

Residential Tenancies Amendment Bill

Government Bill

Explanatory note

General policy statement

The Residential Tenancies Act 1986 (the **Act**) came into force over 30 years ago to govern a rental market very different from the market today. Since the Act came into force, home ownership rates have declined and the proportion of households living in rental properties has increased. More people, including families and older people, are renting for longer, or for life. Some people are having difficulty finding or maintaining tenancies, which can lead to people using government emergency or transitional housing. Insecure tenure can have negative impacts on health, education, and employment. People who are renting should have stable housing, have the ability to feel at home, and be able to assert their legal rights.

The Bill makes a range of changes to make the Act fit for modern renting situations in New Zealand. The Bill aims to modernise the Act while appropriately balancing the rights and obligations of tenants and landlords.

The changes include—

- increasing security of tenure for tenants who are meeting their obligations; and
- promoting good-faith relationships in the renting environment; and
- modernising and clarifying the Act to reflect the modern renting market and environment; and
- enhancing powers and tools for the chief executive of the department responsible for the administration of the Act (the **regulator**); and
- supporting tenants' ability to assert their legal rights.

In respect of security of tenure, the Bill removes the ability for landlords to end a periodic tenancy agreement for any reason and without a requirement to tell the tenant why. The Bill provides for a range of justified reasons to end a periodic tenancy (with the required notice period). Those reasons include new provisions to respond to

frequent anti-social behaviour that is more than minor, and frequent late rent payments. The Bill also strengthens the provision for fixed-term tenancy agreements to become periodic agreements. Fixed-term tenancies will become periodic when they expire unless both parties agree otherwise, the tenant gives notice, or the landlord gives notice in accordance with the range of new reasons for ending a periodic tenancy. The Bill increases the notice period for both landlords and tenants ending a periodic tenancy.

The Bill clarifies the rules about minor changes to the premises, ensuring that tenants can make minor changes such as fitting brackets to secure furniture and appliances against earthquake risk, baby-proofing the property, installing visual fire alarms and doorbells, and hanging pictures.

The Bill makes other changes, including—

- prohibiting the solicitation of rental bids by landlords:
- limiting rent increases to once every 12 months:
- improving a tenant’s ability to assign their tenancy when that is reasonable:
- allowing for identifying details to be suppressed in situations where a party has been wholly or substantially successful in taking a case to the Tenancy Tribunal:
- clarifying the Tenancy Tribunal’s power to suppress names and identifying particulars of any witness or party, and any part of the evidence given, if that is in the interests of the parties and the public interest:
- require landlords to permit and facilitate the installation of ultra-fast broadband, subject to specific triggers and exemptions:
- increasing financial penalties:
- giving the regulator new tools to take direct action against parties who are not meeting their obligations. The tools include an infringement offences regime, the ability to enter into enforceable undertakings, the power to issue infringement notices, and the ability to seek pecuniary penalties against landlords with 6 or more tenancies who fail to meet key obligations:
- other administrative changes.

Departmental disclosure statement

The Ministry of Housing and Urban Development is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2020&no=218>

Regulatory impact assessment

The Ministry of Housing and Urban Development produced regulatory impact assessments on 20 September 2019 and 10 October 2019 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact assessments can be found at—

- <https://www.hud.govt.nz/residential-housing/tenancy-and-rentals/changes-to-the-residential-tenancies-act-1986/cabinet-papers-and-related-documents/>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill is to come into force on the day that is 6 months after Royal assent.

Part 1

Amendments to Residential Tenancies Act 1986

Clause 3 provides that *Part 1* amends the Residential Tenancies Act 1986 (the **Act**).

Clause 4 amends the interpretation section of the Act. The amendments are mostly consequential on other amendments that the Bill makes.

Associated persons

Clause 4 inserts a definition of associated person into section 2 of the Act. The new definition relates to *new section 2(2B)*, which provides that the tenancies of a person who is an associated person of the landlord are also counted as being the landlord's tenancies for the purposes of working out how many tenancies the landlord has. An associated person includes, for example, a spouse or a parent or, if the landlord is a company, another company that is owned by the same holding company that owns the landlord company.

