



Australian Capital Territory

# **Residential Tenancies Regulation 1998**

**SL1998-17**

made under the

**Residential Tenancies Act 1997**

**Republication No 10**

**Effective: 1 November 2019 – 2 March 2021**

Republication date: 1 November 2019

Last amendment made by [A2019-5](#)

## About this republication

### The republished law

This is a republication of the *Residential Tenancies Regulation 1998*, made under the *Residential Tenancies Act 1997* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 November 2019. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 November 2019.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

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made under the

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R10  
01/11/19

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Australian Capital Territory

# Residential Tenancies Regulation 1998

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made under the

**[Residential Tenancies Act 1997](#)**

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**1 Name of regulation**

This regulation is the *Residential Tenancies Regulation 1998*.

**1AA Notes**

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

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

**1A Prescribed agreement not residential tenancy agreement—Act, s 6D (1) (d)**

- (1) An agreement relating to the occupation of premises is a prescribed agreement if—
- (a) the agreement is between the Territory (the *lessor*) and a person (the *lessee*); and
  - (b) the agreement includes a term that makes the lessor liable to pay the lessee, on the date of effect, an exit payment calculated in accordance with the following formula:

$$\text{sublease consideration} + \left( \frac{\text{market value at exit} - \text{market value at entry}}{2} \right)$$

- (2) In this section:

*date of effect* means the date of effect stated in the agreement.

*market value*, of premises, means a valuation of the premises as if—

- (a) the land relating to the premises were subject to a units plan under the [Unit Titles Act 2001](#); and
- (b) the rights and obligations mentioned in the agreement were rights and obligations in relation to a unit within a units plan under the [Unit Titles Act 2001](#).

*market value at entry* means the market value of the premises to which the agreement relates on the day the lessee pays the sublease consideration.

*market value at exit* means the market value of the premises to which the agreement relates on the date of effect.

*sublease consideration* means the sublease consideration stated in the agreement.

**1B Smoke alarms and installation of smoke alarms—  
Act, s 11B**

- (1) A smoke alarm installed at premises subject to a residential tenancy agreement—
  - (a) must—
    - (i) comply with AS 3786; and
    - (ii) be functional; and
    - (iii) be installed on or near the ceiling; and
  - (b) may be—
    - (i) battery-operated; or
    - (ii) hard-wired.

*Note* AS 3786 requires a hard-wired smoke alarm to also have a secondary power source.
- (2) A smoke alarm must be installed in premises subject to a residential tenancy agreement—
  - (a) in each storey of the premises containing a bedroom—
    - (i) in every corridor or hallway associated with a bedroom; and

(ii) if there is no corridor or hallway—between each part of the premises containing a bedroom and the remainder of the premises; and

(b) in each storey of the premises not containing a bedroom.

*Note* Other requirements may apply in relation to the installation of smoke alarms, for example, requirements under the [Building Act 2004](#).

(3) In this section:

*AS 3786* means Australian Standard 3786 *Smoke alarms using scattered light, transmitted light or ionization* as in force from time to time.

## **1C Disapplication of Legislation Act, s 47 (6)**

(1) The [Legislation Act](#), section 47 (6) does not apply to AS 3786 under section 1B.

*Note* AS 3786 does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Legislation Act](#), s 47 (7)). The standard may be purchased at [www.standards.org.au](http://www.standards.org.au).

(2) However, the director-general must make a copy of AS 3786 available for inspection by members of the public during ordinary business hours at a place decided by the director-general.

## **2 Prescribed period for depositing bond—Act, s 23 (6)**

The period within which the amount of the bond must be deposited with the Territory is—

(a) if the tenant pays the bond to the lessor, the period that ends 2 weeks after the later of the following:

(i) the day the bond is paid;

(ii) the day the tenancy commences; or



- (b) if the tenant pays the bond to the lessor's agent, the period that ends 4 weeks after the later of the days mentioned in paragraph (a).

**4A Appropriate action under warrant—Act, s 40**

It is appropriate for a police officer to physically remove a person from premises—

- (a) between 8 am and 6 pm from Monday to Thursday, other than on a public holiday; or
- (b) if authorised by the warrant in exceptional circumstances—at any time.

