 22 (3) applies to the bond in relation to the consecutive tenancy agreement.
- (2) The new co-tenant must, not more than 14 days after the day they become a co-tenant under the consecutive tenancy agreement—
  - (a) pay to the other co-tenants the new co-tenant's share of the bond under the agreement; and
  - (b) notify the Territory that the new co-tenant has paid their share of the bond.



**63 Termination  
Section 36 (1) (c) and (d)**

*substitute*

- (c) if a tenant terminates the agreement and vacates the premises under section 46A because the tenant has accepted aged care or social housing accommodation;
- (d) if the agreement is a fixed term agreement—the tenant terminates the agreement and vacates the premises under section 46B because the lessor is offering the premises for sale;
- (da) if the ACAT terminates the agreement under division 4.3, division 4.4 or division 6.5A;
- (db) if a tenant terminates the agreement in accordance with division 4.3A;

**64 Section 36 (2)**

*substitute*

- (2) In this section:

*posting termination clause* means the clause in schedule 2, section 2.1.

**65 Termination of agreement for aged care or social housing needs  
Section 46A (3) and (4) and note**

*substitute*

- (3) The tenant must—
- (a) state the date the tenant intends to terminate the agreement; and
  - (b) give the lessor at least 14 days notice.

- (4) If the tenant vacates the premises on or before the date stated in the notice, the agreement ends on the date stated in the notice.
- (4A) However, if the tenant does not vacate the premises on or before the date stated in the notice—
  - (a) the notice is taken to be withdrawn; and
  - (b) the agreement continues.
- (4B) The break lease fee clause does not apply if a fixed term agreement is terminated under this section.

**66 Termination of fixed term agreements if premises for sale  
Section 46B (3) and (4) and note**

*substitute*

- (3) The tenant must—
  - (a) state the date the tenant intends to terminate the agreement; and
  - (b) give the lessor at least 14 days notice.
- (4) If the tenant vacates the premises on or before the date stated in the notice, the agreement ends on the date stated in the notice.
- (5) However, if the tenant does not vacate the premises on or before the date stated in the notice—
  - (a) the notice is taken to be withdrawn; and
  - (b) the agreement continues.
- (6) The break lease fee clause does not apply if a fixed term agreement is terminated under this section.

**67 New division 4.3A**

*insert*

**Division 4.3A Termination initiated by tenant—  
termination for family violence****46C Definitions—div 4.3A**

In this division:

*competent person*—see section 46I (1).

*competent person declaration*—see section 46I (1).

*family violence*—see the *Family Violence Act 2016*, section 8.

*family violence order*—see the *Family Violence Act 2016*, section 115.

*family violence termination notice*—see section 46D (2) (a).

*notice of continuing tenancy*—see section 46F (2).

*supporting document*, for a family violence termination notice—see section 46D (3) (b).

*vacating day*, stated in a family violence termination notice—see section 46D (3) (a).

**46D Termination for family violence**

- (1) This section applies to a tenant under a residential tenancy agreement if—
  - (a) the tenant, or a dependent child of the tenant, has experienced family violence; and
  - (b) the tenant has not sublet the premises.

- (2) Despite any other territory law, the tenant may terminate the agreement or, if the tenant is a co-tenant, stop being a party to the agreement, by—
- (a) giving the lessor written notice that the tenant is vacating the premises because of family violence (a ***family violence termination notice***); and
  - (b) vacating the premises in accordance with the notice.
- (3) A family violence termination notice must—
- (a) state the day the tenant intends to vacate the premises (the ***vacating day***); and
  - (b) be accompanied by at least 1 of the following documents (a ***supporting document***):
    - (i) a family violence order protecting the tenant or child;
    - (ii) an injunction made under the *Family Law Act 1975* (Cwlth), section 68B or section 114 in relation to the tenant or child;
    - (iii) a competent person declaration relating to the tenant or child;
    - (iv) any other document prescribed by regulation.
- (4) For subsection (3) (a), the vacating day must be on or after the day the tenant gives the notice to the lessor.
- (5) The break lease fee clause does not apply if a fixed term agreement is terminated under this section.

**46E Sole tenancies—effect of serving family violence termination notice**

If a sole tenant terminates a residential tenancy agreement in accordance with section 46D, the agreement is terminated on the vacating day stated in the family violence termination notice.

**46F Co-tenancies—lessor to give notice to Territory and other co-tenants**

- (1) This section applies if a co-tenant gives a family violence termination notice to the lessor for a residential tenancy agreement.
- (2) The lessor must, within 7 days after the vacating day stated in the family violence termination notice—
  - (a) tell the Territory—
    - (i) the name of the co-tenant; and
    - (ii) that the lessor has received a family violence termination notice from the co-tenant; and
  - (b) give each of the remaining co-tenants a notice (a *notice of continuing tenancy*) about the matters mentioned in section 46G (2) to (5).
- (3) However, the lessor must not give any of the remaining co-tenants the notice of continuing tenancy until after—
  - (a) the vacating day; and
  - (b) telling the Territory about the matters mentioned in subsection (2) (a).
- (4) The lessor must not give any of the remaining co-tenants a supporting document for the family violence termination notice.

