



New South Wales

Residential Tenancies (COVID-19 Pandemic Emergency Response) Amendment Regulation 2021

under the

Residential Tenancies Act 2010

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Residential Tenancies Act 2010*.

KEVIN ANDERSON, MP
Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to exempt tenants who are financially impacted by the COVID-19 pandemic from the operation of provisions of the *Residential Tenancies Act 2010* or the regulations made under that Act that would result in the termination of residential tenancy agreements or the recovery of possession of premises on the grounds of non-payment of rent or charges if the tenants continue to pay at least 25% of the rent payable under the agreement. The exemption will end at the end of 11 September 2021.

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1 Name of Regulation

This Regulation is the *Residential Tenancies (COVID-19 Pandemic Emergency Response) Amendment Regulation 2021*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Residential Tenancies Regulation 2019

Part 6A

Omit Part 6A. Insert instead—

Part 6A Exemptions—response to COVID-19 pandemic

41A Definitions

In this Part—

household means any tenants or other persons living together in the same residential premises.

impacted tenant means a tenant who is a member of a household impacted by the COVID-19 pandemic.

landlord does not include a landlord who is a social housing provider.

moratorium period means the period—

- (a) starting on the commencement of this Regulation, and
- (b) ending at the end of 11 September 2021.

rent-paying member of a household means any member of the household who regularly contributes towards the rent payable under a residential tenancy agreement for the residential premises in which the household resides.

residential tenancy agreement does not include a social housing tenancy agreement.

tenant does not include a tenant under a social housing tenancy agreement.

termination notice has the same meaning as in the Act, section 80.

termination order has the same meaning as in the Act, section 80.

41B When a household is impacted by COVID-19 pandemic

For the purposes of this Part, a household is impacted by the COVID-19 pandemic if—

- (a) any 1 or more rent-paying members of the household have—
 - (i) lost employment or income as a result of the impact of the COVID-19 pandemic, or
 - (ii) had a reduction in work hours or income as a result of the impact of the COVID-19 pandemic, or
 - (iii) had to stop working, or materially reduce the member's work hours, because of—
 - (A) the member's illness with COVID-19, or
 - (B) another member of the household's illness with COVID-19, or
 - (C) the member's carer responsibilities for a family member ill with COVID-19, and
- (b) as a result of any of the matters stated in paragraph (a), the weekly household income for the household has been reduced by at least 25% compared to the average of the weekly household income for the 4 weeks immediately preceding 26 June 2021.

41C Exemption relating to termination of residential tenancy agreements or recovery of possession for non-payment of rent or charges

- (1) This clause applies in relation to a tenant if—
 - (a) the tenant is an impacted tenant, and
 - (b) the tenant gives the landlord notice that the tenant is an impacted tenant, and
 - (c) the tenant continues to pay the landlord at least 25% of the rent payable under the residential tenancy agreement.
- (2) For the purposes of the Act, section 12, the tenant is, during the moratorium period, exempt from the operation of any provision of the Act or regulations that would result in the termination of the residential tenancy agreement or the recovery of possession of the premises from the tenant as a result of—
 - (a) a termination notice given by the landlord under the Act, section 87 on the ground specified in the Act, section 88, or
 - (b) an application by a landlord for a termination order under the Act, section 83(2) in relation to a termination notice given by the landlord on the ground specified in the Act, section 88, or
 - (c) an application by a landlord for a termination order on the ground specified in the Act, section 88 without the landlord having given the tenant a termination notice.

41D Repeal of Part

This Part is repealed on 30 September 2021.