New section 2(2B) relates to provisions of the Bill that treat landlords with 6 or more tenancies differently from other landlords in some ways. For example, higher infringement fines and fees apply to landlords with 6 or more tenancies, and those landlords can be liable for pecuniary penalties while other landlords cannot.

Infringement offences

Clause 4 also inserts definitions that relate to the infringement offence regime that is inserted into the Act by the Bill.

Infringement offences are a category of criminal offences that can be dealt with either by an infringement notice (a notice that requires the alleged offender to pay an infringement fee) or by filing a charging document (the usual process for prosecuting a criminal offence). An important feature of an infringement offence is that no con-

viction can be entered for the offence regardless of whether the offence is dealt with by infringement notice or by filing a charging document (*see* section 375 of the Criminal Procedure Act 2011).

Related clauses include—

- *clause 66*, which inserts *new sections 126A to 126G*. Those new sections set up the infringement offence regime in the Act and cover matters including who may issue infringement notices, when an infringement notice can be issued, what an infringement notice must contain, how an infringement notice must be served, and payment of infringement fees:
- *clause 68*, which makes a consequential amendment to section 136:
- *clause 70*, which amends section 140 of the Act to enable regulations to be made that specify offences in the Act or in regulations made under the Act as infringement offences:
- *clause 74*, which inserts *new Schedule 1B*. *Clause 3* of that schedule lists all of the infringement offences in the Bill and, for each infringement offence, sets out the infringement fee and the maximum fine that is payable. For each infringement offence, there are 2 levels of penalty, with the higher level applying to landlords with 6 or more tenancies.

Exclusion of Act; short tenancies

Clauses 5 and 6 make technical drafting changes to section 5 of the Act (Act excluded in certain cases) and section 7 (short fixed-term tenancies). The changes help to clarify the effect of those sections and their relationship to amendments made by the Bill. The changes do not alter the sections' legal effect.

Tenancy agreement must be in writing and signed

Clause 7 replaces section 13 of the Act, which relates to the requirements that a tenancy agreement be in writing and signed by the tenant and the landlord. Those essential requirements stay the same in *new section 13*. However, it will be an unlawful act and an infringement offence for the landlord to fail to ensure that the agreement is in writing or to fail to provide a signed copy to the tenant before the tenancy commences.

New unlawful acts and increased amounts

By providing that certain matters are unlawful acts, *new section 13* relies on the concept of unlawful acts that exists in the Act. Under the Act, if a person intentionally commits an unlawful act, the Tenancy Tribunal can order that person to pay an amount (in the nature of exemplary damages) to the other party to the tenancy or, in some circumstances, to the regulator. (*See* section 109.)

Schedule 1A of the Act lists each unlawful act and the maximum amount payable in respect of each unlawful act. The Bill adds unlawful acts and increases the maximum amounts payable for existing unlawful acts (to around 1.5 times the existing maxi-

mum amount). *Clause 73* replaces Schedule 1A of the Act to include the new unlawful acts and the increased maximum amounts.

Rental bidding

Clause 17 inserts the following 2 new sections into the Act:

- *new section 22F* prohibits the landlord from advertising or offering a tenancy unless the amount is stated in the advertisement or offer:
- *new section 22G* prohibits the landlord from inviting or encouraging bids for rent from prospective tenants.

The new sections apply also to an agent of the landlord (through paragraph (e) of the definition of landlord in section 2(1) of the Act). However, *new section 22F* does not apply in relation to a social housing tenancy. Breaching *new section 22F* or *22G* is an unlawful act. Breaching *new section 22F* is also an infringement offence.

Reduced frequency for rent increases

Clause 19 amends section 24 of the Act, which relates to rent increases. The effect of the amendment is that rent cannot be increased more than once every 12 months. *Clause 72* makes a related amendment to Schedule 1.

