

South Australia

Residential Tenancies (Rooming Houses) Regulations 1999

under the *Residential Tenancies Act 1995*

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Legislative history

1—Short title

These regulations may be cited as the *Residential Tenancies (Rooming Houses) Regulations 1999*.

2—Commencement

These regulations will come into operation on 30 January 2000.

3—Interpretation

In these regulations—

Act means the *Residential Tenancies Act 1995*;

house rules means rules made in writing by a rooming house proprietor purporting to prohibit or regulate certain conduct or behaviour of residents of the rooming house;

rent means an amount payable under a rooming house agreement for accommodation at the rooming house for a period of accommodation;

security means an amount a rooming house resident is required to pay under a rooming house agreement, or an agreement collateral to a rooming house agreement, as security for the performance of obligations under a rooming house agreement;

security bond means a provision of a rooming house agreement or a collateral agreement under which a rooming house resident is required to give security for the performance of obligations under a rooming house agreement.

4—Code of conduct for rooming house proprietors

Pursuant to section 103(1) of the Act, the code of conduct set out in Schedule 1 is prescribed as the code governing the conduct of rooming house proprietors.

5—Implied terms in rooming house agreements

- (1) Pursuant to section 105A of the Act, the provisions set out in Schedule 2 will be taken to be terms of all rooming house agreements.
- (2) A rooming house agreement may modify the provisions set out in Schedule 2 for the benefit of a rooming house resident.

6—Written rooming house agreements

If a rooming house proprietor (or an agent acting for the proprietor) invites or requires a rooming house resident or prospective rooming house resident to sign a written rooming house agreement or a document recording its terms, the rooming house proprietor must ensure that the resident receives a copy of the document when the resident signs it.

7—House rules

- (1) House rules must be in writing.
- (2) A house rule that—
 - (a) conflicts with a provision of the code of conduct governing the conduct of rooming house proprietors; or
 - (b) is harsh or unconscionable; or
 - (c) is made for a purpose other than enhancing the health or safety of persons or the safety of property,

is to that extent void and of no effect.

- (3) A variation of the house rules will take effect in relation to a rooming house resident on a date specified by the rooming house proprietor or seven days after the resident has received written notice of the variation, whichever is the later.

8—Availability of regulations and house rules

- (1) A rooming house proprietor must—
 - (a) ensure that a copy of these regulations and the house rules (in both cases, as in force from time to time) are displayed in a prominent place at the rooming house; and
 - (b) at the request of a resident or prospective resident of the rooming house, make a copy of these regulations (as in force from time to time) available for inspection and provide to the resident or prospective resident a copy of the house rules (as in force from time to time).
- (2) However, if the rooming house proprietor has, within the previous two months, provided a copy of the house rules to a person, the proprietor need not provide a further copy but, in that case, must make a copy available for inspection by the person.

9—Permissible consideration

- (1) A rooming house proprietor must not require or receive from a resident or prospective resident of a rooming house—
 - (a) a payment, other than rent or security (or both), for rooming house accommodation or the renewal or extension of a rooming house agreement;
 - (b) a payment for statutory rates, taxes or charges;
 - (c) a payment for other facilities or services provided by the rooming house proprietor under the rooming house agreement or an agreement collateral to the rooming house agreement.
- (2) However, the rooming house proprietor may require a resident to make a payment—
 - (a) for rates and charges for water supply; or
 - (b) for the provision of electricity, gas or telephone services at the premises; or
 - (c) for meals or other facilities or services provided by the proprietor,if the proprietor has, before the facilities or services were made available or provided to the resident, informed the resident in writing of the basis on which charges for those facilities or services would be made.

10—Rent in advance

- (1) A rooming house proprietor must not require a resident of a rooming house to pay rent more than one week in advance.
- (2) A rooming house proprietor must not require another to give a post-dated cheque or other post-dated negotiable instrument in payment of rent under a rooming house agreement.