**46G Co-tenancies—effect of serving family violence termination notice**

- (1) This section applies if a co-tenant stops being a party to a residential tenancy agreement in accordance with section 46D.
- (2) On the vacating day stated in the family violence termination notice—
  - (a) the co-tenant stops being a party to the agreement; and
  - (b) the co-tenant's rights and obligations under the agreement end.
- (3) The residential tenancy agreement continues in force between the lessor and the remaining co-tenants on the same terms that existed on the vacating day (the *continuing agreement*).
- (4) Any of the remaining co-tenants may terminate the continuing agreement for all remaining co-tenants by giving the lessor a notice to vacate—
  - (a) at least 3 weeks before the day they intend to vacate the premises; and
  - (b) if the agreement is a fixed term agreement—not later than 4 weeks after the day the notice of continuing tenancy is given to the co-tenants.
- (5) The break lease fee clause does not apply if a fixed term agreement is terminated under this section.

**46H Lessor not to require other information**

If a lessor receives a family violence termination notice from a tenant, the lessor must not ask the tenant to give the lessor, or any other person acting for the lessor, any other information not already given as part of the notice.

**46I Competent person declaration**

- (1) A person (a *competent person*) may make a declaration stating that a tenant, or a dependent child of the tenant, has experienced family violence (a *competent person declaration*).
- (2) However, the competent person must not make a competent person declaration in relation to the tenant or child unless the tenant or child has previously consulted the competent person as part of the competent person's professional practice.
- (3) The declaration must include any information prescribed by regulation.
- (4) A regulation may prescribe a person, or a class of people, to be a competent person.
- (5) For subsection (1), a competent person may collect, hold, use or disclose personal information about a person who is or was—
  - (a) a co-tenant of the tenant; or
  - (b) a family member of the tenant or child.
- (6) In this section:  
*family member*—see the *Family Violence Act 2016*, section 9.

**46J Offence—using or disclosing information in supporting documents without authorisation**

- (1) A person commits an offence if—
  - (a) the person uses, or discloses to someone else, any information contained in a supporting document for a family violence termination notice; and
  - (b) the use or disclosure is not authorised or required under a law applying in Australia.

Maximum penalty: 20 penalty units.

- (2) Subsection (1) does not apply if the use or disclosure—
- (a) is between 2 or more of the following:
    - (i) the lessor;
    - (ii) the lessor's agent;
    - (iii) an employee of the lessor's agent;
    - (iv) the Territory; or
  - (b) is reasonably necessary to obtain legal advice from a lawyer.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

- (3) In this section:  
*agent*, of a lessor—see section 87.

**46K Supporting documents to be securely stored or destroyed**

- (1) A person who has possession or control of a supporting document for a family violence termination notice must take all reasonable steps to ensure that the document—
- (a) if the document is to be used under a law applying in Australia— is securely stored; and
  - (b) in any other case—is destroyed.
- (2) In this section:  
*supporting document*, for a family violence termination notice, includes a copy of the document or part of the document.



**46L ACAT not to decide if family violence happens**

- (1) This section applies if, in a proceeding before the ACAT, a question arises as to whether a notice given by a tenant is a family violence termination notice.
- (2) The ACAT—
  - (a) may consider whether—
    - (i) the notice contains the information required under section 46D; or
    - (ii) a document accompanying the notice is a supporting document; but
  - (b) must not consider—
    - (i) whether the tenant, or a dependent child of the tenant, experienced family violence; or
    - (ii) the tenant's belief as to whether they or their dependent child could safely continue to occupy the premises.

**46M Offences—giving false or misleading information**

- (1) A person commits an offence if—
  - (a) the person gives information to a competent person; and
  - (b) the information is given to obtain a competent person declaration; and
  - (c) the information is false or misleading in a material particular.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
- (a) the person represents to another person that a document is a competent person declaration; and
  - (b) the document is not a competent person declaration.

Maximum penalty: 50 penalty units.

**68 No breach of standard residential tenancy terms  
Section 47 (6)**

*substitute*

- (6) In this section:

*community housing provider termination clause* means the clause in schedule 2, section 2.2.

*public housing termination clause* means a clause in schedule 2, section 2.3.

*subsidised accommodation clause* means a clause in schedule 2, section 2.5.

*temporary housing assistance termination clause* means a clause in schedule 2, section 2.4.

**69 Tenant's defective termination notice  
Section 60 (4)**

*omit*

former lessor is not in

*substitute*

former lessor is in

**70 Termination—affected residential premises  
Section 64AA (3) to (5)**

*substitute*

- (3) If the tenant terminates the agreement, the tenant must—
  - (a) state the date the tenant intends to terminate the agreement; and
  - (b) give the lessor at least 2 days notice.
- (4) If the lessor terminates the agreement, the lessor must—
  - (a) state the date the lessor intends to terminate the agreement; and
  - (b) give the tenant at least 1 week's notice.
- (5) If the tenant vacates the premises on or before the date stated in the notice, the agreement ends on the date stated in the notice.
- (6) However—
  - (a) if the tenant gives notice and does not vacate the premises on or before the date stated in the notice—
    - (i) the notice is taken to be withdrawn; and
    - (ii) the agreement continues; or
  - (b) if the lessor gives notice and the tenant does not vacate the premises on or before the date stated in the notice—
    - (i) the notice remains in force; and
    - (ii) the lessor may apply to the ACAT under section 55A for a termination and possession order in relation to the premises.
- (7) The break lease fee clause does not apply if a fixed term agreement is terminated under this section.