Minor changes to premises

Clauses 22 and 23 relate to a tenant's ability to make changes to the premises. Section 42 of the Act already provides for tenants to make changes with the landlord's consent (which must not be withheld unreasonably). The amendments in the Bill provide that it would be unreasonable for the landlord to withhold consent for tenants to carry out minor changes to premises. *New section 42B(2)* defines minor change.

A related amendment is that a landlord must respond within 21 days to a request by a tenant for consent to a change to the premises (*new section 42A(3)*). In their response, the landlord must indicate whether or not they consider the change is a minor change. If the landlord considers that the proposed change is not a minor change, they may extend the time to consider whether to consent to the proposed change.

It is an unlawful act for a landlord to, among other things, fail to respond to a request for consent within 21 days or to withhold consent for a minor change.

At the end of the tenancy, the tenant must reinstate the premises to a condition that is substantially the same to the condition they were in before the minor change (*new section 42B(4)*). It is an unlawful act for a tenant to fail to reinstate the premises, unless they and the landlord have agreed that reinstatement is not required (*new section 42B(5)*).

Assignment

Clause 24 relates to assignment of a tenancy by a tenant. Currently, assignment is dealt with in section 44, which provides that a tenant can assign unless there is a provision in the tenancy agreement that expressly and unconditionally prohibits it. In the

absence of such a provision, a tenant can assign with the landlord's consent, which must not be withheld unreasonably.

Under the Bill, *new sections 43A and 43B* deal with assignment and provide that a clause prohibiting assignment by a tenant is of no effect (unless it is for a social housing tenancy, in which case it does have effect). It will be an unlawful act for a tenant to assign a tenancy without the prior written consent of the landlord (and in accordance with any conditions attached to the consent).

The Bill restates (but does not change) the provision in section 44(6) that once a tenant has assigned their tenancy to someone else, they are no longer responsible to the landlord from that point (*new section 43C*).

Clause 25 makes related amendments to section 44 of the Act.

Recovery of landlord's costs on assignment, etc

Clause 26 inserts *new section 44A*, which provides for the recovery of reasonable expenses incurred by the landlord in respect of an assignment, subletting, parting with possession, or surrender by agreement. A landlord who seeks to recover expenses from a tenant must first provide an itemised account of the expenses to the tenant. Failing to provide an itemised account before taking steps to recover the costs is an unlawful act and an infringement offence.

Clauses 12(1) and 13(1) make related consequential amendments to section 17(2) and 17A(2) of the Act.

Landlord must provide information on healthy homes standards

Clause 27 amends section 45 of the Act, which sets out landlord responsibilities. The effect of the amendment is that a landlord must, if the tenant requests it, provide information relating to compliance with healthy homes standards within 21 days after receiving the request. It is an unlawful act and an infringement offence for a landlord to, without reasonable excuse, fail to provide the information in that time. The information that must be provided is described in regulation 40 of the Residential Tenancies (Healthy Homes Standards) Regulations 2019.

Clause 44 imposes the same responsibility on landlords of boarding houses.

Landlord must permit and facilitate fibre connection in certain circumstances

Clause 28 inserts *new section 45B*, which requires landlords to permit and facilitate the installation of a fibre connection in the premises in some circumstances. The circumstances include that a fibre connection can be installed at no cost to the landlord (for example, because the cost of installation is covered by the Government's Ultra-fast Broadband initiative).

The tenant must first request the installation. The landlord must respond to the request within 21 days.

The landlord can only refuse to permit the installation of fibre on a limited number of grounds (*see new section 45B(2)*). One of the grounds is that the installation would

require the consent of a third party and the landlord or network operator is unable to obtain the consent.

If the landlord is required to permit the installation, the landlord must take all reasonable steps to facilitate the installation within a reasonable period of time.

New section 45B(6) provides that it is an unlawful act for a landlord to, without reasonable excuse, fail to take all reasonable steps to facilitate the installation of fibre within a reasonable period of time (if required to permit its installation) or to fail to respond to the tenant's request for installation or to a network operator's request for information or consent within 21 days of the request.

Clause 43 makes a related amendment to section 66A(2). The effect of the amendment is that *new section 45B* applies in relation to boarding house tenancies.

