Australian Capital Territory

Residential Tenancies (COVID-19 Emergency Response) Declaration 2021 (No 2)

**Disallowable instrument DI2021–166**

made under the

Residential Tenancies Act 1997, s 156 (Declaration—COVID-19 emergency response)

* 1. Preliminary
     + - 1. Name of instrument

This instrument is the *Residential Tenancies (COVID-19 Emergency Response) Declaration 2021 (No 2).*

* + - * 1. Commencement

This instrument commences on 1 July 2021.

* + - * 1. Expiry

This instrument expires on the earlier of—

the day the transitional period ends; or

the day mentioned in the Act, section 156 (3).

In this section:

***transitional period*** means the period beginning on 1 July 2021 and ending on—

30 September 2021; or

any later day before 1 January 2022 declared by the Minister.

A declaration is a notifiable instrument.

* + - * 1. Modification of Act, s 49—payment orders for COVID-19 impacted households

This section applies if—

a tenant who was a member of an impacted household during the moratorium period failed to pay rent under the residential tenancy agreement for the premises in which the household lived; and

the lessor has applied to the ACAT for a termination and possession order under the Act, section 49 (2) in relation to a failure to pay rent under the residential tenancy agreement in or after the moratorium period.

Before making a termination or possession order under the Act, section 49, the ACAT must first consider making a payment order under the Act, section 49A.

* + - * 1. Definitions

In this instrument:

***household***, in relation to premises the subject of a residential tenancy agreement, means the tenants and any other people living in the premises.

***impacted***, by the COVID-19 pandemic—see section 6.

***impacted household*** means a household—

impacted by the COVID-19 pandemic; or

a member of which became eligible for the JobSeeker or JobKeeper payment from the Commonwealth on or after 20 March 2020.

***moratorium period*** means the period beginning on 22 April 2020 and ending on 22 October 2020.

* + - * 1. When is a household *impacted* by COVID-19 pandemic?

For this instrument, a household is ***impacted*** by the COVID-19 pandemic if—

1 or more rent-paying household members have stopped earning income, or had a reduction in income, because—

the member, or another member, is ill with COVID‑19; or

the member has carer responsibilities for a family member who is ill with COVID-19; or

of a law introduced or other measure taken by the Territory, a State or the Commonwealth in response to the COVID-19 pandemic; and

the household’s weekly gross income is at least 25% less than the household’s weekly gross income before the income of any of the rent‑paying household members was stopped or reduced.

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

In this section:

***rent-paying household member***, in relation to premises the subject of a residential tenancy agreement, means a member of a household who regularly pays a share of the rent payable under the agreement.

***weekly gross income***, of a household, means the total of the weekly gross income, including any government payment, received by each rent-paying household member.

Shane Rattenbury

Attorney-General

29 June 2021