**71 Termination—eligible impacted property  
Section 64AB (3) and (4)**

*substitute*

- (3) The party terminating the agreement must—
  - (a) state the date the party intends to terminate the agreement; and
  - (b) give the other party at least 28 working days notice.
- (4) If the tenant vacates the premises on or before the date stated in the notice, the agreement ends on the date stated in the notice.
- (5) However—
  - (a) if the tenant gives notice and does not vacate the premises on or before the date stated in the notice—
    - (i) the notice is taken to be withdrawn; and
    - (ii) the agreement continues; or
  - (b) if the lessor gives notice and the tenant does not vacate the premises on or before the date stated in the notice—
    - (i) the notice remains in force; and
    - (ii) the lessor may apply to the ACAT under section 55B for a termination and possession order in relation to the premises.
- (6) The break lease fee clause does not apply if a fixed term agreement is terminated under this section.

**72 New section 64AE**

*in part 5, before section 64A, insert*

**64AE Meaning of *rental rate increase*—pt 5**

In this part:

*rental rate increase*, for premises, means either of the following:

- (a) an increase in the rental rate for the premises under a residential tenancy agreement (including an existing consecutive tenancy agreement);
- (b) an increase in the rental rate for the premises that will take effect under a proposed consecutive tenancy agreement.

**73 Section 64A**

*substitute*

**64A Pre-amendment fixed term agreements—increase in rent**

- (1) This section applies only in relation to a fixed term agreement entered into before the commencement of the *Housing and Consumer Affairs Legislation Amendment Act 2024*, section 76.
- (2) The rental rate under the agreement must not be increased during the fixed term unless the amount of the increase, or a method for working it out, is set out in the agreement.

**74 New sections 64AAA and 64AAB**

*after section 64A, insert*

**64AAA Limitation on rent increases—frequency**

- (1) A lessor must not increase the rental rate under a residential tenancy agreement unless the increase takes effect at least 12 months after—
  - (a) for the first increase under the agreement—the day the residential tenancy agreement started; or
  - (b) for a later increase under the agreement—the day the last increase in rental rate took effect.
- (2) However, for a consecutive tenancy agreement, the lessor must not increase the rental rate unless the increase takes effect at least 12 months after the day the last increase in rental rate took effect, whether under the consecutive tenancy agreement or a terminated residential tenancy agreement.

**64AAB Rent increases—housing commissioner**

- (1) This section applies if the housing commissioner—
  - (a) is the lessor under a residential tenancy agreement (including a consecutive tenancy agreement); and
  - (b) has decided to increase the rental rate after a review under the [Housing Assistance Act 2007](#), section 23.
- (2) Despite section 64AAA, the housing commissioner may increase the rental rate under the residential tenancy agreement.
- (3) However, if a previous review of the rental rate has been undertaken, the increase under subsection (2) must not take effect earlier than 12 months after the day the last increase in rental rate took effect.

**75 Section 64B heading**

*substitute*

**64B Limitation on rent increases—amount****76 Section 64B (1)**

*omit everything before paragraph (b), substitute*

- (1) A rental rate increase for premises must not be more than the amount prescribed by regulation unless—
  - (a) for a fixed term agreement to which section 64A applies—the agreement allows the lessor to increase the rental rate by the higher amount; or

**77 Guideline for orders  
Section 68 (2)**

*substitute*

- (2) The ACAT must allow a rental rate increase if—
  - (a) for a fixed term agreement to which section 64A applies—the increase is allowed under the agreement and is not excessive; or
  - (b) in any other case—the increase is not excessive.

**78 Sections 71 (5) and 71AAA (5)**

*omit*

increase in the rental rate

*substitute*

rental rate increase

**79 Orders by ACAT  
Section 83 (1) (l)**

*substitute*

- (l) an order correcting—
- (i) a defective termination notice; or
  - (ii) a defect in—
    - (A) any other notice given under this Act; or
    - (B) the service of any other notice under this Act;

**Example—other notice**

notice to remedy

**80 Section 83 (2), except notes**

*substitute*

- (2) The ACAT may make an order under subsection (1) (l) only if satisfied that the defective termination notice or other defect did not, and is not likely to, place the person receiving the notice in a significantly worse position than the person would have been in had the notice, or the service of the notice, not been defective.

**81 Notice of intention to vacate—award of compensation  
New section 84 (1A)**

*before section 84 (1), insert*

- (1A) This section applies only in relation to a fixed term agreement entered into before the commencement of the *Housing and Consumer Affairs Legislation Amendment Act 2024*, section 97.



**82 Section 84 (1)**

*omit*

If a lessor received a notice of intention to vacate before the end of a fixed term agreement

*substitute*

If the lessor received a notice of intention to vacate before the end of the fixed term agreement

**83 New section 84 (5) (e) and (f)**

*insert*

- (e) section 46D (Termination for family violence);
- (f) section 46G (Co-tenancies—effect of serving family violence termination notice).

**84 Section 84 (6)**

*substitute*

- (6) In this section:

***break lease fee clause*** means the clause in schedule 2, section 2.1 as in force immediately before the commencement of the *Housing and Consumer Affairs Legislation Amendment Act 2024*, section 98.

