

Better Regulation Legislation Amendment Act 2019 No 23

[2019-23]



New South Wales

Status Information

Currency of version

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Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

Notes—

- **Note**

Amending Acts and amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.

Authorisation

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Better Regulation Legislation Amendment Act 2019 No 23



New South Wales

An Act to amend various Acts and Regulations administered by the Minister for Better Regulation and Innovation; and other related matters.

1 Name of Act

This Act is the *Better Regulation Legislation Amendment Act 2019*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by this section.
- (2) Schedule 1.4, 1.8[3] and [4] and 1.10[1] and [9] commence on a day or days to be appointed by proclamation.
- (3) Schedule 1.8[1] and [2] commence on the commencement of Schedule 2.12 to the *Fair Trading Legislation Amendment (Reform) Act 2018*.

3 Explanatory notes

The matter appearing under the heading “Explanatory note” in Schedule 1 does not form part of this Act.

Schedule 1 Amendments

1.1-1.3

(Repealed)

1.4 Charitable Fundraising Act 1991 No 69

[1] Section 15 Application to nominate registered office

Omit “in New South Wales” wherever occurring.

[2] Section 55 Regulations

Insert after section 55(2)—

- (3) Without limiting subsection (1), the regulations may impose requirements with respect to registered offices (including requirements with respect to the location of registered offices).

Explanatory note

Item [1] of the proposed amendments removes a requirement for the registered office of an applicant for an authority to conduct a fundraising appeal to be an address in New South Wales. Item [2] permits the regulations to impose requirements with respect to registered offices.

1.5-1.7

(Repealed)

1.8 Property, Stock and Business Agents Act 2002 No 66

[1] Section 17 Application to licences of [Licensing and Registration \(Uniform Procedures\) Act 2002](#)

Insert “in respect of a licence—” before “the references to” in section 17(3)(d).

[2] Section 17(3)(d1)

Insert after section 17(3)(d)—

- (d1) section 9 of that Act does not have effect in respect of a certificate of registration, and

[3] Section 20 Conditions—general

Insert at the end of the section—

- (2) A licence or certificate of registration is subject to the condition that the holder must comply with any continuing professional development requirements issued and notified to the holder by the Secretary from time to time.

[4] Section 86 Trust money to be paid into trust account

Insert after section 86(6)—

- (7) A licensee must also comply with any additional requirements relating to trust accounts prescribed by the regulations.

Explanatory note

Item [3] of the proposed amendments makes it a condition of all licences and certificates of registration that the holder complies with continuing professional development requirements determined by the Secretary.

Item [4] enables the regulations under the *Property, Stock and Business Agents Act 2002* to prescribe additional requirements relating to trust accounts in which money received by a licensee (in connection with the licensee's business as a licensee) for or on behalf of any person is to be held until it is paid to the person or disbursed as the person directs.

Items [1] and [2] are consequent on proposed amendments to the *Fair Trading Legislation Amendment (Reform) Act 2018* in this Schedule.

1.9

(Repealed)

1.10 Residential Tenancies Act 2010 No 42

[1] Section 8 Agreements to which Act does not apply

Insert after section 8(1)(ba)—

- (bb) short-term rental accommodation arrangements, within the meaning of section 54A of the *Fair Trading Act 1987*, under which the person given the right to occupy the residential premises to which the arrangement relates does not occupy the premises as the person's principal place of residence,

[2]-[8] (Repealed)

[9] Section 105A

Omit the definition of **competent person**. Insert instead—

competent person means any of the following persons—

- (a) a health practitioner within the meaning of the *Health Practitioner Regulation National Law (NSW)* who is eligible for registration in a health profession under Division 1 or 2 of Part 7 of that Law,
- (b) a person registered as a social worker with the Australian Association of Social Workers,
- (c) an employee of a government agency that provides services relating to child welfare,
- (d) an employee of a non-government agency in receipt of government funding to provide services relating to—
 - (i) domestic violence or sexual assault, or
 - (ii) refuge or emergency accommodation,

- (e) a person approved by the Commissioner of Victims Rights under the *Victims Rights and Support Act 2013* to provide approved counselling services for the purposes of that Act,
- (f) a person prescribed by the regulations.

[10]-[15] (Repealed)

Explanatory note

Item [1] of the proposed amendments provides that the *Residential Tenancies Act 2010* does not apply to short-term rental accommodation arrangements, as defined in the *Fair Trading Act 1987* (as amended by the *Fair Trading Amendment (Short-term Rental Accommodation) Act 2018*), unless the person given the right to occupy the premises under the arrangement is occupying those premises as that person's principal place of residence.

Item [2] provides that the regulations may prescribe circumstances in which a tenant is not liable to pay particular utility charges.

Item [3] provides that the regulations may prescribe circumstances in which a landlord is not liable to pay particular charges.

Item [4] updates a cross-reference as a consequence of the proposed amendments in items [7] and [8].

Item [5] clarifies that a tenant who is the victim of a domestic violence offence, or an exempted co-tenant, is not responsible for damage caused by another tenant during the commission of the domestic violence offence.

Item [6] permits landlords to enter residential premises without consent to carry out, inspect or assess the need for repairs to, or replacement of, a smoke alarm if they have given notice of those activities to the tenant in accordance with the regulations.

Items [7] and [8] relocate definitions as a consequence of amendments in items [10] and [11].

Items [10] and [11] clarify that a tenant may give a termination notice to terminate the tenant's tenancy only if the tenant, or a dependent child of the tenant, is the victim of domestic violence or is the person for whose protection a DVO has been made or an injunction has been granted under the *Family Law Act 1975* of the Commonwealth.

Item [12] clarifies that a competent person may use personal information about a relevant domestic violence offender for the purposes of making a declaration to accompany a domestic violence termination notice.

Item [13] provides that it is an offence for a person to knowingly provide false or misleading information to a competent person for the purposes of the competent person making a declaration to accompany a domestic violence termination notice.

Item [14] extends the requirement under section 105I of the Act that the Minister review the operation of particular provisions, relating to termination of residential tenancy agreements in circumstances of domestic violence, within 3 years of the commencement of those provisions to proposed section 54A.

Item [15] makes a consequential amendment.

1.11, 1.12

(Repealed)