

Authorised Version

Residential Tenancies (COVID-19 Emergency Measures) Regulations 2020

S.R. No. 35/2020

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STATUTORY RULES 2020

S.R. No. 35/2020

Residential Tenancies Act 1997

Residential Tenancies (COVID-19 Emergency Measures) Regulations 2020

The Governor in Council makes the following Regulations:

Dated: 12 May 2020

Responsible Minister:

MARLENE KAIROUZ
Minister for Consumer Affairs

CLAIRE CHISHOLM
Clerk of the Executive Council

Part 1—Preliminary

1 Objectives

The objective of these Regulations is—

- (a) to prescribe the Residential Tenancies Dispute Resolution Scheme in relation to resolving eligible disputes for the purposes of responding to the COVID-19 pandemic; and
- (b) to modify the operation of certain provisions of the Act.

2 Authorising provisions

These Regulations are made under sections 603(1) and 609(1) of the **Residential Tenancies Act 1997**.

3 Definitions

In these Regulations—

alternative dispute resolution, in relation to an eligible dispute, means the following—

- (a) the conducting of mediation or conciliation in relation to the eligible dispute;
- (b) the making of a dispute resolution order in relation to the eligible dispute;

dispute resolution order, in relation to an eligible dispute, means an order made under regulation 16(5) or (6) in relation to the dispute;

payment related matter has the meaning given by regulation 10;

the Act means the **Residential Tenancies Act 1997**;

the Scheme means the Residential Tenancies Dispute Resolution Scheme prescribed by these Regulations under section 603(1) of the Act;

VCAT Act means the **Victorian Civil and Administrative Tribunal Act 1998**.

Part 2—Residential Tenancies Dispute Resolution Scheme

Division 1—Functions

4 Functions of the chief dispute resolution officer

For the purposes of section 599(1) of the Act, the prescribed functions of the chief dispute resolution officer are as follows—

- (a) to assess the suitability for alternative dispute resolution of eligible disputes;
- (b) to conduct alternative dispute resolution in relation to eligible disputes;
- (c) to issue guidelines in respect of the Scheme, including guidelines—
 - (i) specifying the criteria for determining the suitability of eligible disputes for alternative dispute resolution; or
 - (ii) specifying the criteria to be applied for the purposes of conducting alternative dispute resolution in relation to eligible disputes;
- (d) to issue practice directions in respect of the Scheme;
- (e) any other function conferred on the chief dispute resolution officer by or under these Regulations.

5 Delegation

For the purposes of section 600(1) of the Act, the prescribed persons to whom the chief dispute resolution officer may delegate any of the powers or functions of the chief dispute resolution officer are as follows—

- (a) a person employed under Part 3 of the **Public Administration Act 2004**;
- (b) a conciliation officer appointed under section 52E of the **Domestic Building Contracts Act 1995**;
- (c) a person who is declared to be a mediator, by notice by the Secretary to the Department of Justice and Community Safety published in the Government Gazette, in accordance with section 21K of the **Evidence (Miscellaneous Provisions) Act 1958**;
- (d) a person engaged by the chief dispute resolution officer for the purpose of providing alternative dispute resolution services.

Division 2—Assessment and referral of eligible disputes by the Director

6 Mandatory assessment by the Director

The Director must assess each eligible dispute of which the Director becomes aware, whether by means of a referral or otherwise, and must—

- (a) decide to refer the eligible dispute to the chief dispute resolution officer under regulation 7; or
- (b) decide to refer the eligible dispute to the Tribunal under regulation 8.

Note

A complaint or dispute may be referred to the Director under sections 486(a) or (b) or 486B(1)(a) of the Act. The Director's functions include to conciliate settlements of referred complaints or disputes under sections 486(d) and 486B(1)(c) of the Act.

7 Referral to the chief dispute resolution officer

The Director must refer an eligible dispute to the chief dispute resolution officer for an assessment as to its suitability for alternative dispute resolution if—

- (a) the eligible dispute is about a payment related matter; or
- (b) the eligible dispute is about a payment related matter and other matters.

8 Referral to the Tribunal

The Director must refer an eligible dispute to the Tribunal for determination by the Tribunal if—

- (a) the eligible dispute is only in respect of a matter or matters that are not payment related matters; or
- (b) the chief dispute resolution officer—
 - (i) has decided under regulation 14(1)(b) not to accept the eligible dispute for alternative dispute resolution and has notified the parties of that decision under regulation 14(5); or
 - (ii) has decided under regulation 14(6) that the eligible dispute is no longer suitable for alternative dispute resolution and has notified the parties of that decision under regulation 14(6); or
- (c) the chief dispute resolution officer has given a notice under regulation 21(1) to the parties that the eligible dispute has not been resolved by alternative dispute resolution.

9 Matters to which Director may have regard in deciding on referral

In deciding whether to refer an eligible dispute to the chief dispute resolution officer or to the Tribunal, the Director may—

- (a) consider whether the eligible dispute is likely to be found to be unsuitable for alternative dispute resolution for a reason specified in regulation 14(2); and
- (b) consider any advice given by the chief dispute resolution officer; and
- (c) make any inquiries or obtain any information the Director considers necessary; and
- (d) ask the person seeking to have the eligible dispute dealt with to provide further information or documents relating to the dispute; and
- (e) require the person seeking to have the eligible dispute dealt with to provide evidence that they have taken reasonable steps and have acted in good faith to resolve the dispute with the other parties to the dispute.

10 Meaning of *payment related matter*

- (1) For the purposes of the Scheme, ***payment related matter*** means any of the following—
 - (a) a payment related application (see subregulation (2));
 - (b) a matter in respect of which a payment related application is capable of being made, but in respect of which such an application has not yet been made;

- (c) a matter relating to a payment related application or to a matter referred to in paragraph (b).
- (2) The following applications under the Act are *payment related applications*—
- (a) an application by a tenant under a tenancy agreement to reduce the rent payable or for a payment plan made under section 540 of the Act;
 - (b) an application by a resident in respect of a room in a rooming house to reduce the rent payable or for a payment plan made under section 553 of the Act;
 - (c) an application by a resident in respect of a site or caravan in a caravan park to reduce the rent or hiring charge payable or for a payment plan made under section 563 of the Act;
 - (d) an application by a site tenant under a site agreement to reduce the rent payable or for a payment plan made under section 573 of the Act;
 - (e) an application by an SDA resident under an SDA residency agreement to reduce the rent payable or for a payment plan made under section 586 of the Act;
 - (f) any application that may be made under the Act that relates to the payment of rent or hiring charges including—
 - (i) an application that may be made under section 452 of the Act; and
 - (ii) an application for compensation or a compliance order under section 209 or 209AA of the Act; and

- (iii) an application for compensation under section 210 or 210B of the Act.

Note

Sections 213 and 213AA of the Act provide that a landlord or site owner is not entitled to claim compensation under the Act for a failure of a tenant or site tenant to pay rent unless the rent is unpaid, as follows—

- in the case of a tenancy agreement—for at least 14 days after it has accrued due (unless, on not less than 2 previous occasions, the tenant has failed to pay the rent under the same tenancy agreement within 14 days of accrual);
- in the case of a site agreement—for at least 30 days after it has accrued due (unless, on not less than 2 previous occasions, the site tenant has failed to pay the rent under the same site agreement within 30 days of accrual).

11 Applications that are not payment related applications

To avoid doubt, a *payment related application* does not include—

- (a) an application made under section 414, 416 or 417 of the Act relating to the payment of a bond; or
- (b) an application made under section 548, 558, 568, 581 or 592 of the Act for an order to terminate a tenancy agreement, residency right, site agreement or SDA residency agreement, if—
- (i) the application is made on the basis that the tenant, resident, site tenant or SDA resident has failed to comply with obligations under the agreement, the residency right or the Act by not paying rent; and

- (ii) the tenant, resident, site tenant or SDA resident is able to comply with the obligations without suffering severe hardship.