**85 Standard residential tenancy terms  
Schedule 1, clause 23**

*substitute*

- 22A However, for a consecutive tenancy agreement, the lessor and tenant need not comply with clause 21 and clause 22 if an original condition report or subsequent condition report exists for the premises (the meanings of consecutive tenancy agreement, original condition report and subsequent condition report are set out in the Residential Tenancies Act).
- 23 (1) The lessor must keep the condition report for a period of not less than 12 months after the end of the tenancy.
- (2) However, if a condition report is not completed because of clause 22A, the lessor must keep the original condition report, and any subsequent condition report, for a period of not less than 12 months after the end of the consecutive tenancy agreement.

**86 Schedule 1, new clause 23A (4)**

*insert*

- (4) However, for a consecutive tenancy agreement, the lessor and tenant need not comply with subclauses (1) to (3) if an original condition report or subsequent condition report exists for the premises (the meanings of consecutive tenancy agreement, original condition report and subsequent condition report are set out in the Residential Tenancies Act).

**87 Schedule 1, clause 34**

*substitute*

- 34 (1) The amount of rent under a residential tenancy agreement must not vary from period to period, except as provided by the Residential Tenancies Act.

- (2) Also, the amount of rent under a proposed or existing consecutive tenancy agreement must not vary from the amount of rent under a terminating or terminated residential tenancy agreement, except as provided by the Residential Tenancies Act (the meaning of consecutive tenancy agreement is set out in the Residential Tenancies Act).

**88 Schedule 1, clause 35**

*substitute*

- 35 (1) The rent must not be increased at intervals of less than 12 months from either the beginning of the tenancy agreement for the first increase, or after that, from the date the last increase took effect.
- (2) However, for a consecutive tenancy agreement, the rent must not be increased at intervals of less than 12 months from the date the last increase took effect, whether under the consecutive tenancy agreement or a terminated residential tenancy agreement (the meaning of consecutive tenancy agreement is set out in the Residential Tenancies Act).

**89 Schedule 1, clause 36 (1)**

*substitute*

- 36 (1) This clause applies if the housing commissioner—
- (a) is the lessor under this tenancy agreement; and
  - (b) has decided to increase the rent after a review of rent under the [Housing Assistance Act 2007](#), section 23.

**90 Schedule 1, clause 36 (3)**

*omit*

1 year

*substitute*

12 months

**91 Schedule 1, clause 37**

*substitute*

- 37 The restrictions on the amount and frequency of rental rate increases apply provided the identity of at least 1 of the tenants who occupy the premises remains the same as at the time of the last increase (the meaning of rental rate increase is set out in the Residential Tenancies Act).

**92 Schedule 1, clause 38**

*substitute*

- 38 (1) The lessor must give the tenant 8 weeks written notice of an intended:
- (a) increase in the rent under a residential tenancy agreement (including an existing consecutive tenancy agreement); or
  - (b) increase in the rent that will take effect under a proposed consecutive tenancy agreement.
- (2) The notice to the tenant must include the date when the increase is proposed to take effect, the amount of the proposed increase, whether the amount of the increase is more than the prescribed amount, and that ACAT's prior approval must be obtained for an increase that is more than the prescribed amount if the tenant does not agree to the increase.

**93 Schedule 1, new clause 41 (2)**

*insert*

- (2) However, for an increase in the rent that will take effect under a proposed consecutive tenancy agreement, the tenant may terminate the existing tenancy under clause 88 (for a periodic tenancy) or clause 89 (for a fixed term tenancy).

**94 Schedule 1, clause 84 (1)**

*substitute*

- 84 (1) If the tenant serves a notice of intention to vacate and vacates the premises on or before the date stated in the notice, the tenancy terminates on the date stated in the notice.

**95 Schedule 1, clause 84 (2) (a)**

*omit*

nominated

*substitute*

stated

**96 Schedule 1, clause 85**

*substitute*

- 85 (1) The notice of intention to vacate must be in writing, in the form required by the Residential Tenancies Act, and must include the following information:
- (a) the address of the premises;

- (b) the ground(s) on which the notice is issued, together with sufficient particulars to identify the circumstances giving rise to the ground(s);
  - (c) the date the tenant intends to terminate the tenancy.
- (2) If the tenant vacates the premises on or before the date stated in the notice, the tenancy terminates on the date stated in the notice.
  - (3) However, if the tenant does not vacate the premises on or before the date stated in the notice, the notice is taken to be withdrawn and the tenancy continues.

**97 Schedule 1, new clause 89A**

*insert*

**Termination before end of fixed term—fee for breaking lease**

- 89A (1) If a tenant ends a fixed term agreement before the end of the fixed term (other than for a reason provided for by the Residential Tenancies Act or the agreement), the lessor may require the tenant to pay a fee (a *break fee*) of the following amount:
- (a) if the fixed term is 3 years or less—
    - (i) if less than half of the fixed term has expired—6 weeks rent; or
    - (ii) in any other case—4 weeks rent;
  - (b) if the fixed term is more than 3 years—the amount agreed between the lessor and tenant.
- (2) If the lessor requires the tenant to pay the break fee, the lessor agrees to take reasonable steps to find a new tenant for the premises.

