

South Australia

Residential Tenancies (Provision of Information) Amendment Regulations 2024

under the *Residential Tenancies Act 1995*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Residential Tenancies (Provision of Information) Amendment Regulations 2024*.

2—Commencement

These regulations come into operation on the day on which section 3 of the *Residential Tenancies (Miscellaneous) Amendment Act 2023* comes into operation.

Part 2—Amendment of *Residential Tenancies Regulations 2010*

3—Insertion of regulation 6A

After regulation 6 insert:

6A—Prospective tenant—requirements relating to provision of information

- (1) For the purposes of section 47B(1) of the Act, the following information is prescribed:
 - (a) information relating to whether or not the prospective tenant has previously taken legal action, has been a respondent to legal action, or has had a dispute relating to a residential tenancy with a landlord or an agent of a landlord;

- (b) information relating to whether or not the prospective tenant has previously been given a notice of termination by a landlord under section 80 of the Act, other than a notice under that section pursuant to which the prospective tenant's tenancy was terminated;
- (c) information relating to whether or not a bond to be paid by the prospective tenant (if relevant) is to be wholly or partly provided through a program for housing assistance (such as a South Australian Housing Trust bond guarantee);
- (d) information relating to the prospective tenant's bond history, including whether a claim has been made on a bond previously paid by the prospective tenant (whether the claim was made by a landlord or an agent of a landlord, or by the prospective tenant);
- (e) information relating to whether or not the prospective tenant has been a tenant under a residential tenancy agreement where the landlord is the South Australian Housing Trust or a subsidiary of the South Australian Housing Trust;
- (f) a bank or other financial statement of the prospective tenant if the outgoing transactions and bank account number on the statement are not redacted or omitted;
- (g) financial information relating to the prospective tenant, including—
 - (i) information relating to the discharge of the prospective tenant from bankruptcy; and
 - (ii) information relating to the prospective tenant's financial practices, unless the information directly relates to the prospective tenant's financial capacity;

Note—

A landlord, or an agent of a landlord, must not request a prospective tenant to disclose financial information primarily based on expenditure records of the prospective tenant.

- (h) information relating to the employment of the prospective tenant, other than a payslip or a document that confirms their employment;
- (i) information relating to a relevant attribute or circumstance of the prospective tenant;

Note—

See subregulation (8) for the definition of *relevant attribute or circumstance*.

- (j) medical records of the prospective tenant;
- (k) information relating to the prospective tenant on a social media service (within the meaning of the *Online Safety Act 2021* of the Commonwealth);

- (l) a registration number of a vehicle owned or used by the prospective tenant;
 - (m) a microchip number of a pet of the prospective tenant;
 - (n) information relating to—
 - (i) the level of education undertaken by the prospective tenant;
 - (ii) the reason the prospective tenant seeks to move to the premises the subject of the residential tenancy agreement.
- (2) Nothing in subregulation (1)(a) prevents a landlord, or an agent of a landlord, from accessing or being provided with information required to be made publicly available on a register maintained under an Act or law or records held by a court or tribunal that a member of the public may inspect or obtain a copy of.
- (3) Nothing in subregulation (1)(i) prevents—
- (a) in all cases—a landlord, or an agent of a landlord, from requesting a prospective tenant to disclose whether the prospective tenant is at least 18 years of age and has legal capacity to enter into a lease; or
 - (b) in a case where the landlord, or an agent appointed by the landlord to manage the premises, resides in the premises to which the tenancy relates—the landlord or agent from requesting a prospective tenant to disclose whether it is intended that a child or a person for whom the prospective tenant has caring responsibilities will live in the premises with the prospective tenant.
- (4) For the purposes of section 47B(2) of the Act, the following classes of entities are prescribed:
- (a) a participant of the National Rental Affordability Scheme under the *National Rental Affordability Scheme Act 2008* of the Commonwealth;
 - (b) a provider of specialist disability accommodation as defined under the *National Disability Insurance Scheme Act 2013*;
 - (c) a community housing provider registered under the *Community Housing Providers National Law*;
 - (d) a provider of housing registered under the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth.

- (5) For the purposes of section 47B(3) of the Act, in connection with a prospective tenant applying to enter into a residential tenancy agreement—
- (a) an application form given to the prospective tenant by a landlord, or an agent of a landlord, must state the amount of rent payable (calculated on a weekly basis) and the amount of the bond (if any) under the proposed agreement; and
 - (b) the prospective tenant cannot be required to provide—
 - (i) more than 2 documents verifying their identity; or
 - (ii) more than 2 documents relating to their ability to pay rent; or
 - (iii) more than 2 documents relating to their suitability to enter into the residential tenancy agreement.
- (6) Subregulation (5) does not apply to an entity of a class prescribed under subregulation (4).
- (7) For the purposes of section 47B(3) of the Act, a landlord, or an agent of a landlord, must, in relation to information given to a prospective tenant in connection with their entry into a residential tenancy agreement, ensure that—
- (a) if the landlord or agent is aware that the prospective tenant has a disability—
 - (i) the information is in a form that is accessible to the prospective tenant having regard to the disability; or
 - (ii) the landlord or agent informs the prospective tenant as to how they can access such information; and
 - (b) if the landlord or agent is aware that the prospective tenant's primary language is a language other than English—
 - (i) the information is in that other language; or
 - (ii) the landlord or agent informs the prospective tenant as to how they can access the information in that other language.
- (8) In this regulation—
- relevant attribute or circumstance***—an attribute or circumstance of a prospective tenant is a relevant attribute or circumstance if discrimination of a kind referred to in the *Equal Opportunity Act 1984* is unlawful on the ground of the attribute or circumstance.

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

with the advice and consent of the Executive Council
on 13 June 2024

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