Division 3—Requirements before applications can be made to Tribunal or chief dispute resolution officer

12 Mandatory requirements before Tribunal may consider an application in relation to an eligible dispute

Despite any provision of the Act or the VCAT Act, an application in relation to an eligible dispute made after the day on which these regulations come into operation must not be considered by the Tribunal unless—

- (a) the Director has referred the eligible dispute to the Tribunal under regulation 8; or
- (b) the chief dispute resolution officer—
 - (i) has decided under regulation 14(1)(b) not to accept the eligible dispute for alternative dispute resolution or has decided under regulation 14(6) that the dispute is no longer suitable for alternative dispute resolution; and
 - (ii) has given written notice to the parties of that decision in accordance with regulation 14(5) or (6), as the case requires; or
- (c) the chief dispute resolution officer has given the parties to the eligible dispute a notice under regulation 21(1) that the dispute has not been resolved by alternative dispute resolution; or

- (d) in the case of an alleged breach of a dispute resolution order, the chief dispute resolution officer has given a notice under regulation 28(2)(b).

13 Mandatory requirements before chief dispute resolution officer may deal with an eligible dispute

An eligible dispute must not be dealt with by the chief dispute resolution officer unless it has been referred to the chief dispute resolution officer by the Director under regulation 7.

Division 4—Alternative dispute resolution

14 Accepting an eligible dispute for alternative dispute resolution

- (1) If an eligible dispute is referred under regulation 7 for alternative dispute resolution, the chief dispute resolution officer must—
- (a) accept the eligible dispute for alternative dispute resolution; or
 - (b) if the eligible dispute is not suitable for alternative dispute resolution, decide not to accept the eligible dispute for alternative dispute resolution.
- (2) An eligible dispute is not suitable for alternative dispute resolution if—
- (a) the eligible dispute is not in respect of a payment related matter; or
 - (b) acceptance of the eligible dispute for alternative dispute resolution would be inconsistent with section 606(3) of the Act (which deals with jurisdictional limits); or
 - (c) the person seeking to have the eligible dispute resolved has not complied with a requirement under subregulation (3) to provide further information, documents or

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- evidence, or has not done so within the specified period; or
- (d) proceedings in respect of the eligible dispute had commenced in a court or in the Tribunal as at the day these regulations came into operation; or
 - (e) all issues arising out of the eligible dispute are being or have already been determined by the Tribunal or a court; or
 - (f) the chief dispute resolution officer is satisfied that the request that the eligible dispute be dealt with—
 - (i) is frivolous or lacking in substance; or
 - (ii) is vexatious; or
 - (iii) was not made in good faith; or
 - (g) the chief dispute resolution officer is satisfied that the eligible dispute has otherwise been resolved; or
 - (h) the chief dispute resolution officer is satisfied that the eligible dispute is otherwise not suitable for alternative dispute resolution.
- (3) For the purpose of assessing whether or not to accept an eligible dispute for alternative dispute resolution, the chief dispute resolution officer may do any of the following—
- (a) make any inquiries or obtain any information the chief dispute resolution officer considers necessary;
 - (b) require the person seeking to have the eligible dispute dealt with to provide further information or documents relating to the dispute;

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- (c) require the person seeking to have the eligible dispute dealt with to provide evidence that the person has taken reasonable steps and acted in good faith to resolve the dispute with the other parties to the dispute.
- (4) The chief dispute resolution officer—
 - (a) may specify a period for compliance with a request or requirement under subregulation (3); and
 - (b) may extend that period at the request of the person seeking to have the eligible dispute dealt with.
- (5) If the chief dispute resolution officer decides not to accept an eligible dispute for alternative dispute resolution, the chief dispute resolution officer must—
 - (a) give written notice of the decision to the parties to the eligible dispute within 5 business days of making the decision; and
 - (b) advise the parties that the Tribunal is not prevented from considering an application in relation to the eligible dispute.
- (6) If, after accepting an eligible dispute for alternative dispute resolution, the chief dispute resolution officer decides that the dispute is no longer suitable for alternative dispute resolution, the chief dispute resolution officer must—
 - (a) give written notice of the decision to the parties to the eligible dispute within 5 business days of making the decision; and
 - (b) advise the parties that the Tribunal is not prevented from considering an application in relation to the eligible dispute.

15 Severing, dividing etc. matters covered by eligible disputes

- (1) If an eligible dispute relates to more than one matter, the chief dispute resolution officer may—
 - (a) sever from the eligible dispute any matter that the chief dispute resolution officer decides is not suitable for alternative dispute resolution; or
 - (b) divide the eligible dispute into 2 or more matters, if it is convenient to resolve them separately.
- (2) If the chief dispute resolution officer accepts more than one eligible dispute in relation to the same or related facts and circumstances, the chief dispute resolution officer may consider the disputes together.
- (3) If the chief dispute resolution officer decides to take any action under subregulation (1) or (2), the chief dispute resolution officer must give the parties to the eligible dispute written notice of the decision within 5 business days.

16 Alternative dispute resolution powers

- (1) If the chief dispute resolution officer accepts an eligible dispute for alternative dispute resolution under regulation 14(1)(a), the chief dispute resolution officer may do one or more of the following for the purposes of the resolution of the dispute—
 - (a) conduct mediation;
 - (b) conduct conciliation;
 - (c) determine the dispute by making a dispute resolution order under subregulation (6).

Part 2—Residential Tenancies Dispute Resolution Scheme

- (2) The chief dispute resolution officer may consider whether it is fair and reasonable in all the circumstances to make a dispute resolution order in relation to the eligible dispute without conducting mediation or conciliation.
- (3) For the purpose of conducting alternative dispute resolution under subregulation (1), the chief dispute resolution officer may—
 - (a) make any inquiries or obtain any information the chief dispute resolution officer considers necessary; and
 - (b) ask any party to the eligible dispute to provide further information or documents relating to the dispute.
- (4) The chief dispute resolution officer—
 - (a) may specify a period for compliance with a request under subregulation (3)(b); and
 - (b) may extend that time at the request of the party.
- (5) If the eligible dispute is resolved by mediation or conciliation, and the parties consent to the making of a dispute resolution order, the chief dispute resolution officer must prepare a written dispute resolution order stating—
 - (a) that the eligible dispute has been resolved by mediation or conciliation, as the case requires; and
 - (b) the action, if any, to be taken by each party to the eligible dispute (including any payment that is to be made); and
 - (c) if relevant, the time within which such action is to be taken.

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- (6) The chief dispute resolution officer must determine an eligible dispute by making a dispute resolution order if—
- (a) the chief dispute resolution officer is satisfied that it is fair and reasonable in all the circumstances to do so, whether—
 - (i) under subregulation (2); or
 - (ii) because the dispute has not been able to be resolved by mediation or conciliation; or
 - (b) the chief dispute resolution officer may make a dispute resolution order because of the operation of regulation 20(3)(a).
- (7) A dispute resolution order made under subregulation (6) must be in writing and must state—
- (a) that the eligible dispute has not been resolved by mediation or conciliation, or that regulation 20(3)(a) applies, as the case requires; and
 - (b) the action, if any, to be taken by each party to the eligible dispute (including any payment that is to be made); and
 - (c) if relevant, the time within which such action is to be taken; and
 - (d) the reasons for making the dispute resolution order, which may include, but are not limited to, whether the chief dispute resolution officer is satisfied that a party to the dispute—
 - (i) did not participate in mediation or conciliation; or
 - (ii) did not participate in mediation or conciliation in good faith.

- (8) If the chief dispute resolution officer makes a dispute resolution order, the chief dispute resolution officer must—
- (a) keep a copy of the dispute resolution order; and
 - (b) give a copy of the dispute resolution order to each party to the eligible dispute within 5 business days of making the dispute resolution order.

Note

The **Electronic Transactions (Victoria) Act 2000** deals with matters relating to keeping and giving electronic documents.

- (9) A dispute resolution order comes into effect immediately after it is made, or at a later time specified in the order.