- (3) The lessor agrees that the compensation payable by the tenant for ending a fixed term agreement before the end of the fixed term—
- (a) is limited to the amount of the break fee specified in subclause (1); and
  - (b) is not payable until the defined period after the tenant vacates the premises has ended.
- (4) However, the lessor and tenant agree that if, within the defined period after the tenant vacates the premises, the lessor enters into a residential tenancy agreement with a new tenant, the amount payable by the tenant is limited to—
- (a) the amount of the break fee under subclause (1) less the amount of rent payable by the new tenant for the defined period; and
  - (b) if the tenant vacates the premises more than 4 weeks before the end of the fixed term—the lessor’s reasonable costs (not exceeding the defined cost limit) of advertising the premises for lease and of giving a right to occupy the premises to another person.
- (5) This clause does not apply to a residential tenancy agreement ended by the tenant under any of the following provisions of the Residential Tenancies Act:
- (a) section 46A (Termination of agreement for aged care or social housing needs);
  - (b) section 46B (Termination of fixed term agreement if premises for sale);
  - (c) section 46D (Termination for family violence);
  - (d) section 46G (Co-tenancies—effect of serving family violence termination notice);
  - (e) section 64AA (Termination—affected residential premises);
  - (f) section 64AB (Termination—eligible impacted property).

(6) In this clause:

***defined cost limit*** means—

- (a) if at least half of the fixed term has expired—an amount equal to  $\frac{2}{3}$  of 1 week’s rent; or
- (b) if less than half of the fixed term has expired—an amount equal to 1 week’s rent.

***defined period*** means—

- (a) if subclause (1) (a) (i) applies—6 weeks; or
- (b) if subclause (1) (a) (ii) applies—4 weeks; or
- (c) if subclause (1) (b) applies—N weeks.

N is the number worked out as follows:

$$\frac{\text{break fee}}{\text{weekly rent payable at the time the tenant ends the agreement}}$$

**98 Additional terms for certain residential tenancy agreements  
Schedule 2, section 2.1**

*omit*

**99 Schedule 2, sections 2.2 to 2.6**

*renumber as sections 2.1 to 2.5*

**100 Dictionary, new definitions**

*insert*

***break lease fee clause*** means clause 89A of the standard residential tenancy terms.

***competent person***, for division 4.3A (Termination initiated by tenant—termination for family violence)—see section 46I (1).



**competent person declaration**, for division 4.3A (Termination initiated by tenant—termination for family violence)—see section 46I (1).

**condition report**, for premises under a residential tenancy agreement—see section 29 (1).

**consecutive tenancy agreement**, for premises—a residential tenancy agreement is a **consecutive tenancy agreement** if—

- (a) a residential tenancy agreement for the premises terminates or is terminated; and
- (b) 1 or more tenants under the terminated agreement continue to occupy the premises under the new agreement.

**101 Dictionary, definition of *defective termination notice*, new paragraph (ba)**

*insert*

- (ba) for a notice that purports to be a family violence termination notice—
  - (i) does not contain the information required under section 46D; or
  - (ii) is not accompanied by a supporting document mentioned in section 46D (3) (b); or

**102 Dictionary, new definition of *family violence***

*insert*

**family violence**, for division 4.3A (Termination initiated by tenant—termination for family violence)—see the [Family Violence Act 2016](#), section 8.

**103 Dictionary, definition of *family violence order***

*substitute*

***family violence order***—

- (a) for this Act generally—see the *Family Violence Act 2016*, dictionary; and
- (b) for division 4.3A (Termination initiated by tenant—termination for family violence)—see the *Family Violence Act 2016*, section 115.

**104 Dictionary, new definitions**

*insert*

***family violence termination notice***, for division 4.3A (Termination initiated by tenant—termination for family violence)—see section 46D (2) (a).

***notice of continuing tenancy***, for division 4.3A (Termination initiated by tenant—termination for family violence)—see section 46F (2).

***original condition report***, for premises under a consecutive tenancy agreement, means a condition report given to a tenant under section 29 not later than 2 days after the lessor last had possession of the premises.

***rental rate increase***, for premises, for part 5 (Rental rate increases)—see section 64AE.

**105 Dictionary, definition of *standard residential tenancy terms*, paragraph (a) (ii)**

*omit*

section 8 (1) (b) to (g)

*substitute*

section 8 (1) (b) to (f)

**106 Dictionary, new definitions**

*insert*

***subsequent condition report***, for premises under a consecutive tenancy agreement, means a condition report made under section 29 or section 30A at any time after an original condition report was made under section 29.

***supporting document***, for a family violence termination notice, for division 4.3A (Termination initiated by tenant—termination for family violence)—see section 46D (3) (b).

**107 Dictionary, definition of *termination notice***

*substitute*

***termination notice***—

- (a) means a written notice that—
- (i) if there is a form approved under section 133 (Approved forms—Minister) for a termination notice—is in the approved form; and

- (ii) if there is no form approved under section 133—contains the information required by the standard residential tenancy terms; and
  - (iii) is served in accordance with this Act; and
- (b) includes a family violence termination notice served in accordance with this Act.

**108 Dictionary, new definition of *vacating day***

*insert*

***vacating day***, stated in a family violence termination notice, for division 4.3A (Termination initiated by tenant—termination for family violence)—see section 46D (3) (a).