Increased fines for some existing offences

Clause 30(3) amends section 48(6) of the Act to increase the maximum amount of the fine that can be imposed in relation to a landlord using force or threat of force to enter premises while the tenant or any other person with the permission of the tenant is in the premises. The maximum amount of the fine is increased from \$2,000 to \$3,000.

Other clauses that increase the maximum amount of a fine for an existing offence in the Act are *clauses 42, 46(3), 49, 54, 56, 58, 62, and 67(4)*.

Changes to landlords' rights of termination

Clauses 31 to 33 and 35 to 37 amend sections 50, 51, 53, and 55 of the Act and insert *new sections 53B, 55A, and 55B*. Those sections govern how and when landlords can terminate residential tenancies.

Currently, a landlord can end a periodic tenancy on 90 days' notice without being required to give the tenant any reason for the termination. The landlord may also end the tenancy with less than 90 days' notice in certain cases, for example if the landlord requires the premises to live in or for a family member to live in, or if the property has been sold with a requirement for vacant possession.

Clauses 31 and 32 remove landlords' ability to end a periodic tenancy on 90 days' notice without giving a reason. That ability is replaced by a range of justifications for ending the tenancy by notice or by Tenancy Tribunal order.

The new justifications for terminating a periodic tenancy by notice are set out in section 51 and *new section 53B*. They are, broadly, that—

- the property is to be made available for sale shortly; or
- extensive alterations or repairs are to be carried out or the property's use is to change from residential to commercial; or
- the premises are to be demolished; or
- the landlord's interest in the property ends; or
- the tenant is in social housing that they are no longer eligible for or that they are required to leave for operational reasons.

The new grounds for applying to the Tenancy Tribunal for an order terminating a periodic tenancy are in section 55 and *new sections 55A and 55B*. They are, broadly, that—

- the tenant repeatedly fails to pay the rent on time or repeatedly engages in anti-social behaviour; or
- it would be unreasonable to require the landlord to continue with the tenancy due to hardship.

Clause 32 also changes the notice periods for some of the grounds on which landlords can currently end a periodic tenancy with less than 90 days' notice. Most of the changes increase the period from 42 to 63 or 90 days.

Clauses 4, 31, 34, and 47(1) make related amendments to sections 2, 50, 53A, and 77 of the Act. One of the amendments is to insert a new paragraph in section 50 listing the ways in which boarding house tenancies under Part 2A of the Act may be terminated by notice. The High Court has previously found that boarding house tenancies are neither fixed-term nor periodic (*see Portfolio Property Management Ltd v Clutterbuck* [2013] NZHC 3165), in which case they will not be covered by the section 50 paragraphs dealing with termination of fixed-term and periodic tenancies by notice.

Changes to tenants' rights of termination and renewal

Clauses 31 and 32 increase the notice period for a tenant to end a periodic tenancy by notice, from 21 to 28 days. *Clause 41* makes a related amendment to section 61 of the Act (abandonment of premises).

Clause 40 amends section 60B by increasing how much notice a tenant must give if the tenant wishes to exercise a right under the tenancy agreement to have the tenancy renewed or extended. The increase is from 21 days to 28 days.

Landlord acting to terminate tenancy without grounds

Clause 38 inserts *new section 60AA*, which sets out a new unlawful act. A landlord commits an unlawful act if they try to terminate a tenancy (either by giving a notice to the tenant or by applying to the Tenancy Tribunal for an order) knowing that they are not entitled to do so.

Continuation of expired fixed-term tenancies as periodic tenancies

In line with the changes being made to how and when periodic tenancies may be terminated, *clause 39* adjusts the process by which a fixed-term tenancy becomes a periodic tenancy when the fixed term ends. Currently, fixed-term tenancies of more than 90 days become periodic when the term expires unless the parties extend the existing agreement or enter into a new agreement or unless either party gives notice that they do not intend to continue with the tenancy. *Clause 39* amends section 60A to restrict the landlord's ability to give notice to certain circumstances. For the most part, the circumstances mirror the justifications for a landlord to end a periodic tenancy by notice.