**5 Service of termination notice**

For the [Act](#), section 58 (1) (b) and section 59 (1) (b) a termination notice must be served—

- (a) on an individual—
  - (i) by delivering it to the person personally; or
  - (ii) by leaving it at, or sending it by prepaid post to, the address of the place of residence or business of the person last known to the person serving the document; or
  - (iii) by leaving it at, or sending it by prepaid post to, the address for service provided by the person under the [Residential Tenancies Act 1997](#), schedule 1 (Prescribed terms), clause 98; or
- (b) on a corporation—by leaving it at, or sending it by prepaid post to, the head office, a registered office or a principal office of the corporation.

**5A Rent increase threshold—Act, s 64B and s 68**

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

$$PI + \frac{PI}{10}$$

- (2) In this section:

*index number* means the rents component of the housing group of the Consumer Price Index for Canberra published from time to time by the Australian statistician.

*PI* means the percentage increase in the index number over the period since the last rental rate increase or since the beginning of the residential tenancy agreement (whichever is later).

**6 Refusing registration of standard guarantee contract—  
Act, s 136 (2) (c) (i)**

- (1) The commissioner must refuse to register a standard guarantee contract if the contract—
- (a) allows a tenant or lessor to subrogate the party's rights or remedies to another party; or
  - (b) allows the provider to be party to a tenancy dispute; or
  - (c) allows the provider to recover an amount from the tenant that could not be deducted from a bond under the [Act](#), section 31; or
  - (d) allows the provider to recover an amount from the tenant without—
    - (i) the tenant's consent; or
    - (ii) an ACAT order, following an application by the lessor, to the effect that the tenant is liable for the amount; or
  - (e) allows a provider to approve or otherwise influence a decision of the lessor in relation to a residential tenancy agreement, including a tenancy dispute; or

- (f) prohibits a tenant from terminating the contract without the consent of the other parties if the relevant residential tenancy agreement ends; or
- (g) otherwise gives the provider or lessor under a commercial guarantee any right or remedy against the tenant that the lessor would not have if the lessor had not accepted a guarantee in addition to or in place of a bond.

*Note* **Standard guarantee contract**—see the [Act](#), s 102.

- (2) In making a decision under subsection (1), the commissioner may consult with any entity that has expertise in residential tenancy matters.

**Example**

an entity representing residential tenants or lessors

- (3) In this section:

**provider** means a party to a commercial guarantee that is not a lessor or tenant.

**7 Commercial guarantee excluded matters—Act, s 136 (2) (c) (ii)**

A commercial guarantee must not include a term that has the effect of doing any of the things mentioned in section 6 (1).

*Note 1* A commercial guarantee is void to the extent it includes a matter that must be excluded (see [Act](#), s 16 (5)).

*Note 2* **Commercial guarantee**—see the [Act](#), s 102.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

This regulation was originally the *Residential Tenancies Regulations*. It was renamed under the [Legislation Act 2001](#).

#### **Residential Tenancies Regulation 1998 SL1998-17**

notified 28 May 1998 (Gaz 1998 No S146)

commenced 25 May 1998 (s 2)

as amended by

#### **[Legislation \(Consequential Amendments\) Act 2001 A2001-44 pt 333](#)**

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 333 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

#### **[Residential Tenancies Amendment Act 2005 A2005-39 s 28](#)**

notified LR 31 August 2005

s 1, s 2 commenced 31 August 2005 (LA s 75 (1))

s 28 commenced 28 February 2006 (s 2 and LA s 79)

#### **[Justice and Community Safety Legislation Amendment Act 2005 \(No 4\) A2005-60 sch 1 pt 1.24](#)**

notified LR 1 December 2005

s 1, s 2 taken to have commenced 23 November 2005 (LA s 75 (2))

sch 1 pt 1.24 commenced 22 December 2005 (s 2 (4))

#### **[Residential Tenancies Amendment Regulation 2006 \(No 1\) SL2006-42](#)**

notified LR 3 August 2006

s 1, s 2 commenced 3 August 2006 (LA s 75 (1))

remainder commenced 4 August 2006 (s 2)

#### **[ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 A2008-36 sch 1 pt 1.45](#)**

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.45 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 \(1\)](#) and [CN2009-2](#))