## Part 9 Residential Tenancies Regulation 1998

### 109 Rental increase threshold—Act, s 64B and s 68 Section 5A (1)

*substitute*

- (1) The prescribed amount is worked out as follows:

$$1.1 \times \text{current rental rate} \times \frac{\text{current index number} - \text{initial index number}}{\text{initial index number}}$$

### 110 Section 5A (2), new definition of *current rental rate*

*insert*

*current rental rate*, for premises under a residential tenancy agreement, means—

- (a) for a proposed consecutive tenancy agreement—the most recent rental rate for the premises under a terminating or terminated residential tenancy agreement; or
- (b) in any other case—the most recent rental rate for the premises under the residential tenancy agreement.

### 111 Section 5A (2), definition of *initial index number*

*substitute*

*initial index number* means the most recently published index number on—

- (a) for a proposed consecutive tenancy agreement—
  - (i) if the rental rate has not been increased under a terminating or terminated residential tenancy agreement—the day the original tenancy agreement started; or

- (ii) if the rental rate has been increased under a terminating or terminated residential tenancy agreement—the day the lessor gave the tenant notice of the most recent increase; or
- (b) for an existing consecutive tenancy agreement—
  - (i) if the rental rate has not been increased under the existing agreement or a terminated residential tenancy agreement—the day the original tenancy agreement started; or
  - (ii) if the rental rate has been increased under the existing agreement or a terminated residential tenancy agreement—the day the lessor gave the tenant notice of the most recent increase; or
- (c) in any other case—
  - (i) if the rental rate has not been increased under the residential tenancy agreement—the day the agreement started; or
  - (ii) if the rental rate has been increased under the residential tenancy agreement—the day the lessor gave the tenant notice of the most recent increase.

**112 Section 5A (2), new definition of *original tenancy agreement***

*insert*

***original tenancy agreement***, for premises under an existing consecutive tenancy agreement or for which there is a proposed consecutive tenancy agreement, means the residential tenancy agreement that started immediately after the lessor last had possession of the premises.

**113 Dictionary, note 2**

*insert*

- consecutive tenancy agreement

## Part 10 Unit Titles (Management) Act 2011

### 114 Dealings with common property New section 20 (5)

*insert*

- (5) For section 71, an owners corporation is not carrying on business if the corporation receives income from subletting any part of the common property under subsection (3).

### 115 Installation of sustainability and utility infrastructure on common property Section 23 (3)

*omit*

earned

*substitute*

received

### 116 Section 23 (4)

*omit*

carrying on a business

*substitute*

carrying on business



**117 Executive committee—at and from the first annual general meeting**  
**Section 39 (4) (c) (ii)**

*omit*

an eligible person

*substitute*

a qualified person

**118 Owners corporation must not carry on business**  
**Section 71 (1), note**

*substitute*

*Note* An owners corporation that receives income from subletting the common property or operating sustainability infrastructure is not carrying on business (see s 20 (5) and s 23 (4)).

**119 General fund—budget**  
**New section 75 (2) (c) (iia)**

*insert*

(iia) to pay for any costs incurred in getting information for a unit title rental certificate; and

**120 General fund—what must be paid into the fund?**  
**New section 76 (aa)**

*insert*

(aa) any income received from subletting any part of the common property under section 20 (3);

**121 Corporate register—information to be included  
Section 114 (2) (d)**

*omit*

subleases

*substitute*

sublets

**122 Section 119**

*substitute*

**119 Unit title certificates**

- (1) An eligible person for a unit or the common property in a units plan may request the owners corporation give the person—
  - (a) a certificate stating information about the unit or the common property suitable for disclosure to a potential buyer (a ***unit title sale certificate***); or
  - (b) a certificate updating information in the unit title sale certificate (a ***unit title sale update certificate***); or
  - (c) a certificate stating information about the unit or the common property suitable for disclosure to a potential tenant (a ***unit title rental certificate***).
- (2) However, an eligible person may only request a unit title sale update certificate within 4 months after the day a unit title sale certificate is given to the person.
- (3) The owners corporation must, within the required period after the day the request is received, give the person the requested certificate.
- (4) A unit title rental certificate expires 5 years after the day it is given to the person.

- (5) The Minister may determine information that must be included in any of the following (the *determined information*):
- (a) a unit title sale certificate;
  - (b) a unit title sale update certificate;
  - (c) a unit title rental certificate.
- (6) A request under this section must be in writing and accompanied by a fee fixed by the owners corporation of not more than an amount determined by the Minister.
- (7) A determination under subsection (5) or (6) is a disallowable instrument.
- (8) In this section:

*eligible person*, for a unit, includes a person who enters into a contract for sale of the unit.

*Note* *Eligible person*—see the dictionary.

*required period* means—

- (a) for a unit title sale certificate or unit title sale update certificate—14 days; and
- (b) for a unit title rental certificate—
  - (i) if the owners corporation has the determined information—14 days; and
  - (ii) if the owners corporation does not have the determined information—6 weeks.

*tenant*—see the *Residential Tenancies Act 1997*, section 6.

**119A Unit title rental certificate information**

- (1) This section applies if—
  - (a) the Minister determines information that must be included in a unit title rental certificate under section 119 (5) (c); and
  - (b) the owners corporation does not have the determined information.
- (2) The owners corporation must—
  - (a) take reasonable steps to get the information; and
  - (b) pay any costs incurred in getting the information.

