

# 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)

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## Part 1 Preliminary

### 1 Name of instrument

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

### 2 Commencement

This instrument commences on 1 July 2021.

### 3 Expiry

- (1) This instrument expires on the earlier of—
  - (a) the day the transitional period ends; or
  - (b) the day mentioned in the Act, section 156 (3).

- (2) In this section:

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

- (a) 30 September 2021; or
  - (b) any later day before 1 January 2022 declared by the Minister.
- (3) A declaration is a notifiable instrument.

### 4 Modification of Act, s 49—payment orders for COVID-19 impacted households

- (1) This section applies if—

- (a) 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
  - (b) 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.
- (2) 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.

## 5 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—

- (a) impacted by the COVID-19 pandemic; or
- (b) 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.

## 6 When is a household **impacted** by COVID-19 pandemic?

- (1) For this instrument, a household is **impacted** by the COVID-19 pandemic if—
- (a) 1 or more rent-paying household members have stopped earning income, or had a reduction in income, because—
    - (i) the member, or another member, is ill with COVID-19; or
    - (ii) the member has carer responsibilities for a family member who is ill with COVID-19; or
    - (iii) of a law introduced or other measure taken by the Territory, a State or the Commonwealth in response to the COVID-19 pandemic; and
  - (b) 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).

(2) 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