



New South Wales

Residential Tenancies Amendment (Social Housing) Bill 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Residential Tenancies Act 1987* (***the Principal Act***) in connection with social housing tenancy agreements as follows:
 - (i) to enable terms of a residential tenancy agreement that are prescribed by the regulations made under the Principal Act to extend to social housing tenancies in existence before the terms are prescribed,
 - (ii) to enable a landlord under a social housing tenancy agreement, the fixed term of which has ended, to declare that the agreement is subject to a further fixed term from a date specified in a notice given to the tenant,
 - (iii) to enable a landlord under a social housing tenancy agreement to require the tenant to pay charges for water usage to the landlord,
 - (iv) to make provision for the payment of debts by social housing tenants,
 - (v) to enable a social housing tenant whose rent rebate has been cancelled to apply to the Consumer, Trader and Tenancy Tribunal (***the Tribunal***) for an order declaring that the tenant's rent is excessive,

- (vi) to enable a social housing tenancy agreement to be terminated if the landlord determines that the tenant is no longer eligible to reside in such premises,
 - (vii) to enable a social housing tenancy agreement to be terminated after the landlord offers the tenant a new tenancy agreement in respect of alternative social housing premises,
 - (viii) to remove an exemption applying to housing let by the New South Wales Land and Housing Corporation or the Aboriginal Housing Office from a requirement for advance notice to be given of rent increases,
 - (ix) to enable rent payable under a fixed term social housing tenancy agreement to be increased during the currency of the fixed term, and
- (b) to amend the *Aboriginal Housing Act 1998* and the *Housing Act 2001* to insert objects into those Acts aimed at ensuring the public housing system is focused on housing people who are most in need and that the available supply of housing is shared equitably among those people, and
- (c) to exempt social housing tenancy agreements from a requirement under the *Real Property Act 1900* for leases of more than 3 years duration to be executed in the approved form under that Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act (except for Schedule 2.4) on a day or days to be appointed by proclamation. It provides for the commencement of Schedule 2.4 on the date of assent to the proposed Act. (See explanation of effect of Schedule 2.4 below.)

Clause 3 is a formal provision that gives effect to the amendments to the *Residential Tenancies Act 1987* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the Acts set out in Schedule 2.

Schedule 1 Amendment of Residential Tenancies Act 1987

Schedule 1 [1] inserts a new definition of *social housing tenancy agreement* into the Principal Act for the purposes of the proposed amendments to the Principal Act.

Schedule 1 [2] inserts proposed section 9A into the Principal Act, which enables terms of a residential tenancy agreement that are prescribed by the regulations made under the Principal Act to extend to social housing tenancies in existence before the terms are prescribed.

Schedule 1 [3] inserts proposed section 14A into the Principal Act, which enables a landlord under a social housing tenancy agreement, the fixed term of which has

ended, to declare that the agreement is subject to a further fixed term from a date specified in a notice given to the tenant. The proposed section replaces an uncommenced provision in the *Residential Tenancies Amendment (Public Housing) Act 2004*, which is in almost identical terms to the proposed section, but applies only to public housing tenancy agreements. (See **Schedule 2.4**.)

Schedule 1 [5] inserts proposed sections 19A and 19B into the Principal Act.

Proposed section 19A enables a landlord under a social housing tenancy agreement to require the tenant to pay to the landlord charges for water usage determined in accordance with guidelines approved by the Minister. Under proposed section 19A (2) those charges may be payable in advance, and may be determined by reference to actual or estimated usage, the income of the tenant or the rent payable for the premises occupied by the tenant.

Proposed section 19B makes provision for the payment of a debt incurred by a tenant to a landlord in connection with an existing social housing tenancy agreement or a prior tenancy agreement.

Schedule 1 [4] is consequential on the insertion of proposed section 19A.

Schedule 1 [7] inserts proposed section 47A into the Principal Act, which enables a tenant under a social housing tenancy agreement whose rent rebate has been cancelled to apply to the Tribunal for an order declaring that the tenant's rent is excessive. The amendments made by **Schedule 1 [6]** and **[8]–[11]** are consequential on this amendment.