17 What a dispute resolution order may require

- (1) A dispute resolution order may do one or more of the following—
- (a) restrain any action in breach of a tenancy agreement or the provisions of this Act relating to a tenancy agreement;
 - (b) require any action in the performance of a tenancy agreement or of duties under this Act relating to a tenancy agreement;
 - (c) restrain any action in breach of the rooming house provisions or the caravan park provisions;
 - (d) require any action in the performance of duties under the rooming house provisions or the caravan park provisions;
 - (e) restrain any action in breach of a site agreement or the provisions of the Act relating to a site agreement;

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- (f) require any action in the performance of a site agreement or of duties under this Act relating to the site agreement;
- (g) require the refund of money paid under a rescinded Part 4A dwelling purchase agreement;
- (h) require the return of a Part 4A dwelling under a rescinded Part 4A dwelling purchase agreement;
- (i) require the return of goods unlawfully taken or removed from—
 - (i) rented premises by a party to a tenancy agreement; or
 - (ii) a room by a rooming house owner or resident; or
 - (iii) a caravan or site by a caravan owner, caravan park owner or resident; or
 - (iv) a Part 4A dwelling or a Part 4A site by a site owner or site tenant;
- (j) require the payment of compensation to any person;
- (k) require any action in respect of any dispute arising under Part 12A;
- (l) reduce the rent payable under a tenancy agreement, site agreement or SDA residency agreement for a specified period;
- (m) reduce the rent payable in respect of a room for a specified period;
- (n) reduce the rent or hiring charge payable in respect of a caravan or site for a specified period;

Part 2—Residential Tenancies Dispute Resolution Scheme

- (o) require a tenant, site tenant or SDA resident to enter into and abide by a payment plan to pay the rent or a reduced amount of rent, and any outstanding arrears of rent under a tenancy agreement, site agreement or SDA residency agreement for a specified period;
- (p) require a resident to enter into and abide by a payment plan to pay the rent or a reduced amount of rent, and any outstanding arrears of rent for a room for a specified period;
- (q) require a resident to enter into and abide by a payment plan to pay the rent or hiring charge or a reduced amount of rent or hiring charge, and any outstanding arrears of rent or hiring charge for a caravan or site for a specified period;
- (r) vary any of the following to the extent necessary because of a reduction of rent or hiring charge or a payment plan, if the chief dispute resolution officer makes an order to do a thing referred to in paragraph (1), (m), (n), (o), (p) or (q)—
 - (i) the terms of a tenancy agreement; or
 - (ii) a residency right; or
 - (iii) the terms of a site agreement; or
 - (iv) the terms of an SDA residency agreement;
- (s) include orders made under other powers conferred on the chief dispute resolution officer under the Act or these Regulations;
- (t) subject to subregulation (2), include orders that the Tribunal may make under the Act;
- (u) include any orders ancillary or incidental to any other orders made by the chief dispute resolution officer.

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- (2) A dispute resolution order must not include any of the following—
- (a) an order in respect of the payment of a bond under Part 10 of the Act;
 - (b) an order—
 - (i) reducing the term of a fixed term tenancy agreement under section 543 of the Act; or
 - (ii) reducing the term of a fixed term site agreement under section 576 of the Act;
 - (c) an order in respect of the termination of any of the following (including where a new agreement is required)—
 - (i) a tenancy agreement under section 233B(1) or 549(1) of the Act;
 - (ii) an agreement under section 317AB(1) of the Act;
 - (iii) a residency right under section 559(1) or 569(1) of the Act;
 - (iv) a site agreement under section 317N(1) or 582(1) of the Act;
 - (v) an SDA residency agreement under section 593(1) of the Act;
 - (d) a possession order in respect of any of the following—
 - (i) a rented premises under section 551 of the Act;
 - (ii) a room and a rooming house under section 561 of the Act;
 - (iii) a caravan or site under section 571 of the Act;

- (iv) a Part 4A site under section 584 of the Act;
- (v) an SDA enrolled dwelling under section 595 of the Act.

18 Agreement for resolving eligible dispute

- (1) This regulation applies if—
 - (a) an eligible dispute referred to the chief dispute resolution officer is resolved by mediation or conciliation; and
 - (b) the parties to the eligible dispute choose to enter into an agreement, rather than consenting to the making of a dispute resolution order.
- (2) The chief dispute resolution officer must prepare a written agreement in respect of the resolution of the eligible dispute, including—
 - (a) the action, if any, to be taken by each party to the eligible dispute (including any payment that is to be made); and
 - (b) if relevant, the time within which the action is to be taken.
- (3) The chief dispute resolution officer must—
 - (a) keep a copy of the agreement; and
 - (b) give a copy of the agreement to each party to the eligible dispute within 5 business days of the making of the agreement.

Note

The **Electronic Transactions (Victoria) Act 2000** deals with matters relating to keeping and giving electronic documents.

- (4) The chief dispute resolution officer, at the request of a party to the agreement or at the initiative of the chief dispute resolution officer, may make any corrections to the agreement that the chief dispute

resolution officer considers appropriate to rectify an error or omission.

- (5) If the chief dispute resolution officer makes corrections under subregulation (4), the chief dispute resolution officer must give written notice to each party to the agreement of each correction within 5 business days after making the correction.

19 Notice of alleged failure to comply with terms of agreement

- (1) A party to an agreement referred to in regulation 18 may give written notice to the chief dispute resolution officer if the party considers that the agreement has not been complied with.
- (2) A notice under subregulation (1) must state the extent (if any) to which the party considers that there has been partial compliance with the agreement.

20 Chief dispute resolution officer's powers in relation to notice under regulation 19

- (1) This regulation applies if—
 - (a) the chief dispute resolution officer receives a notice given under regulation 19 in relation to an agreement in respect of an eligible dispute; and
 - (b) the chief dispute resolution officer is satisfied that there has been non-compliance with the agreement.
- (2) The chief dispute resolution officer may—
 - (a) amend the agreement; or
 - (b) extend the time for compliance with the agreement.

- (3) If the chief dispute resolution officer considers that amending the agreement or extending the time for compliance with the agreement is not appropriate, the chief dispute resolution officer may—
 - (a) make a dispute resolution order under regulation 16(6)(b) in relation to the eligible dispute; or
 - (b) give a notice under regulation 21(1) stating that the eligible dispute has not been resolved by alternative dispute resolution.
- (4) The agreement terminates when—
 - (a) a dispute resolution order is made under regulation 16(6)(b); or
 - (b) a notice is given under subregulation (3)(b).
- (5) The chief dispute resolution officer must give written notice of a decision under subregulation (2) or (3) to each party to the agreement within 5 business days after making the decision.

Note

Regulations 16 and 17 include matters relating to the form and content of a dispute resolution order.

21 Eligible dispute not resolved by alternative dispute resolution

- (1) The chief dispute resolution officer must give a notice that an eligible dispute accepted by the chief dispute resolution officer for alternative dispute resolution has not been resolved by alternative dispute resolution if—
 - (a) the chief dispute resolution officer is satisfied that the eligible dispute has not been resolved by mediation or conciliation, including because there has been non-compliance with an agreement made under regulation 18; and

Part 2—Residential Tenancies Dispute Resolution Scheme

- (b) the chief dispute resolution officer is not satisfied that it is appropriate to make a dispute resolution order.
- (2) A notice under subregulation (1)—
 - (a) must be given to each party to the eligible dispute; and
 - (b) must state that—
 - (i) the eligible dispute was referred to the chief dispute resolution officer under regulation 7; and
 - (ii) the chief dispute resolution officer decided under regulation 14 to accept the eligible dispute for alternative dispute resolution; and
 - (iii) the eligible dispute has not been resolved by alternative dispute resolution.
- (3) A notice under subregulation (1) may include a statement as to whether the chief dispute resolution officer is satisfied that a party to the dispute—
 - (a) did not participate in mediation or conciliation; or
 - (b) did not participate in mediation or conciliation in good faith.
- (4) The chief dispute resolution officer must—
 - (a) give a copy of the notice to each party to the eligible dispute within 5 business days of deciding to give the notice; and

- (b) advise the parties that the Tribunal is not prevented from considering an application in relation to the eligible dispute.

Note

The **Electronic Transactions (Victoria) Act 2000** deals with matters relating to keeping and giving electronic documents.