11—Duty to give receipts

- (1) A rooming house proprietor who receives a payment under a rooming house agreement or an agreement collateral to a rooming house agreement must ensure that a receipt complying with subregulation (2) is given to the person making the payment—
 - (a) if the payment is made in cash—immediately;
 - (b) if the payment is made in a form other than cash—within five days.

- (2) Each receipt must contain—
- (a) the date on which the payment was received; and
 - (b) the name of the person making the payment; and
 - (c) the amount paid; and
 - (d) the address of the premises to which the payment relates; and
 - (e) if the payment is for rent, the period of accommodation to which the payment relates; and
 - (f) if the payment is a security bond, a statement of that fact; and
 - (g) if the payment is for facilities or services (other than accommodation), a description of the facilities or services and the period to which the payment relates.
- (3) However, if the resident makes a payment into an account kept by the rooming house proprietor or the proprietor's agent at a financial institution, and the proprietor or the proprietor's agent keeps a written record containing the information required by subregulation (2), a receipt need not be given.

12—Rent increases

- (1) A rooming house proprietor may increase the rent payable under a rooming house agreement by giving written notice to the resident specifying the date as from which the increase takes effect.
- (2) However—
- (a) the right to increase the rent may be excluded or limited by the terms of the rooming house agreement; and
 - (b) if accommodation at the rooming house is to be provided for a fixed term, the rooming house agreement is taken to exclude an increase in rent during the term unless it specifically allows for an increase in rent; and
 - (c) the date fixed for an increase of rent must be at least six months after the date of the agreement or, if there has been a previous increase of rent under this regulation, the last increase and at least four weeks after the notice is given (but if the maximum rent for accommodation at the rooming house has been fixed by a housing improvement notice, and the notice is revoked, the proprietor may, by notice given under this regulation within four weeks after revocation of the housing improvement notice, increase the rent for accommodation at the rooming house from a date falling at least 14 days after the notice is given).
- (3) The rent payable under a rooming house agreement may be reduced by mutual agreement between the rooming house proprietor and the rooming house resident.
- (4) A reduction of rent may be made on a temporary basis so that the rent reverts to the level that would have been otherwise applicable at the end of a specified period.
- (5) If the rent payable under a rooming house agreement is increased or reduced under this regulation, the terms of the agreement are varied accordingly.

- (6) For the purposes of this regulation, a series of rooming house agreements between the same parties and relating to accommodation at the same rooming house is treated as a single rooming house agreement unless at least six months have elapsed since rent for accommodation at the rooming house was fixed or last increased.
- (7) This regulation does not affect the operation of a provision of a rooming house agreement under which the rent payable under the agreement changes automatically at stated intervals on a basis set out in the agreement.

13—Termination of rooming house agreement

- (1) If a rooming house resident abandons the resident's room, the rooming house agreement is terminated.
- (2) If rent remains outstanding for at least two rental periods or two weeks (whichever is the lesser), the rooming house proprietor may give the resident a written notice informing the resident that if the amount owing is not paid within a specified period (which must be a period of at least two clear days) from the date the notice is given then—
 - (a) the rooming house agreement is terminated at the end of the specified period by force of the notice; and
 - (b) the resident must vacate the premises at the end of the specified period.
- (3) If a rooming house resident or a person who has entered the rooming house at the resident's invitation, causes serious damage to the rooming house, creates a danger to a person or property in the rooming house, or seriously interrupts the privacy, peace, comfort or quiet enjoyment of another resident, the rooming house proprietor may give the resident a written notice informing the resident that—
 - (a) the rooming house agreement is terminated by force of the notice immediately or on a specified day; and
 - (b) the resident must vacate the premises immediately or on or before the specified day (as the case requires).
- (4) If a rooming house resident breaches a term of the rooming house agreement (otherwise than as referred to in a preceding subregulation), the rooming house proprietor may give the resident a written notice informing the resident that—
 - (a) the rooming house agreement is terminated by force of the notice on a specified day (which must be at least seven clear days after the day the notice is given); and
 - (b) the resident must vacate the premises on or before the specified day.
- (5) A rooming house proprietor may terminate a rooming house agreement providing for accommodation on a periodic basis without specifying a ground for termination by giving the resident at least four weeks' written notice of termination.
- (6) A rooming house resident under a rooming house agreement providing for accommodation on a periodic basis may terminate the agreement without specifying a ground for termination by giving the proprietor at least one days' notice of termination.