Schedule 1 [12] inserts a new Division 2A into Part 5 of the Principal Act, which contains provisions relating to the termination of social housing tenancy agreements on two new grounds. The two new grounds, set out in proposed sections 63B and 63F, are as follows:

- (a) that the landlord has determined, as a result of an eligibility assessment, that the tenant is not eligible to reside in the class of social housing premises to which the agreement applies,
- (b) that the landlord has offered to enter into a new tenancy agreement with the tenant in respect of alternative premises to those currently occupied by the tenant.

Proposed sections 63C, 63D and 63E make further provision in relation to giving notice of termination on the ground that the landlord has determined that the tenant is not eligible to reside in the class of social housing premises to which the agreement applies. Proposed section 63C provides for the assessment of the eligibility of the tenant to reside in the class of social housing premises concerned. Proposed section 63D provides for the tenant to be given reasons for the decision to give the notice of termination and a right to a review of the decision before the landlord gives that notice. Proposed section 63E sets out various time periods that must be observed in giving the notice of termination.

Proposed sections 63G and 63H make further provision relating to giving notice of termination on the ground that the landlord has offered to enter into a new tenancy agreement with the tenant in respect of alternative premises to those currently occupied by the tenant. Proposed section 63G provides for the tenant to be given reasons for the decision to give the notice of termination and a right to a review of the decision before the landlord gives that notice. Proposed section 63H sets out various time periods that must be observed in giving the notice of termination. It also provides that the notice of termination is ineffective unless the alternative premises are available for occupation no later than 7 days before the day specified in the notice as the day on which the premises the subject of the existing agreement are to be vacated.

Schedule 1 [13] is a consequential amendment.

Schedule 1 [14] recasts the existing section 64 (2) of the Principal Act.

Schedule 1 [15], [18] and [23] make consequential amendments to sections 64 and 66 in relation to the termination of social housing tenancy agreements by the Tribunal following the giving of notices on the two new grounds referred to in proposed sections 63B and 63F. (See **Schedule 1 [12]**.)

Schedule 1 [16] and [17] are consequential amendments.

Schedule 1 [19]–[22] make amendments by way of statute law revision.

Schedule 1 [24] amends section 132 (1) of the Principal Act to remove an exemption applying to housing let by the New South Wales Land and Housing Corporation and the Aboriginal Housing Office from a requirement under section 45 of that Act for 60 days advance notice to be given of rent increases.

Section 45 (4) of the Principal Act currently provides that rent payable under a fixed term residential tenancy agreement is not to be increased during the currency of the fixed term unless the amount of the increase, or a method for calculating that amount, is set out in the agreement. **Schedule 1 [25]** amends section 132 of the Principal Act to exempt premises let under social housing tenancy agreements from this restriction.

Schedule 1 [26] amends clause 1 of Schedule 4 to the Principal Act to enable the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [27] inserts a new Part in Schedule 4 to the Principal Act. It provides for the extension of proposed sections of the proposed Act to social housing tenancy agreements entered into before its commencement.

Schedule 2 Amendment of other Acts

Schedule 2.1 amends section 3 of the *Aboriginal Housing Act 1998* to provide that an object of that Act is to ensure that the available supply of housing under that Act is shared equitably among Aboriginal people and Torres Strait Islanders who are most in need.

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Schedule 2.2 amends section 5 of the *Housing Act 2001* to provide for the inclusion of two further objects of that Act, namely:

- (a) to ensure that the public housing system focuses on housing people who are most in need, and
- (b) to ensure that the available supply of public housing is shared equitably among people who are most in need.

Schedule 2.3 amends section 53 of the *Real Property Act 1900* to remove any requirement for a lease of land that is registered under that Act and the subject of a social housing tenancy agreement to be executed in the approved form under that Act.

Schedule 2.4 omits an uncommenced provision of the *Residential Tenancies Amendment (Public Housing) Act 2004* as a consequence of its replacement by the amendment set out in **Schedule 1 [3]**.