22 Payment of rent or hiring charge into Rent Special Account

- (1) If a tenant has given notice requiring repairs to be carried out to the rented premises, the tenant may apply to the chief dispute resolution officer for an order authorising the tenant to pay the rent under the tenancy agreement into the Rent Special Account.
- (2) If a resident of a room in a rooming house has given notice requiring repairs to be carried out to the room or rooming house, the resident may apply to the chief dispute resolution officer for an order authorising the resident to pay the rent into the Rent Special Account.
- (3) If a resident of a caravan has given notice requiring repairs to be carried out to the caravan, the resident may apply to the chief dispute resolution officer for an order authorising the resident to pay the hiring charge into the Rent Special Account.
- (4) The chief dispute resolution officer may make an order authorising a tenant or resident referred to in subregulation (1), (2) or (3) to pay the rent, or the resident to pay the hiring charge, into the Rent Special Account for a period specified by the chief dispute resolution officer if the chief dispute resolution officer is satisfied that—

- (a) a notice requiring the carrying out of repairs has been given to the landlord, rooming house operator, caravan owner or caravan park owner concerned in accordance with the Act; and
 - (b) the landlord, rooming house operator, caravan owner or caravan park owner concerned has failed to comply with the duty to carry out the repairs.
- (5) If an order is made under subregulation (4), the amount of the rent or hiring charge held in the Rent Special Account at the end of that period must be paid to the landlord, rooming house operator, caravan owner or caravan park owner concerned.
- (6) Despite subregulation (4), the whole or part of the amount of rent or hiring charge may be paid to the landlord, rooming house operator, caravan owner or caravan park owner before the end of that period if—
- (a) the landlord, rooming house operator, caravan owner or caravan park owner makes an application requesting such payment; and
 - (b) the chief dispute resolution officer is satisfied that the duty to carry out the repairs has been, or is being, fulfilled.

23 Rent Special Account

There must be paid into the Rent Special Account all money paid under an order of the chief dispute resolution officer authorising the payment of rent or hiring charges into that Account.

24 Correction of errors or omissions in a dispute resolution order

- (1) The chief dispute resolution officer may at any time, at the initiative of the chief dispute resolution officer or at the request of a party, amend a dispute resolution order.
- (2) In making a decision under subregulation (1), the chief dispute resolution officer may consider any matter the chief dispute resolution officer considers relevant including, but not limited to, whether the dispute resolution order contains—
 - (a) a clerical mistake; or
 - (b) an error arising from an accidental slip or omission; or
 - (c) a material miscalculation of figures; or
 - (d) a material mistake in the description of a person, thing or matter referred to in the order, or
 - (e) a defect of form.

25 Request to amend, cancel or extend a dispute resolution order

- (1) At the request of a party to a dispute resolution order or the joint request of all the parties to a dispute resolution order, the chief dispute resolution officer may decide to—
 - (a) amend the dispute resolution order; or
 - (b) cancel the dispute resolution order; or
 - (c) extend the period for compliance with the dispute resolution order.
- (2) The chief dispute resolution officer may under subregulation (1) amend, cancel or extend the period for compliance with the dispute resolution order—

- (a) on the ground that there has been a substantial change in the nature of the eligible dispute to which the dispute resolution order relates, or to the circumstances of the parties since the order was made; or
 - (b) if there has been a failure or inability to comply with the dispute resolution order, the chief dispute resolution officer is satisfied that the failure or inability was due to factors outside the control of the party required to comply with the order.
- (3) A request under subregulation (1) must be made—
- (a) within 30 business days after the dispute resolution order was given to the party; or
 - (b) if the chief dispute resolution officer is satisfied a longer period is appropriate because of special circumstances, within a longer period specified by the chief dispute resolution officer.
- (4) A party to a dispute resolution order who makes a request (other than a joint request) under subregulation (1) must give written notice of the request to each other party to the dispute resolution order within 2 business days of making the request.

26 Powers of chief dispute resolution officer in considering amending, cancelling or extending a dispute resolution order

- (1) For the purpose of deciding whether to amend or cancel, or extend the period for compliance with, a dispute resolution order, the chief dispute resolution officer may—
- (a) make any inquiries or obtain any information the chief dispute resolution officer considers necessary; and

- (b) ask any party to the eligible dispute to which the dispute resolution order relates to provide any information or documents the chief dispute resolution officer considers necessary.
- (2) The chief dispute resolution officer—
 - (a) may specify a period for compliance with a request or requirement under subregulation (1); and
 - (b) may extend that period at the request of any party.

27 Notice of decision of chief dispute resolution officer

- (1) If the chief dispute resolution officer amends a dispute resolution order under regulation 25(1)(a), the chief dispute resolution officer must give a copy of the amended order to each party within 5 business days of amending the order.

Note

The **Electronic Transactions (Victoria) Act 2000** deals with matters relating to keeping and giving electronic documents.

- (2) If the chief dispute resolution officer cancels a dispute resolution order under regulation 25(1)(b) or extends a period for compliance under regulation 25(1)(c), the chief dispute resolution officer must give written notice of the cancellation or extension, as the case requires, to the parties within 5 business days of the cancellation or extension, as the case requires.

28 Breach of dispute resolution orders

- (1) A party to a dispute resolution order who considers that the dispute resolution order has not been complied with may apply to the chief dispute resolution officer for a notice under subregulation (2)(b).

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- (2) The chief dispute resolution officer—
 - (a) must consider an application under subregulation (1); and
 - (b) if the chief dispute resolution officer decides that there appears to have been a breach of the dispute resolution order, must give written notice to the applicant stating—
 - (i) that there appears to have been a breach of the dispute resolution order; and
 - (ii) that the applicant may make an application to the Tribunal in relation to the eligible dispute to which the dispute resolution order relates.
- (3) A notice under subregulation (2)(b) must be given within 5 days of the decision to—
 - (a) the applicant; and
 - (b) each other party to the dispute resolution order.
- (4) The Tribunal may—
 - (a) determine an application made under subregulation (2)(b)(ii); and
 - (b) make any orders that the Tribunal considers appropriate.
- (5) In determining an application under subregulation (2)(b)(ii), the Tribunal must consider—
 - (a) the dispute resolution order, including whether the order was made by consent or otherwise; and
 - (b) if the dispute resolution order was not made by consent, the reasons for making the order; and

- (c) any evidence of the conduct of the parties since the dispute resolution order came into effect;
- (d) any statement by the chief dispute resolution officer in the reasons for making the dispute resolution order as to whether the chief dispute resolution officer was satisfied that a party to the dispute—
 - (i) did not participate in mediation or conciliation; or
 - (ii) did not participate in mediation or conciliation in good faith.

Division 5—General matters

29 Evidentiary status of statements made during alternative dispute resolution

- (1) Evidence of anything said or done by the parties or the chief dispute resolution officer during mediation or conciliation under these Regulations in relation to an eligible dispute is not admissible in any proceeding before the Tribunal or in any other legal proceeding, unless all the parties to the dispute agree in writing to the giving of the evidence.
- (2) Subregulation (1) does not apply to—
 - (a) any written communication from the chief dispute resolution officer to any of the parties to the eligible dispute; or
 - (b) anything said or done by a person authorised by the Director to investigate a matter relating to the eligible dispute; or
 - (c) any written report on an investigation prepared by the Director in accordance with sections 486(c) or (ca) or 486B(1)(b) of the Act.

- (3) Nothing in this regulation prevents the use of any information or document disclosed in a mediation or conciliation for the purposes of deciding whether a dispute resolution order may be made.
- (4) A dispute resolution order is admissible as evidence in any subsequent proceedings at the Tribunal or in a court.

30 Confidentiality

- (1) Subject to section 499 of the Act and subregulation (2), the chief dispute resolution officer and each delegate of the chief dispute resolution officer must not disclose to any person any information obtained in the course of carrying out any function or power under the Scheme.
- (2) The chief dispute resolution officer or a delegate of the chief dispute resolution officer may disclose information obtained in the course of carrying out a function or power under the Scheme if the disclosure is made—
 - (a) for the purpose of carrying out that function; or power; or
 - (b) to the Director; or
 - (c) to the Tribunal; or
 - (d) with the written consent of each person to whom the information relates.