**Example—s (2)**

arranging and paying the cost of an inspection and report about ceiling insulation in the units plan

*Note* If an owners corporation fails to comply with a request for a unit title rental certificate, each executive member of the corporation commits an offence (see s 121).

**119B Updating unit title rental certificate information**

- (1) This section applies if—
  - (a) an owners corporation gives a person a unit title rental certificate under section 119 (3) in relation to a unit; and
  - (b) within 5 years after the day the certificate is given to the person, the owners corporation becomes aware of a change in any of the information in the certificate; and
  - (c) the name of the person to whom the certificate was given continues to be recorded in the corporate register in relation to the unit.
- (2) The owners corporation must notify the person, in writing, of the changed information.

**123 Acting on information in unit title certificate  
New section 120 (2)**

*insert*

(2) In this section:

***unit title certificate*** means any of the following:

- (a) a unit title sale certificate;
- (b) a unit title sale update certificate;
- (c) a unit title rental certificate.

**124 New section 120A**

*insert*

**120A Access to owners corporation records**

- (1) An eligible person for a unit or the common property in a units plan may ask to inspect the records of an owners corporation.
- (2) The owners corporation must, within 14 days after the day the request is received, allow the person—
  - (a) to inspect—
    - (i) the information on the corporate register; and
    - (ii) any other records held by the corporation; and
  - (b) to take copies of any document inspected.
- (3) If a dispute exists, the owners corporation may withhold from inspection any documents subject to legal professional privilege in relation to the dispute.
- (4) A request under this section must be in writing and accompanied by a fee fixed by the owners corporation of not more than an amount determined by the Minister.

(5) A determination under subsection (4) is a disallowable instrument.

(6) In this section:

*eligible person*, for a unit, includes a person who enters into a contract for sale of the unit.

*Note* *Eligible person*—see the dictionary.

**125 Section 121 heading**

*substitute*

**121 Offence—failure to provide information, certificate or access to owners corporation records**

**126 Section 121 (1)**

*omit*

information or a unit title certificate

*substitute*

information, a unit title certificate or access to the corporation's records

**127 Section 121 (2) (a)**

*omit*

requesting the information

*substitute*

making the request

**128 New section 121 (3)**

*insert*

(3) In this section:

*unit title certificate*—see section 120 (2).

**129 New part 14**

*insert*

## **Part 14 Transitional—Housing and Consumer Affairs Legislation Amendment Act 2024**

**173 Meaning of *commencement day*—pt 14**

In this part:

*commencement day* means the day the *Housing and Consumer Affairs Legislation Amendment Act 2024*, part 10 commences.

**174 Unit title certificates given before commencement day**

- (1) This section applies to a unit title certificate given to an eligible person under section 119 (3) as in force immediately before the commencement day.
- (2) On the commencement day, the unit title certificate is taken to be a unit title sale certificate.

**175 Unit title update certificates given before commencement day**

- (1) This section applies to a unit title update certificate given to an eligible person under section 119 (3) as in force immediately before the commencement day.
- (2) On the commencement day, the unit title update certificate is taken to be a unit title sale update certificate.

**176 Expiry—pt 14**

This part expires 12 months after the commencement day.

*Note* A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

**130 Dictionary, definition of *eligible person***

*omit*

for a unit or common property in relation to which access to information is required

*substitute*

for a unit or common property

**131 Dictionary, definition of *eligible person*, paragraph (d)**

*substitute*

(d) in relation to the administration of this Act—the territory planning authority.

**132 Dictionary, definition of *unit title certificate***

*omit*



**133 Dictionary, new definitions**

*insert*

*unit title rental certificate*—see section 119 (1) (c).

*unit title sale certificate*—see section 119 (1) (a).

*unit title sale update certificate*—see section 119 (1) (b).

## Schedule 1      Other amendments

(see s 3)

### Part 1.1      Agents Act 2003

#### [1.1]      Section 3, note 1

*omit*

For example, the signpost definition ‘*executive officer*—see the [Corporations Act](#), section 9.’ means that the term ‘executive officer’ is defined in that section and the definition applies to this Act.

*substitute*

For example, the signpost definition ‘*sexual offence*—see the [Spent Convictions Act 2000](#), dictionary.’ means that the term ‘sexual offence’ is defined in that dictionary and the definition applies to this Act.

#### [1.2]      Dictionary, definition of *executive officer*

*substitute*

*executive officer*, of a corporation, means a person who is concerned in, or takes part in, the management of the corporation, whether or not the person is a director of the corporation.

### Part 1.2      Charitable Collections Act 2003

#### [1.3]      Section 15 (1) (c)

*omit*

he or she is

*substitute*

they are

**[1.4] Section 56 (4)**

*omit*

his or her

*substitute*

the authorised person's

**Part 1.3 Civil Law (Sale of Residential Property) Act 2003**

**[1.5] Section 9 (1) (g) (i) (B)**

*omit*

unit title certificate

*substitute*

unit title sale certificate

**[1.6] Section 9 (1) (g) (i) (B), note**

*omit*

unit title update certificate

*substitute*

unit title sale update certificate

**[1.7] Section 10A (7), definition of *later required documents*, paragraph (b)**

*omit*

unit title certificate

*substitute*

unit title sale certificate

**[1.8] Dictionary, definition of *unit title certificate***

*omit*

**[1.9] Dictionary, new definition of *unit title sale certificate***

*insert*

*unit title sale certificate*, for a unit—see the [Unit Titles \(Management\) Act 2011](#), section 119 (1) (a).