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Explanatory note

First print



New South Wales

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Residential Tenancies Amendment (Social Housing) Bill 2005

No. , 2005

A Bill for

An Act to amend the *Residential Tenancies Act 1987* to make further provision with respect to social housing tenancies; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Residential Tenancies Amendment (Social Housing) Act 2005</i> .	3 4
2 Commencement	5
(1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).	6 7
(2) Schedule 2.4 commences on the date of assent to this Act.	8
3 Amendment of Residential Tenancies Act 1987 No 26	9
The <i>Residential Tenancies Act 1987</i> is amended as set out in Schedule 1.	10 11
4 Amendment of other Acts	12
The Acts specified in Schedule 2 are amended as set out in that Schedule.	13 14

Schedule 1	Amendment of Residential Tenancies Act 1987	1
		2
	(Section 3)	3
[1] Section 3 Definitions		4
	Insert in alphabetical order in section 3 (1):	5
	<i>social housing tenancy agreement</i> means a residential tenancy agreement in respect of social housing premises, but does not include any such agreement that is of a class prescribed by the regulations as not being within this definition.	6 7 8 9
[2] Section 9A		10
	Insert after section 9:	11
	9A Extension of terms in standard form to existing social housing tenancy agreements	12 13
	A prescribed standard form of residential tenancy agreement may contain terms expressed to extend to social housing tenancy agreements (or a class of social housing tenancy agreements) entered into before the regulations prescribing those terms took effect.	14 15 16 17 18
[3] Section 14A		19
	Insert after section 14:	20
	14A Special provisions relating to social housing tenancies	21
	(1) A landlord under a social housing tenancy agreement, the fixed term of which has ended, may, by notice in writing given to the tenant, declare that the agreement is subject to a further fixed term specified in the notice from such date as is specified in the notice.	22 23 24 25 26
	(2) At the end of a fixed term declared under subsection (1) in relation to an agreement:	27 28
	(a) any term of the agreement that provides for the continuation of the agreement applies, or	29 30
	(b) if the agreement contains no such term—section 14 applies.	31 32
	(3) A declaration may be made under subsection (1) in relation to an agreement on more than one occasion.	33 34
	(4) This section has effect despite any other provision of this Act.	35

[4] Section 19 Landlord to pay council and water rates, land tax etc	1
Insert at the end of section 19:	2
(2) This section is subject to section 19A.	3
[5] Sections 19A and 19B	4
Insert after section 19:	5
19A Social housing tenants to pay water charges	6
(1) It is a term of every social housing tenancy agreement that the tenant must pay to the landlord any charges, determined in accordance with guidelines approved by the Minister, in respect of water usage by the tenant.	7 8 9 10
(2) Without limiting subsection (1), the guidelines may:	11
(a) provide for the determination of water usage charges by reference to any of the following:	12 13
(i) actual usage or estimated usage,	14
(ii) the income of the tenant,	15
(iii) the rent payable for the premises to which the agreement relates (whether with or without rent rebate), and	16 17 18
(b) require water usage charges to be paid by the tenant in advance of actual usage.	19 20
(3) The guidelines are to be made publicly available.	21
(4) A copy of the guidelines is to be provided, on request, to any tenant under a social housing tenancy agreement free of charge and to other persons either free of charge or on payment of reasonable copying charges.	22 23 24 25
(5) The guidelines may be amended or replaced from time to time.	26
19B Payment of debts by social housing tenants	27
It is a term of a social housing tenancy agreement that a tenant under the agreement who incurs or has incurred a debt to the landlord in connection with that agreement or a prior social housing tenancy agreement:	28 29 30 31
(a) is to enter into arrangements with the landlord, in accordance with any reasonable request of the landlord, for the payment of that debt, and	32 33 34

(b)	is to comply with those arrangements (including such arrangements entered into during the term of a prior social housing tenancy agreement) and with any variations to those arrangements that may be agreed to by the landlord and tenant.	1 2 3 4 5
[6]	Section 44 Application of Division	6
	Insert at the end of section 44 (2):	7
	Note. However, a social housing tenant may apply to the Tribunal for an order that rent is excessive under section 47A if the rent rebate of the tenant is cancelled.	8 9 10
[7]	Section 47A	11
	Insert after section 47:	12
47A	Social housing tenant may apply for an order that rent is excessive	13
(1)	A tenant under a social housing tenancy agreement whose rent rebate is cancelled may apply to the Tribunal for an order declaring that the rent payable under the agreement (or a proposed social housing tenancy agreement for premises already occupied by the tenant) is excessive.	14 15 16 17 18
(2)	The tenant may do so not later than 30 days after the cancellation of the rent rebate takes effect.	19 20
[8]	Section 49 Orders as to excessive rent increases or rents	21
	Omit “or 47” from section 49 (1). Insert instead “, 47 or 47A”.	22
[9]	Section 49 (2)	23
	Insert “, on application by a tenant under section 46,” after “determines”.	24
[10]	Section 49 (3)	25
	Insert “, on application by a tenant under section 47,” after “determines”.	26
[11]	Section 49 (3A)	27
	Insert after section 49 (3):	28
(3A)	If the Tribunal determines, on application by a tenant under section 47A, that a rent is excessive following the cancellation of the rent rebate of the tenant, the Tribunal may order that from a day specified by the Tribunal, not being earlier than the date of that cancellation, the rent is not to exceed an amount specified by the Tribunal and may make such other orders as it thinks fit.	29 30 31 32 33 34