31 Service of documents—general

- (1) In addition to the operation of section 506 of the Act, a notice or other document to be served on or given to a person under the Act or these Regulations by the chief dispute resolution officer must be served or given—
 - (a) by delivering it personally to the person; or

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- (b) by leaving it at the person's usual or last known place of residence or business with a person apparently over the age of 16 years and apparently residing or employed at that place; or
 - (c) by sending it to the person by post addressed to the person's usual or last known place of residence or business; or
 - (d) if the person is a corporation—
 - (i) by sending it by post to the registered office in Victoria of the corporation; or
 - (ii) by giving it to a person who is an officer of the corporation who is authorised to accept service of notices and who is employed at the registered office of the corporation; or
 - (e) by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**; or
 - (f) in the manner permitted by the chief dispute resolution officer.
- (2) If a notice or other document is to be served on or given to a landlord under this Part, in addition to the methods set out in subregulation (1), the notice or document may be served or given—
- (a) by delivering it to the landlord or to the landlord's agent or to the person who usually collects the rent; or
 - (b) by sending it by post addressed—
 - (i) to the landlord at the landlord's address for service of documents; or
 - (ii) to the landlord's agent at the agent's usual place of business; or

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- (b) by giving it to a person employed in the office of the landlord's agent.
- (3) If a notice or other document is to be served on or given to a site owner, in addition to the methods set out in subregulation (1), the notice or document may be served or given—
 - (a) by delivering it to the site owner or to the site owner's agent or to the person who usually collects the rent; or
 - (b) by sending it by post addressed—
 - (i) to the site owner at the site owner's address for service of documents; or
 - (ii) to the site owner's agent at the agent's usual place of business; or
 - (c) by giving it to a person employed in the office of the site owner's agent.
- (4) A notice given under this Part in relation to an SDA resident must be given—
 - (a) by delivering it personally to the SDA resident and the SDA resident's guardian or SDA resident's administrator (if any); or
 - (b) by sending the notice by ordinary post addressed to—
 - (i) the SDA resident at the SDA enrolled dwelling; and
 - (ii) the SDA resident's guardian or SDA resident's administrator (if any); or
 - (c) by electronic communication in accordance with the **Electronic Transactions (Victoria) Act 2000**; or

- (d) in the manner permitted by the chief dispute resolution officer.

Note

See also section 498E of the Act for further requirements in respect of notices given under Part 12A of the Act.

32 Service of documents—family violence etc.

- (1) If, under the Act or these Regulations, a notice or other document is to be served or given to a person who is a tenant, a site tenant or a resident of a caravan park and who is excluded from rented premises, a Part 4A site or a caravan or site, as the case requires, under a family violence safety notice or a family violence intervention order, the notice or document must be served or given—
- (a) by delivering it personally to the person; or
 - (b) by leaving it at the address nominated by the person under section 33 or 85 of the **Family Violence Protection Act 2008** with a person apparently over the age of 16 years and apparently residing or employed at that place; or
 - (c) by sending it to the person by post or email to the address nominated by the person under section 33 or 85 of the **Family Violence Protection Act 2008**; or
 - (d) by leaving it at the person's last known address (other than a place from which the person is excluded under the **Family Violence Protection Act 2008**) with a person apparently over the age of 16 years and apparently residing or employed at that place; or

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- (e) by sending it to the person by post or email to the person's last known postal or email address (other than to an address from which the person is excluded under the **Family Violence Protection Act 2008**); or
 - (f) in the manner permitted by the chief dispute resolution officer.
- (2) If, under the Act or these Regulations, a notice or other document is to be served or given to a person who is a tenant, a site tenant or a resident of a caravan park and who is excluded from rented premises, a Part 4A site or a caravan or site, as the case requires, under a personal safety intervention order, the notice or document must be served or given—
- (a) by delivering it personally to the person; or
 - (b) by leaving it at the address nominated by the person under section 70 of the **Personal Safety Intervention Orders Act 2010** with a person apparently over the age of 16 years and apparently residing or employed at that place; or
 - (c) by sending it to the person by post or email to the address nominated by the person under section 70 of the **Personal Safety Intervention Orders Act 2010**; or
 - (d) by leaving it at the person's last known address (other than a place from which the person is excluded under the **Personal Safety Intervention Orders Act 2010**) with a person apparently over the age of 16 years and apparently residing or employed at that place; or
 - (e) by sending it to the person by post or email to the person's last known postal or email address (other than to an address from which

- the person is excluded under the **Personal Safety Intervention Orders Act 2010**); or
- (f) in the manner permitted by the chief dispute resolution officer.
- (3) If, under the Act or these Regulations, a notice or other document is to be served or given to a person who is a tenant, a site tenant or a resident of a caravan park and who is excluded from rented premises, a Part 4A site or a caravan or site, as the case requires, under a non-local DVO that is a recognised DVO, the notice or document must be served or given—
- (a) by delivering it personally to the person; or
- (b) by leaving it at the person's last known address (other than a place from which the person is excluded under the DVO) with a person apparently over the age of 16 years and apparently residing or employed at that place; or
- (c) by sending it to the person by post or email to the person's last known postal or email address (other than to an address from which the person is excluded under the DVO); or
- (d) in the manner permitted by the chief dispute resolution officer.

33 Service of documents—personal service

For the purposes of the Act and the Regulations—

- (a) a person may satisfy a requirement to deliver a notice or other document personally to a person by putting a copy of the notice or other document down in the presence of the person and telling the person the nature of the notice or other document; and

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- (b) a person may satisfy a requirement to leave a notice or other document with a person by putting a copy of the notice or other document down in the presence of the person and telling the person the nature of the notice or other document.

Part 3—Modifications to operation of the Act

34 Reduced period of notice of intention to vacate in certain circumstances—tenancy agreements

- (1) Section 237(1) of the Act operates as if the following modifications were made—
 - (a) paragraph (a) were omitted;
 - (b) paragraph (c) were omitted and there were substituted—
 - "(c) the tenant has been offered and accepted accommodation by the Director of Housing or a registered housing agency; or".
- (2) Section 237(2) of the Act operates as if "on or after the end of the term of the tenancy agreement if the period between the date on which the notice is given and the termination date is not less than 14 days" were omitted and "not less than 14 days after the date on which the notice is given, irrespective of the date of the end of the fixed term" were substituted.
- (3) Section 237(4) of the Act operates as if the following definition were inserted—

registered housing agency means—

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

35 Reduced period of notice of intention to vacate in certain circumstances—site agreements

- (1) Section 317T(1) of the Act operates as if the following modifications were made—
- (a) paragraph (a) were omitted;
 - (b) paragraph (c) were omitted and there were substituted—
 - "(c) the site tenant has been offered and accepted accommodation by the Director of Housing or a registered housing agency; or".
- (2) Section 317T(2) of the Act operates as if "on or after the end of the term of the site agreement if the period between the date on which the notice is given and the termination date is not less than 14 days" were omitted and "not less than 14 days after the date on which the notice is given, irrespective of the date of the end of the fixed term" were substituted.
- (3) Section 317T(4) of the Act operates as if the following definition were inserted—
- "registered housing agency* means—
- (a) a participating registered agency within the meaning of the **Housing Act 1983**;
 - or
 - (b) a registered agency within the meaning of the **Housing Act 1983**;"

36 Contents of possession order

Section 333(1)(a) of the Act operates as if "(being a day not more than 30 days after the day on which the possession order is made)" were omitted.

37 When is a person unable to comply with a term, provision or obligation because of a *COVID-19* reason?

Section 537(a) of the Act operates as if "the person is ill" were omitted and "the person is unable to comply with, or it is not reasonably practicable for the person to comply with, the term, provision or obligation as a result of the person being ill" were substituted.

38 What is reasonable and proportionate?

Section 538(a) of the Act operates as if "which led to the notice to vacate being given" were omitted.