14—Abandoned goods

If goods are left on the premises by a rooming house resident after the resident vacates the resident's room, the rooming house proprietor—

- (a) must take reasonable care, for a period of 14 days, of the goods (other than perishable foodstuffs); and
- (b) may—
 - (i) in the case of perishable foodstuffs—destroy or otherwise dispose of the foodstuffs;
 - (ii) in any other case—destroy or otherwise dispose of the goods after taking reasonable care of them for the period referred to in paragraph (a).

15—No penalty clauses

A breach by a rooming house resident of a term of the rooming house agreement does not render the resident liable to pay—

- (a) all or any part of the rent remaining payable under the agreement; or
- (b) rent of an increased amount; or
- (c) an amount by way of penalty; or
- (d) an amount by way of liquidated damages.

Schedule 1—Code of conduct for rooming house proprietors

1—Security bond

- (1) A rooming house proprietor must not—
 - (a) require more than one security bond for the same rooming house agreement; or
 - (b) require the payment of security exceeding two weeks' rent under a rooming house agreement.
- (2) A rooming house proprietor must, on termination of a rooming house agreement, repay the full amount of any security paid by the rooming house resident less not more than—
 - (a) an amount equal to any outstanding rent or payments for meals, facilities or other services due to the proprietor by the resident; and
 - (b) if the resident's room or property provided by the rooming house proprietor for use by the resident is not returned in a reasonable condition (taking into account the condition of the room and property when the resident's period of accommodation began and the probable effect of reasonable wear and tear since that time)—reasonable costs incurred in repairing the room and property.

2—Security of rooms

- (1) A rooming house proprietor must provide and maintain the locks and other devices necessary to ensure each resident of the rooming house may make his or her room reasonably secure.
- (2) However, the rooming house proprietor will not be regarded as being in breach of the obligation to maintain locks and other devices unless the proprietor is aware of the requirement for maintenance and fails to act with reasonable diligence to undertake the maintenance.

Schedule 2—Implied terms

1—General obligations of rooming house proprietor

- (1) The rooming house proprietor—
 - (a) will not unreasonably restrict, or interfere with—
 - (i) the quiet enjoyment of a room or facilities at the rooming house by the rooming house resident; or
 - (ii) the reasonable peace, comfort or privacy of the rooming house resident in the resident's use of a room or facilities at the rooming house;
 - (b) will ensure that the rooming house resident has reasonable access (at all times) to the resident's room, and to the toilet and bathroom facilities;
 - (c) will take reasonable steps to ensure the security of personal property of each resident of the rooming house;
 - (d) will, unless the rooming house is subject to a housing improvement notice, ensure that the rooming house resident's room and any facilities shared by the resident are maintained in a reasonable state of repair.
- (2) However, the rooming house proprietor will not be regarded as being in breach of the obligation to repair unless the proprietor is aware of the defect requiring repair and fails to act with reasonable diligence to have the defect repaired.

2—General obligations of rooming house resident

The rooming house resident—

- (a) will pay the rent when it falls due;
- (b) will observe any applicable house rules;
- (c) will not use the rooming house, or cause or permit the rooming house to be used, for an illegal activity;
- (d) will not keep an animal on the rooming house premises without the rooming house proprietor's consent;
- (e) will keep the resident's room in a condition that does not give rise to a fire or health hazard;
- (f) will notify the rooming house proprietor of damage to the rooming house or to property provided by the rooming house proprietor for use by the resident;

- (g) will allow the rooming house proprietor reasonable access to the resident's room.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Principal regulations

Year	No	Reference	Commencement
1999	224	<i>Gazette 18.11.1999 p2410</i>	30.1.2000: r 2