[12] Part 5, Division 2A	1
Insert after Division 2:	2
Division 2A Special provisions relating to social housing tenancy agreements	3 4
63A Operation of Division	5
This Division does not limit the operation of the other provisions of this Part in relation to social housing tenancy agreements.	6 7
63B Notice of termination may be given on ground that tenant not eligible for social housing	8 9
A landlord under a social housing tenancy agreement may give notice of termination of the agreement to the tenant on the ground that the landlord has determined, as the result of an assessment carried out under section 63C, that the tenant is not eligible to reside in the class of social housing premises to which the agreement applies.	10 11 12 13 14 15
63C Eligibility assessments of social housing tenants	16
(1) In carrying out an assessment of the eligibility of a tenant under a social housing tenancy agreement to reside in the class of social housing premises concerned, the landlord is to apply the criteria approved by the Minister for the purposes of this section.	17 18 19 20
(2) Any such criteria may differ from the criteria used to assess a person's eligibility to commence residing in that class of social housing premises.	21 22 23
(3) The criteria used for the purposes of an assessment under this section must not relate to any of the following:	24 25
(a) whether or not the tenant has complied with any term of the agreement,	26 27
(b) whether or not the tenant has entered into, or complied with any term of, an acceptable behaviour agreement.	28 29
(4) The landlord may request the tenant to provide any information that is reasonably required to enable the landlord to determine whether the tenant meets the criteria for the purposes of an assessment under this section.	30 31 32 33
(5) If the tenant refuses to provide any such information to the landlord, the landlord may determine, without further inquiry, that the tenant is not eligible to reside in the class of social housing premises concerned.	34 35 36 37

(6)	In the case of a tenancy agreement that creates a tenancy for a fixed term, an assessment under this section may not be carried out prior to 6 months before the end of the term.	1 2 3
(7)	The criteria referred to in this section are to be made publicly available.	4 5
(8)	A copy of the criteria is to be provided, on request, to any tenant under a social housing tenancy agreement free of charge and to other persons either free of charge or on payment of reasonable copying charges.	6 7 8 9
63D	Review of decision to give notice on ground that tenant not eligible for social housing	10 11
(1)	Notice to be given before notice of termination	12
	Before giving notice of termination of a social housing tenancy agreement to the tenant on the ground referred to in section 63B, the landlord is to advise the tenant of the decision to do so by notice in writing.	13 14 15 16
(2)	Right to review	17
	A notice given under this section must:	18
(a)	contain particulars of the reasons why the tenant is no longer considered eligible to reside in the premises, and	19 20
(b)	state that the tenant may apply to the landlord for a review of the decision within 30 days after the notice is given and give particulars of how such an application may be made, and	21 22 23 24
(c)	state that the tenant is entitled to make representations to the landlord in writing, or (if the tenant wishes) orally, as to why the agreement should not be terminated.	25 26 27
(3)	The tenant may, in accordance with the notice:	28
(a)	apply to the landlord for a review of the decision, and	29
(b)	make representations in writing, or (if the tenant wishes) orally, to the landlord as to why the agreement should not be terminated.	30 31 32
(4)	If the tenant applies to the landlord for a review under this section, the landlord is to review the decision, in accordance with any procedures approved by the Minister for the purposes of this section, and consider any representations made by the tenant.	33 34 35 36