39 When a tenant can give notice of intention to vacate—tenancy agreements

- (1) Section 545(1) of the Act operates as if the following modifications were made—
- (a) "A tenant must not give a landlord a notice of intention to vacate rented premises under Subdivision 3 of Division 1 of Part 6 unless" were omitted and "In addition to giving a notice of intention to vacate in accordance with Subdivision 3 of Division 1 of Part 6, a tenant may give a landlord a notice of intention to vacate if" were substituted;
 - (b) paragraphs (a), (b), (c) and (d) were omitted;
 - (c) in paragraph (e), "hardship." were omitted and "hardship; or" were substituted;
 - (d) after paragraph (e) there were inserted—
 - "(f) the tenant has been given notice of an application to terminate a tenancy agreement made to the Tribunal under section 548(1) by—

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- (i) the landlord under the tenancy agreement; or
 - (ii) a mortgagee in respect of the rented premises."
- (2) Section 545(2) of the Act operates as if—
- (a) "subsection (1)(a), (b), (c) or (e)" were omitted and "subsection (1)" were substituted;
 - (b) "on or after the end of the term of the tenancy agreement if the period between the date on which the notice is given and the termination date is not less than 14 days" were omitted and "not less than 14 days after the date on which the notice is given, irrespective of the date of the end of the fixed term" were substituted.
- (3) Section 545(3) of the Act operates as if "subsection (1)(a), (b), (c) or (e)" were omitted and "subsection (1)" were substituted.
- (4) Section 545 of the Act operates as if subsection (4) were omitted.

40 Tenants not liable for compensation or lease break fees, charges etc

- (1) Section 546(1)(b)(i) of the Act operates as if "section 545(1)(a), (b), (c), (d) or (e)" were omitted and "section 237(1)(b), (c), (d) or (e) or section 545(1)(e) or (f)" were inserted.
- (2) Section 546 of the Act operates as if after subsection (1), the following subsection were inserted—
- "(1A) Despite any Act or law to the contrary (other than the **Constitution Act 1975** or the Charter of Human Rights and Responsibilities) a tenant is not liable to compensate a landlord for loss suffered by

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the landlord as a result of the early termination of a tenancy agreement, or to pay any lease break fee (however described) in relation to the early termination of a tenancy agreement if an order has been made in respect of the tenant under section 543 for a reduction in the term of a fixed term tenancy agreement."

(3) Section 546(2)(b)(i) of the Act operates as if "section 545(1)(a), (b), (c), (d) or (e)" were omitted and "section 237(1)(b), (c), (d) or (e) or section 545(1)(e) or (f)" were inserted.

(4) Section 546 of the Act operates as if after subsection (2), the following subsection were inserted—

"(3) The Tribunal must not make an order under Part 5 directing a tenant to pay compensation to a landlord as a result of the early termination of a tenancy agreement, including for the loss of rent that would have been payable under the tenancy agreement if it had not been terminated, if an order has been made in respect of the tenant under section 543 for a reduction in the term of a fixed term tenancy agreement."

41 Terminations—tenancy agreements

Section 547(1) of the Act operates as if the following modifications were made—

(a) in paragraph (b)—

(i) in subparagraph (iii), "under section 546" were omitted and "under Subdivision 3 of Division 1 of Part 6 or section 545" were substituted;

(ii) in subparagraph (x), "provision." were omitted and "provision; or" were substituted;

(b) after paragraph (b) there were inserted—

"(c) the Tribunal makes an order under section 543 to reduce the term of the tenancy agreement and the tenant vacates the rented premises after the expiration of the period stated in the order.".

42 Tribunal may terminate tenancy agreement in certain circumstances

(1) Section 549(2)(b) of the Act operates as if "has, by act or omission, endangered" were omitted and "by act or omission endangers" were substituted.

(2) Section 549 of the Act operates as if after subsection (3) there were inserted—

"(3A) The Tribunal must not specify a date under subsection (3) on which the tenancy agreement terminates that is earlier than any of the following days—

(a) if the Tribunal is satisfied of a matter referred to in subsection (2)(a), (b), (e) or (l), the day on which the Tribunal makes the order; or

(b) if the Tribunal is satisfied of a matter referred to in subsection (2)(c), (d), (f), (g), (h), (m) or (n), the day that is 14 days from the day on which the Tribunal makes the order; or

(c) if the Tribunal is satisfied of a matter referred to in subsection (2)(i) or (r), the day that is 28 days from the day on which the Tribunal makes the order; or

- (d) if the Tribunal is satisfied of the matter referred to in subsection (2)(s), the day that is 30 days from the day on which the Tribunal makes the order; or
- (e) if the Tribunal is satisfied of a matter referred to in subsection (2)(j), (k), (o) or (p), the day that is 60 days from the day on which the Tribunal makes the order; or
- (f) if the Tribunal is satisfied of the matter referred to in subsection (2)(q), the day that is 90 days from the day on which the Tribunal makes the order."

43 When can a landlord or mortgagee apply for a possession order?

Section 550(2) of the Act operates as if "322" were omitted and "322(1) or (2)" were substituted.

44 No notices to vacate—rooming houses

Section 556 of the Act operates as if the following subsection were inserted at the end of that section—

- "(2) A person must not give a resident a notice to vacate a room under section 289A and any notice purportedly given is of no effect."

45 Tribunal may end residency right in rooming houses in certain circumstances

- (1) Section 559(2)(b) of the Act operates as if "has, by act or omission, endangered" were omitted and "by act or omission endangers" were substituted.

(2) Section 559 of the Act operates as if after subsection (3) there were inserted—

"(3A) The Tribunal must not specify a date under subsection (3) on which the residency right ends that is earlier than any of the following days—

- (a) if the Tribunal is satisfied of a matter referred to in subsection (2)(a), (b), (d) or (f), the day on which the Tribunal makes the order; or
- (b) if the Tribunal is satisfied of a matter referred to in subsection (2)(e) or (g), the day that is 2 days from the day on which the Tribunal makes the order; or
- (c) if the Tribunal is satisfied of the matter referred to in subsection (2)(c), the day that is 14 days from the day on which the Tribunal makes the order; or
- (d) if the Tribunal is satisfied of the matter referred to in subsection (2)(h), the day that is 28 days from the day on which the Tribunal makes the order; or
- (e) if the Tribunal is satisfied of the matter referred to in subsection (2)(k), the day that is 30 days from the day on which the Tribunal makes the order; or
- (f) if the Tribunal is satisfied of a matter referred to in subsection (2)(i) or (j), the day that is 60 days from the day on which the Tribunal makes the order."

46 When can a rooming house owner or mortgagee apply for a possession order?

Section 560(2) of the Act operates as if "323" were omitted and "323(a)" were substituted.

47 Tribunal may end residency right in caravan parks in certain circumstances

- (1) Section 569(2) of the Act operates as if the following modifications were made—
- (a) in paragraph (b), "has, by act or omission, endangered" were omitted and "by act or omission endangers" were substituted;
 - (b) after paragraph (i) there were inserted—
 - "(ia) that the caravan park is to be converted to a use other than a caravan park; or".
- (2) Section 569 of the Act operates as if after subsection (3) there were inserted—
- "(3A) The Tribunal must not specify a date under subsection (3) on which the residency right ends that is earlier than any of the following days—
- (a) if the Tribunal is satisfied of a matter referred to in subsection (2)(a), (b), (d) or (f), the day on which the Tribunal makes the order; or
 - (b) if the Tribunal is satisfied of a matter referred to in subsection (2)(e) or (g), the day that is 7 days from the day on which the Tribunal makes the order; or
 - (c) if the Tribunal is satisfied of a matter referred to in subsection (2)(c) or (k), the day that is 14 days from the day on which the Tribunal makes the order; or
 - (d) if the Tribunal is satisfied of the matter referred to in subsection (2)(h), the day that is 28 days from the day on which the Tribunal makes the order; or

- (e) if the Tribunal is satisfied of the matter referred to in subsection (2)(i), the day that is 60 days from the day on which the Tribunal makes the order; or
- (f) if the Tribunal is satisfied of a matter referred to in subsection (2)(ia) or (j), the day that is 6 months from the day on which the Tribunal makes the order."