## Part 1.4 Fair Trading (Australian Consumer Law) Act 1992

**[1.10] Section 8 (4)**

*omit*

*Legislative Instruments Act 2003* (Cwlth)

*substitute*

[Legislation Act 2003](#) (Cwlth)

## **Part 1.5                    Housing Assistance Act 2007**

### **[1.11]    Section 22 (3) (b)**

*omit*

section 64B (Limitation on rent increases)

*substitute*

section 64B (Limitation on rent increases—amount)

## **Part 1.6                    Magistrates Court (Agents Infringement Notices) Regulation 2003**

### **[1.12]    Schedule 1, item 5**

*omit*

## **Part 1.7                    Magistrates Court (Charitable Collections Infringement Notices) Regulation 2003**

### **[1.13]    Section 6**

*substitute*

#### **6            Administering authority**

- (1) The administering authority for an infringement notice offence against the Charitable Collections Act is the head of Access Canberra.

(2) In this section:

*Access Canberra* means the business unit known as Access Canberra.

*head*, of Access Canberra, means the person occupying the position (however described) of head of Access Canberra.

**[1.14] Schedule 1, item 1**

*omit*

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## Schedule 2      New Magistrates Court (Fair Trading Australian Consumer Law Infringement Notices) Regulation

(see s 5)



Australian Capital Territory

# Magistrates Court (Fair Trading Australian Consumer Law Infringement Notices) Regulation 2024

Subordinate Law SL2024-

made under the

[Magistrates Court Act 1930](#)

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### 1      Name of regulation

This regulation is the *Magistrates Court (Fair Trading Australian Consumer Law Infringement Notices) Regulation 2024*.

## 2 Dictionary

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation.

*Note 2* A definition in the dictionary applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

## 3 Notes

A note included in this regulation is explanatory and is not part of this regulation.

## 4 Purpose of regulation

The purpose of this regulation is to provide for infringement notices under the [Magistrates Court Act 1930](#), part 3.8 for an offence against the relevant provision.

*Note* The [Magistrates Court Act 1930](#), pt 3.8 provides a system of infringement notices for offences against various territory laws. The infringement notice system is intended to provide an alternative to prosecution.

## 5 Administering authority

The administering authority for an infringement notice offence against the relevant provision is the commissioner for fair trading.

## 6 Infringement notice offence

The [Magistrates Court Act 1930](#), part 3.8 applies to an offence against the relevant provision.



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## 7 Infringement notice penalty

- (1) The penalty payable by an individual for an offence against the relevant provision, under an infringement notice for the offence, is \$960.
- (2) The penalty payable by a corporation for an offence against the relevant provision, under an infringement notice for the offence, is \$4 800.
- (3) The cost of serving a reminder notice for an infringement notice offence against the relevant provision is \$34.

## 8 Contents of infringement notices—identifying authorised person

An infringement notice served on a person by an authorised person for an infringement notice offence against the relevant provision must identify the authorised person by—

- (a) the authorised person’s full name, or surname and initials; or
- (b) any unique number given, for this regulation, to the authorised person by the administering authority.

## 9 Contents of infringement notices—other information

- (1) An infringement notice served on a company by an authorised person for an infringement notice offence against the relevant provision must include the company’s ACN.

*Note* This requirement under this section is additional to the requirement under the *Magistrates Court Act 1930*, s 121 (1) (c).

- (2) In this section:

**company** means a company registered under the [Corporations Act](#).

**10 Contents of reminder notices—identifying authorised person**

A reminder notice served on a person by an authorised person for an infringement notice offence against the relevant provision must identify the authorised person by—

- (a) the authorised person’s full name, or surname and initials; or
- (b) any unique number given, for this regulation, to the authorised person by the administering authority.

**11 Authorised person for infringement notice offences**

An authorised person may serve the following:

- (a) an infringement notice for an infringement notice offence against the relevant provision;
- (b) a reminder notice for an infringement notice offence against the relevant provision.

**12 Prescribed person—Act, s 135 (1)**

A public servant is prescribed.

**Dictionary**

(see s 2)

*Note 1* The [Legislation Act](#) contains definitions relevant to this regulation. For example:

- corporation
- Corporations Act
- individual
- public servant.

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*Note 2* Terms used in this regulation have the same meaning that they have in the *Magistrates Court Act 1930*. For example, the following terms are defined in that Act, dict:

- administering authority
- infringement notice
- infringement notice offence
- infringement notice penalty
- reminder notice.

***authorised person*** means an investigator appointed under the *Fair Trading (Australian Consumer Law) Act 1992*, section 36.

***relevant provision*** means the *Fair Trading (Australian Consumer Law) Act 1992*, section 34GA (1).

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 9 April 2024.

**2 Notification**

Notified under the [Legislation Act](#) on 9 July 2024.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Housing and Consumer Affairs Legislation Amendment Bill 2024, which was passed by the Legislative Assembly on 25 June 2024.

Clerk of the Legislative Assembly

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