(5)	Decision of landlord following review	1
	After the review is carried out, the landlord may:	2
	(a) give notice of termination of the agreement on the ground referred to in section 63B, or	3 4
	(b) advise the tenant, by notice in writing, that the landlord has decided not to give notice of termination of the agreement.	5 6
(6)	Procedural fairness taken to have been observed	7
	If the landlord complies with this section, the landlord is taken to have complied with any rules of procedural fairness required to be observed by the landlord before giving notice of termination to the tenant on the ground referred to in section 63B.	8 9 10 11
63E	Time periods to be observed in giving notice of termination on ground that tenant not eligible for social housing	12 13
	(1) A notice of termination of a social housing tenancy agreement is not to be given to the tenant on the ground referred to in section 63B before the later of the following:	14 15 16
	(a) the end of the 30-day period within which the tenant may apply for a review under section 63D of the decision to give the notice of termination,	17 18 19
	(b) the end of any such review carried out in respect of that decision.	20 21
	(2) The notice of termination is not to specify as the day on which vacant possession of the premises is to be delivered up to the landlord a day that is earlier than:	22 23 24
	(a) in the case of a tenancy agreement that creates a tenancy for a fixed term—60 days after the day on which the notice is given or the day the term of the agreement ends, whichever is the later, or	25 26 27 28
	(b) in any other case—60 days after the day on which the notice of termination is given.	29 30
63F	Notice of termination may be given on ground that tenant offered alternative social housing premises	31 32
	A landlord under a social housing tenancy agreement may give notice of termination of the agreement (the <i>existing agreement</i>) to the tenant on the ground that the landlord has offered to enter into a new social housing tenancy agreement with the tenant in respect of alternative premises to the premises the subject of the existing agreement.	33 34 35 36 37 38

63G	Review of decision to give notice on ground that tenant offered alternative social housing premises	1
		2
(1)	Notice to be given before notice of termination	3
	Before giving notice of termination of an existing agreement to the tenant on the ground referred to in section 63F, the landlord is to advise the tenant of the decision to do so by notice in writing.	4
		5
		6
(2)	The landlord may make the offer to enter into a new social housing tenancy agreement and give notice of the decision at the same time.	7
		8
		9
(3)	Right to review	10
	A notice given under this section must:	11
(a)	contain particulars of the reasons why the landlord wishes the tenant to move to alternative premises, and	12
		13
(b)	state that the tenant may apply to the landlord for a review of the decision within 14 days after the notice is given and give particulars of how such an application may be made, and	14
		15
		16
		17
(c)	state that the tenant is entitled to make representations to the landlord in writing, or (if the tenant wishes) orally, as to why the existing agreement should not be terminated.	18
		19
		20
(4)	The tenant may, in accordance with the notice:	21
(a)	apply to the landlord for a review of the decision, and	22
(b)	make representations in writing, or (if the tenant wishes) orally, to the landlord as to why the existing agreement should not be terminated.	23
		24
		25
(5)	If the tenant applies to the landlord for a review under this section, the landlord is to review the decision, in accordance with any procedures approved by the Minister for the purposes of this section, and consider any representations made by the tenant.	26
		27
		28
		29
(6)	Decision of landlord following review	30
	After the review is carried out, the landlord may:	31
(a)	give notice of termination of the existing agreement on the ground referred to in section 63F, or	32
		33
(b)	advise the tenant, by notice in writing, that the landlord has decided not to give notice of termination of the existing agreement, or	34
		35
		36

(c)	make a new offer to the tenant to enter into a new social housing tenancy agreement in respect of alternative premises that differ from those the subject of the offer in respect of which the review was carried out.	1 2 3 4
(7)	Right to second review if new offer made	5
	If a new offer is made under subsection (6) (c), subsections (1)–(6) apply in relation to giving notice of termination in connection with the new offer. Accordingly, the landlord is required to give a second notice, and the tenant is entitled to a second review, under this section. However, the landlord is not required to give any further notice, and the tenant is not entitled to any further review, under this section in relation to giving notice of termination following a second review.	6 7 8 9 10 11 12 13
(8)	Procedural fairness taken to have been observed	14
	If the landlord complies with this section, the landlord is taken to have complied with any rules of procedural fairness required to be observed by the landlord before giving notice of termination to the tenant on the ground referred to in section 63F.	15 16 17 18
63H	Time periods to be observed in giving notice of termination on ground that tenant offered alternative social housing premises	19 20
(1)	A notice of termination of a social housing tenancy agreement is not to be given to the tenant on the ground referred to in section 63F before the later of the following:	21 22 23
(a)	the end of the 14-day period within which the tenant may apply for any review under section 63G of the decision to give the notice of termination,	24 25 26
(b)	the end of any such review carried out in respect of that decision.	27 28
(2)	However, if the landlord and tenant enter into a new social housing tenancy agreement before the end of that 14-day period or any such review, the notice of termination may be given on or after the day on which they enter into the new agreement.	29 30 31 32
(3)	The notice of termination is not to specify a day earlier than 30 days after the day on which the notice is given as the day on which vacant possession of the premises the subject of the existing agreement is to be delivered up to the landlord, unless it specifies an earlier day to which the tenant has consented.	33 34 35 36 37