## Endnotes

3 Legislation history

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**Residential Tenancies Amendment Regulation 2012 (No 1) SL2012-11**

notified LR 26 March 2012

s 1, s 2 commenced 26 March 2012 (LA s 75 (1))

remainder commenced 27 March 2012 (s 2)

**Statute Law Amendment Act 2017 (No 2) A2017-28 sch 1 pt 1.4**

notified LR 27 September 2017

s 1, s 2 commenced 27 September 2017 (LA s 75 (1))

sch 1 pt 1.4 commenced 11 October 2017 (s 2)

**Residential Tenancies Amendment Regulation 2018 (No 1) SL2018-5**

notified LR 4 May 2018

s 1, s 2 commenced 4 May 2018 (LA s 75 (1))

remainder commenced 7 May 2018 (s 2, see [Residential Tenancies Amendment Act 2017](#) A2017-32, s 2 (2) and LA s 79)

**Residential Tenancies Amendment Act 2019 A2019-5 pt 3**

notified LR 4 March 2019

s 1, s 2 commenced 4 March 2019 (LA s 75 (1))

pt 3 commenced 1 November (s 2 (1) and [CN2019-18](#))

## 4 Amendment history

### Name of regulation

s 1 am R1 LA; R2 LA

### Notes

s 1AA ins [SL2018-5](#) s 4

### Prescribed agreement not residential tenancy agreement—Act, s 6D (1) (d)

s 1A ins [SL2012-11](#) s 4

### Smoke alarms and installation of smoke alarms—Act, s 11B

s 1B ins [A2017-28](#) amdt 1.8

### Disapplication of Legislation Act, s 47 (6)

s 1C ins [A2017-28](#) amdt 1.8

### Prescribed period for depositing bond—Act, s 23 (6)

s 2 om [A2001-44](#) amdt 1.3667  
ins [SL2006-42](#) s 4

### Interpretation

s 3 om [A2001-44](#) amdt 1.3667

### Interest

s 4 om [A2005-60](#) amdt 1.131

### Appropriate action under warrant—Act, s 40

s 4A ins [A2005-39](#) s 28

### Rent increase threshold—Act, s 64B and s 68

s 5A ins [A2019-5](#) s 24

### Refusing registration of standard guarantee contract—Act, s 136 (2) (c) (i)

s 6 om [A2008-36](#) amdt 1.596  
ins [SL2018-5](#) s 5

### Commercial guarantee excluded matters—Act, s 136 (2) (c) (ii)

s 7 om [A2008-36](#) amdt 1.596  
ins [SL2018-5](#) s 5

### Form of termination notice

s 8 om [A2001-44](#) amdt 1.3667

### Termination notice

sch om [A2001-44](#) amdt 1.3668

## Endnotes

### 5 Earlier republications

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#### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 27 Jun 2002	27 Jun 2002- 2 Nov 2004	<a href="#">A2001-44</a>	amendments by <a href="#">A2001-44</a>
R2 3 Nov 2004	3 Nov 2004- 21 Dec 2005	<a href="#">A2001-44</a>	editorial amendments under <a href="#">Legislation Act</a>
R3 22 Dec 2005	22 Dec 2005- 27 Feb 2006	<a href="#">A2005-60</a>	amendments by <a href="#">A2005-60</a>
R4 28 Feb 2006	28 Feb 2006- 3 Aug 2006	<a href="#">A2005-60</a>	amendments by <a href="#">A2005-39</a>
R5 4 Aug 2008	4 Aug 2008- 1 Feb 2009	<a href="#">SL2006-42</a>	amendments by <a href="#">SL2006-42</a>
R6 2 Feb 2009	2 Feb 2009- 26 Mar 2012	<a href="#">A2008-36</a>	amendments by <a href="#">A2008-36</a>
R7 27 Mar 2012	27 Mar 2012- 10 Sept 2017	<a href="#">SL2012-11</a>	amendments by <a href="#">SL2012-11</a>
R8 11 Oct 2017	11 Oct 2017- 6 May 2018	<a href="#">A2017-28</a>	amendments by <a href="#">A2017-28</a>
R9 7 May 2018	7 May 2018- 31 Oct 2019	<a href="#">SL2018-5</a>	amendments by <a href="#">SL2018-5</a>

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