48 When can a caravan park owner, caravan owner, caravan park mortgagee or caravan mortgagee apply for a possession order?

Section 570(2) of the Act operates as if "324" were omitted and "324(1) or (2)" were substituted.

49 When a site tenant can give notice of intention to vacate—site agreements

- (1) Section 578(1) of the Act operates as if the following modifications were made—
 - (a) "A site tenant must not give a site owner of a Part 4A park a notice of intention to vacate a Part 4A site under Subdivision 3 of Division 3A of Part 6 unless" were omitted and "In addition to giving a notice of intention to vacate in accordance with Subdivision 3 of Division 3A of Part 6, a site tenant may also give a site owner or a mortgagee in respect of a Part 4A park a notice of intention to vacate if" were substituted;
 - (b) paragraphs (a), (b) and (c) were omitted;
 - (c) in paragraph (d), "hardship." were omitted and "hardship; or" were substituted;

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(d) after paragraph (d) there were inserted—

"(e) the site tenant has been given notice of an application to terminate a site agreement made to the Tribunal under section 581(1) by—

(i) the site owner under the site agreement; or

(ii) a mortgagee in respect of the Part 4A park."

(2) Section 578(2) of the Act operates as if "subsection (1)(a) to (d)" were omitted and "subsection (1)" were substituted.

(3) Section 578(3) of the Act operates as if "subsection (1)(a) to (d)" were omitted and "subsection (1)" were substituted.

50 Site tenants not liable for compensation or lease break fees, charges etc

(1) Section 579(1)(b)(i) of the Act operates as if "section 578(1)(a), (b), (c) or (d)" were omitted and "section 317T(1)(b), (c) or (d) or section 578(1)(d) or (e)" were inserted.

(2) Section 579 of the Act operates as if after subsection (1), the following subsection were inserted—

"(1A) Despite any Act or law to the contrary (other than the **Constitution Act 1975** or the Charter of Human Rights and Responsibilities) a site tenant is not liable to compensate a site owner for loss suffered by the site owner as a result of the early termination of a site agreement, or to pay any lease break fee (however described) in relation to the early termination of a site agreement, if an order has been made in respect of the site tenant under section 576

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for a reduction in the term of a fixed term site agreement."

(3) Section 579(2)(b)(i) of the Act operates as if "section 578(1)(a), (b), (c) or (d)" were omitted and "section 317T(1)(b), (c) or (d) or section 578(1)(d) or (e)" were inserted.

(4) Section 579 of the Act operates as if after subsection (2), the following subsection were inserted—

"(3) The Tribunal must not make an order under Part 5 directing a site tenant to pay compensation to a site owner for loss suffered by the site owner as a result of the early termination of a site agreement, including for the loss of rent that would have been payable under the site agreement if it had not been terminated, if an order has been made in respect of the site tenant under section 576 for a reduction in the term of a fixed term site agreement."

51 Terminations—site agreements in Part 4A parks

Section 580(1) of the Act operates as if the following modifications were made—

(a) in paragraph (b)—

(i) in subparagraph (iii), after "entitled to give under" there were inserted "Subdivision 3 of Division 3A of Part 6 or";

(ii) in subparagraph (viii), "provision." were omitted and "provision; or" were substituted;

(b) after paragraph (b) there were inserted—

"(c) the Tribunal makes an order under section 576 to reduce the term of the site agreement and the site tenant

vacates the Part 4A site after the expiration of the period stated in the order."

52 Tribunal may terminate site agreements in Part 4A parks in certain circumstances

- (1) Section 582(2)(b) of the Act operates as if "has, by act or omission, endangered" were omitted and "by act or omission endangers" were substituted.
- (2) Section 582 of the Act operates as if after subsection (3) there were inserted—
 - "(3A) The Tribunal must not specify a date under subsection (3) on which the site agreement terminates that is earlier than any of the following days—
 - (a) if the Tribunal is satisfied of a matter referred to in subsection (2)(a), (b), (d) or (f), the day on which the Tribunal makes the order; or
 - (b) if the Tribunal is satisfied of a matter referred to in subsection (2)(c), (e), (g) or (i), the day that is 14 days from the day on which the Tribunal makes the order; or
 - (c) if the Tribunal is satisfied of the matter referred to in subsection (2)(h), the day that is 28 days from the day on which the Tribunal makes the order; or
 - (d) if the Tribunal is satisfied of the matter referred to in subsection (2)(j), the day that is 365 days from the day on which the Tribunal makes the order."

53 When can a site owner or mortgagee apply for a possession order?

Section 583(2) of the Act operates as if "324A" were omitted and "324A(1)" were substituted.

54 Tribunal may terminate SDA residency agreements in certain circumstances

(1) Section 593(2)(a) of the Act operates as if "has, by act or omission, endangered" were omitted and "by act or omission endangers" were substituted.

(2) Section 593 of the Act operates as if after subsection (3) there were inserted—

"(3A) The Tribunal must not specify a date under subsection (3) on which the SDA residency agreement terminates that is earlier than the day that is 90 days from the day on which the Tribunal makes the order, if the Tribunal is satisfied of a matter referred to in subsection (2)(a) to (j)."

55 When can an SDA provider or mortgagee apply for a possession order?

Section 594(2) of the Act operates as if "498ZZE" were omitted and "498ZZE(1)" were substituted.

Part 4—Transitional matters

56 Applications for possession orders

- (1) An application to VCAT for a possession order under section 322(1) or (2) made before 25 April 2020 is invalid if the landlord gave the tenant the notice to vacate on or after 29 March 2020.
- (2) An application to VCAT for a possession order under section 323(a) made before 25 April 2020 is invalid if the rooming house owner gave the resident the notice to vacate on or after 29 March 2020.
- (3) An application to VCAT for a possession order under section 323A made before 25 April 2020 is invalid if the person gave the resident a notice to vacate on or after 29 March 2020.
- (4) An application to VCAT for a possession order under section 324(1) or (2) made before 25 April 2020 is invalid if the caravan park owner or caravan owner gave the resident a notice to vacate the site or caravan on or after 29 March 2020.
- (5) An application to VCAT for a possession order under section 324A(1) made before 25 April 2020 is invalid if the site owner gave the site tenant a notice to vacate on or after 29 March 2020.
- (6) An application to VCAT for a possession order under section 325(1) made before 25 April 2020 is invalid if the mortgagee of rented premises gave the tenant a notice to vacate on or after 29 March 2020.

- (7) An application to VCAT for a possession order under section 325(2) made before 25 April 2020 is invalid if the rooming house mortgagee gave the resident a notice to vacate on or after 29 March 2020.
- (8) An application to VCAT for a possession order under section 325(3) made before 25 April 2020 is invalid if the caravan park mortgagee or caravan mortgagee gave the resident a notice to vacate on or after 29 March 2020.
- (9) An application to VCAT for a possession order under section 325(4) made before 25 April 2020 is invalid if the Part 4A site mortgagee gave the site tenant a notice to vacate on or after 29 March 2020.
- (10) An application to VCAT for a possession order under section 498ZZE(1) made before 25 April 2020 is invalid if the SDA provider gave the SDA resident a notice to vacate on or after 29 March 2020.
- (11) An application to VCAT for a possession order under section 498ZZF made before 25 April 2020 is invalid if the mortgagee of the SDA enrolled dwelling gave the SDA resident a notice to vacate on or after 29 March 2020.