(4)	The notice of termination is ineffective unless the alternative premises in connection with which the notice of termination is given are available for occupation no later than 7 days before the date specified in the notice as the day on which vacant possession is to be delivered up to the landlord.	1 2 3 4 5
(5)	In the case of a social housing tenancy agreement that creates a tenancy for a fixed term—the notice of termination is not ineffective merely because a day earlier than the day on which the term ends is specified as the day on which vacant possession is to be delivered up to the landlord.	6 7 8 9 10
[13]	New section 63I Notice of termination of public housing tenancy agreement—acceptable behaviour agreements	11 12
	Renumber existing section 57A as section 63I and transfer to Division 2A of Part 5 (as inserted by item [12]).	13 14
[14]	Section 64 Application to Tribunal by landlord for termination and order for possession	15 16
	Omit section 64 (2). Insert instead:	17
(2)	The Tribunal, on application by a landlord under this section, is to make an order terminating the agreement if it is satisfied:	18 19
(a)	in the case of a notice given by a landlord on a ground referred to in section 56 or 61—that the landlord has established the ground, or	20 21 22
(b)	in the case of a notice given by a landlord on the ground referred to in section 57, relating to a breach of the agreement:	23 24 25
(i)	that the landlord has established the ground, and	26
(ii)	that the breach, in the circumstances of the case, is such as to justify termination of the agreement, or	27 28
(c)	in any other case (except in the case of a notice given by a landlord on a ground referred to in section 63B, 63F or 63I):	29 30 31
(i)	that the tenant has seriously or persistently breached the agreement, or	32 33
(ii)	that, having considered the circumstances of the case, it is appropriate to do so.	34 35

[15] Section 64 (2A), (2B) and (2C)	1
Insert after section 64 (2):	2
(2A) The Tribunal, on application under this section by a landlord under a social housing tenancy agreement, is to make an order terminating the agreement (<i>the existing agreement</i>) if it is satisfied:	3
(a) in the case of a notice given on a ground referred to in section 63B—that the landlord has determined, as the result of an assessment carried out under section 63C, that the tenant is not eligible to reside in the class of social housing premises to which the agreement applies, or	4
(b) in the case of a notice given on a ground referred to in section 63F:	5
(i) that the landlord has offered to enter into a new social housing tenancy agreement with the tenant in respect of alternative premises to the premises the subject of the existing agreement, and	6
(ii) that alternative premises (which may or may not be the same as the alternative premises in connection with which the notice was given) are available for occupation by the tenant.	7
(2B) In deciding whether or not to make an order under subsection (2A) (a), the Tribunal is not to review the eligibility of the tenant to reside in the class of social housing premises to which the agreement applies.	8
(2C) In deciding whether or not to make an order under subsection (2A) (b), the Tribunal is not to review the landlord’s reasons for making the offer concerned.	9
[16] New section 64 (2D) (inserted as section 64 (2A) by Residential Tenancies Amendment (Public Housing) Act 2004)	10
Renumber existing section 64 (2A) as section 64 (2D).	11
[17] Section 64 (2D) (as renumbered by item [16])	12
Omit “57A” wherever occurring. Insert instead “63I”.	13