57 Warrants of possession—rented premises

- (1) A warrant of possession in respect of rented premises cannot be executed if—
 - (a) a possession order for the rented premises was made under Part 7 before 29 March 2020, on an application of the landlord of the rented premises or mortgagee in respect of the rented premises; and
 - (b) the possession order could not have been made under Part 16 had Part 16 been in operation at the time; and

- (c) the landlord or mortgagee obtained the warrant of possession under Part 7 on or after 29 March 2020 but before 25 April 2020; and
 - (d) the warrant of possession has not been executed before the day on which this regulation comes into operation.
- (2) A warrant of possession in respect of rented premises cannot be executed if—
- (a) the landlord of the rented premises or mortgagee in respect of the rented premises made an application for a possession order for the rented premises under Part 7 before 25 April 2020; and
 - (b) a possession order for the rented premises was made under Part 7 on or after 29 March 2020; and
 - (c) the possession order could not have been made under Part 16 had Part 16 been in operation at the time; and
 - (d) the warrant of possession has not been executed before the day on which this regulation comes into operation.
- (3) A landlord of rented premises or mortgagee in respect of rented premises is not entitled to obtain a warrant of possession in respect of rented premises on or after the day on which this regulation comes into operation if—
- (a) the landlord or mortgagee made an application for a possession order for the rented premises under Part 7 before 25 April 2020; and
 - (b) a possession order for the rented premises was made under Part 7 on or after 29 March 2020; and

- (c) the possession order could not have been made under Part 16 had Part 16 been in operation at the time.

Note

This regulation does not affect warrants of possession that were executed before the day on which this regulation came into operation.

58 Warrants of possession—rooming houses

- (1) A warrant of possession in respect of a room in a rooming house cannot be executed if—
 - (a) a possession order for the room was made under Part 7 before 29 March 2020, on the application of the rooming house owner or rooming house mortgagee; and
 - (b) the possession order could not have been made under Part 16 had Part 16 been in operation at the time; and
 - (c) the rooming house owner or rooming house mortgagee obtained the warrant of possession under Part 7 on or after 29 March 2020 but before 25 April 2020; and
 - (d) the warrant of possession has not been executed before the day on which this regulation comes into operation.
- (2) A warrant of possession in respect of a room in a rooming house cannot be executed if—
 - (a) the rooming house owner or rooming house mortgagee made an application for a possession order for the room under Part 7 before 25 April 2020; and
 - (b) a possession order for the room was made under Part 7 on or after 29 March 2020; and

- (c) the possession order could not have been made under Part 16 had Part 16 been in operation at the time; and
 - (d) the warrant of possession has not been executed before the day on which this regulation comes into operation.
- (3) A rooming house owner or rooming house mortgagee is not entitled to obtain a warrant of possession in respect of a room in a rooming house on or after the day on which this regulation comes into operation if—
- (a) the rooming house owner or rooming house mortgagee made an application for a possession order for the room under Part 7 before 25 April 2020; and
 - (b) a possession order for the room was made under Part 7 on or after 29 March 2020; and
 - (c) the possession order could not have been made under Part 16 had Part 16 been in operation at the time.

Note

This regulation does not affect warrants of possession that were executed before the day on which this regulation came into operation.

59 Warrants of possession—caravan parks

- (1) A warrant of possession in respect of a site or caravan cannot be executed if—
- (a) a possession order for the site or caravan was made under Part 7 before 29 March 2020, on the application of the caravan park owner, caravan owner, caravan park mortgagee or caravan mortgagee; and
 - (b) the possession order could not have been made under Part 16 had Part 16 been in operation at the time; and

- (c) the caravan park owner, caravan owner, caravan park mortgagee or caravan mortgagee obtained the warrant of possession under Part 7 on or after 29 March 2020 but before 25 April 2020; and
 - (d) the warrant of possession has not been executed before the day on which this regulation comes into operation.
- (2) A warrant of possession in respect of a site or caravan cannot be executed if—
- (a) the caravan park owner, caravan owner, caravan park mortgagee or caravan mortgagee made an application for a possession order for the site or caravan under Part 7 before 25 April 2020; and
 - (b) a possession order for the site or caravan was made under Part 7 on or after 29 March 2020; and
 - (c) the possession order could not have been made under Part 16 had Part 16 been in operation at the time; and
 - (d) the warrant of possession has not been executed before the day on which this regulation comes into operation.
- (3) A caravan park owner, caravan owner, caravan park mortgagee or caravan mortgagee is not entitled to obtain a warrant of possession in respect of a site or caravan on or after the day on which this regulation comes into operation if—
- (a) the caravan park owner, caravan owner, caravan park mortgagee or caravan mortgagee made an application for a possession order for the site or caravan under Part 7 before 25 April 2020; and

- (b) a possession order for the site or caravan was made under Part 7 on or after 29 March 2020; and
- (c) the possession order could not have been made under Part 16 had Part 16 been in operation at the time.

Note

This regulation does not affect warrants of possession that were executed before the day on which this regulation came into operation.

60 Warrants of possession—Part 4A sites

- (1) A warrant of possession in respect of a Part 4A site cannot be executed if—
 - (a) a possession order for the Part 4A site was made under Part 7 before 29 March 2020, on the application of the site owner or Part 4A site mortgagee; and
 - (b) the possession order could not have been made under Part 16 had Part 16 been in operation at the time; and
 - (c) the site owner or Part 4A site mortgagee obtained the warrant of possession under Part 7 on or after 29 March 2020 but before 25 April 2020; and
 - (d) the warrant of possession has not been executed before the day on which this regulation comes into operation.
- (2) A warrant of possession in respect of a Part 4A site cannot be executed if—
 - (a) the site owner or Part 4A site mortgagee made an application for a possession order for the Part 4A site under Part 7 before 25 April 2020; and

- (b) a possession order for the Part 4A site was made under Part 7 on or after 29 March 2020; and
 - (c) the possession order could not have been made under Part 16 had Part 16 been in operation at the time; and
 - (d) the warrant of possession has not been executed before the day on which this regulation comes into operation.
- (3) A site owner or Part 4A site mortgagee is not entitled to obtain a warrant of possession in respect of a Part 4A site on or after the day on which this regulation comes into operation if—
- (a) the site owner or Part 4A site mortgagee made an application for a possession order for the Part 4A site under Part 7 before 25 April 2020; and
 - (b) a possession order for the Part 4A site was made under Part 7 on or after 29 March 2020; and
 - (c) the possession order could not have been made under Part 16 had Part 16 been in operation at the time.

Note

This regulation does not affect warrants of possession that were executed before the day on which this regulation came into operation.

61 Warrants of possession—SDA enrolled dwellings

- (1) A warrant of possession in respect of an SDA enrolled dwelling cannot be executed if—
 - (a) a possession order requiring an SDA resident to vacate the SDA enrolled dwelling was made under Division 11 of Part 12A before 29 March 2020, on the application of the

- SDA provider or mortgagee of the SDA enrolled dwelling; and
- (b) the possession order could not have been made under Part 16 had Part 16 been in operation at the time; and
 - (c) the SDA provider or mortgagee of the SDA enrolled dwelling obtained the warrant of possession under Division 11 of Part 12A on or after 29 March 2020 but before 25 April 2020; and
 - (d) the warrant of possession has not been executed before the day on which this regulation comes into operation.
- (2) A warrant of possession in respect of an SDA enrolled dwelling cannot be executed if—
- (a) the SDA provider or mortgagee of the SDA enrolled dwelling made an application for a possession order under Division 11 of Part 12A before 25 April 2020; and
 - (b) a possession order requiring an SDA resident to vacate the SDA enrolled dwelling was made under Division 11 of Part 12A on or after 29 March 2020; and
 - (c) the possession order could not have been made under Part 16 had Part 16 been in operation at the time; and
 - (d) the warrant of possession has not been executed before the day on which this regulation comes into operation.
- (3) A SDA provider or a mortgagee of an SDA enrolled dwelling is not entitled to obtain a warrant of possession in respect of the SDA enrolled dwelling on or after the day on which this regulation comes into operation if—

- (a) the SDA provider or mortgagee of the SDA enrolled dwelling made an application for a possession order under Division 11 of Part 12A before 25 April 2020; and
- (b) a possession order requiring an SDA resident to vacate the SDA enrolled dwelling was made under Division 11 of Part 12A on or after 29 March 2020; and
- (c) the possession order could not have been made under Part 16 had Part 16 been in operation at the time.

Note

This regulation does not affect warrants of possession that were executed before the day on which this regulation came into operation.

Part 5—Expiry of Regulations

62 Expiry of these Regulations

These Regulations expire on 26 September 2020.