[18] Section 64 (3A)	1
Insert after section 64 (3):	2
(3A) The Tribunal is not to make an order terminating a social housing tenancy agreement on the ground referred to in section 63B or 63F unless it is satisfied that:	3
	4
	5
(a) except as provided by section 66, any notice required to be given under section 63D or 63G before giving notice of termination was given and that it was given in accordance with that section, and	6
	7
	8
	9
(b) any review required to be carried out under section 63D or 63G was carried out and that it was carried out in accordance with that section.	10
	11
	12
[19] Section 64 (4)	13
Insert “(b) or (c)” after “subsection (2)”.	14
[20] Section 64 (4)	15
Insert “under that provision” after “premises”.	16
[21] Section 64 (4) (b)	17
Omit “the” where firstly occurring. Insert instead “any”.	18
[22] Section 64 (6)	19
Omit “the breach of the agreement”.	20
Insert instead “, in the case of a breach of the agreement, the breach”.	21
[23] Section 66 Tribunal may waive defect in notices	22
Insert “or any notice required to be given under section 63D or 63G” after “the agreement”.	23
	24
[24] Section 132 Exemptions	25
Omit “, 41 and 45 (2)” from section 132 (1). Insert instead “and 41”.	26
[25] Section 132 (4)	27
Insert after section 132 (3):	28
(4) Section 45 (4) does not apply to premises let under a social housing tenancy agreement.	29
	30

[26] Schedule 4 Savings, transitional and other provisions	1
Insert at the end of clause 1 (1):	2
<i>Residential Tenancies Amendment (Social Housing) Act 2005</i>	3
[27] Schedule 4	4
Insert at the end of the Schedule (with appropriate Part and clause numbers):	5
Part Provisions consequent on the enactment of Residential Tenancies Amendment (Social Housing) Act 2005	6
	7
	8
Definition of “amending Act”	9
In this Part:	10
<i>amending Act</i> means the <i>Residential Tenancies Amendment (Social Housing) Act 2005</i> .	11
	12
Declaration of further fixed term in relation to existing social housing tenancy agreements	13
	14
Section 14A, as inserted by the amending Act, extends to a social housing tenancy agreement entered into before the section commences.	15
	16
	17
Existing social housing tenants to pay water charges	18
Section 19A, as inserted by the amending Act, extends to a social housing tenancy agreement entered into before the section commences.	19
	20
	21
Payment of debts by existing social housing tenants	22
Section 19B, as inserted by the amending Act, extends to a social housing tenancy agreement entered into before the section commences.	23
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Application of special provisions relating to termination of social housing tenancy agreements	26
	27
(1) Division 2A of Part 5, as inserted by the amending Act, extends to a social housing tenancy agreement entered into before the Division commences.	28
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(2) Despite subclause (1), notice of termination of a social housing tenancy agreement on a ground referred to in section 63B, as inserted by the amending Act, may not be given to a person who has been a tenant of social housing premises (including more than	31
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one such premises or class of premises) for a continuous period starting before 1 July 2005.	1
	2
(3) The amendments made to section 64 by the amending Act in relation to social housing tenancy agreements extend to any such agreements entered into before the amendments commence.	3
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Application of amendments relating to rent increases	6
The amendments made to section 132 by the amending Act extend to an increase of rent payable under a social housing tenancy agreement entered into before the amendments commence.	7
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Schedule 2	Amendment of other Acts	1
	(Section 4)	2
2.1	Aboriginal Housing Act 1998 No 47	3
	Section 3 Objects of Act	4
	Insert after section 3 (d):	5
	(d1) to ensure that the available supply of housing under this Act is shared equitably among Aboriginal people and Torres Strait Islanders who are most in need,	6 7 8
2.2	Housing Act 2001 No 52	9
	Section 5 Objects of Act	10
	Insert after section 5 (1) (e):	11
	(f) to ensure that the public housing system focuses on housing people who are most in need,	12 13
	(f1) to ensure that the available supply of public housing is shared equitably among people who are most in need,	14 15
2.3	Real Property Act 1900 No 25	16
	Section 53 Land under the provisions of this Act—how leased	17
	Insert after section 53 (4):	18
	(5) Subsection (1) does not apply in relation to land the subject of a social housing tenancy agreement within the meaning of the <i>Residential Tenancies Act 1987</i> .	19 20 21
2.4	Residential Tenancies Amendment (Public Housing) Act 2004 No 66	22 23
	Schedule 1 Amendments	24
	Omit item [2] of Schedule 1.	25