Jurisdiction of Tribunal

Clause 47 amends section 77, which relates to the jurisdiction of the Tenancy Tribunal.

The upper monetary limit of the Tribunal's jurisdiction is increased from \$50,000 to \$100,000.

In addition to its existing jurisdiction to determine disputes between landlords and tenants relating to any tenancy to which the Act applies, the Tribunal is given jurisdiction in relation to fibre connections, objections to improvement notices, and applications for pecuniary penalties.

Chief executive can take proceedings in relation to more than 1 tenancy

Clause 48 amends section 86. The amendment allows the chief executive to file an application to commence proceedings in relation to 2 or more tenancies if, for each tenancy, there is the same landlord (or if the landlords of all of the tenancies are associated persons of each other).

Tribunal may make suppression order

Clause 51 inserts *new section 95A*, which provides that the Tribunal may make a suppression order prohibiting the publication of evidence or of the name or any identifying particulars of any witness or party.

The Tribunal must prohibit the publication of a successful party's name or identifying particulars if the party applies for an order of that kind, unless the Tribunal considers that publication is in the public interest, or is justified by the party's conduct or any other circumstances of the case.

Clauses 50, 57, and 59 make related amendments to sections 95, 111A, and 115B of the Act.

When chief executive can take proceedings

Clauses 53, 63, 64, and 65 rationalise the provisions in the Act that allow the chief executive to take proceedings. The Bill repeals section 124, which provides for the chief executive to take or defend proceedings on behalf of any party. Section 124 overlapped to some extent with sections 109 and 124A (which enable the chief executive to take proceedings in relation to unlawful acts and to take proceedings as if the chief executive were the tenant). Sections 109 and 124A have both been amended, with the intended effect that the chief executive will be able to take proceedings in broadly the same circumstances as they can now.

Pecuniary penalties

Clause 55 inserts *new sections 109B to 109E*, which give the Tribunal the power to order a landlord with more than 6 tenancies to pay a pecuniary penalty if the Tribunal is satisfied that the landlord intentionally committed one of a limited number of unlawful acts (listed in *new section 109B*). The Tribunal can make an order for a

pecuniary penalty only if the chief executive applies for it. The maximum amount of a pecuniary penalty that the Tribunal can award is \$50,000.

Documents that must be retained by landlords and provided on request

Clause 61 amends section 123A, which relates to the documents that a landlord must retain and, if the chief executive requires, provide to the chief executive. The range of documents that a landlord must retain is expanded. The full list is set out in *new section 123A(1) (clause 61(1))*. An amendment to section 123A(2) also enables the chief executive to request the rent and bond records that landlords are required to keep under section 30 of the Act.

Improvement notices

Clause 66 inserts *new sections 126H to 126M*, which give the chief executive the power to issue improvement notices requiring a person to remedy a breach or likely breach of the Act, the regulations made under the Act, or a tenancy agreement. A failure to comply with an improvement notice is an unlawful act. A person can challenge an improvement notice in the Tenancy Tribunal.

Enforceable undertakings

Clause 66 also inserts *new sections 126N to 126R*, which provide for the chief executive to agree in writing with a person that the person will rectify a breach of the Act, the regulations, or a tenancy agreement, or pay money to another person, or take any other action the chief executive determines is appropriate. A person who contravenes an enforceable undertaking commits an unlawful act. A enforceable undertaking can be enforced by the Tribunal.

Tribunal or chief executive may require terms of tenancy agreements

Clause 67(1) to (3) amends section 133. Section 133(1) is recast so that the Tribunal or chief executive may require a landlord to provide details of tenancy agreements relating to any tenancy to which the landlord is a party (not just in relation to specified tenancies).

Only 1 penalty type for same conduct

Clause 69 inserts *new section 137A*, which provides that, in relation to particular conduct, a person can incur only 1 type of penalty. For example, a landlord who commits an unlawful act and is ordered to pay an amount in the nature of exemplary damages in respect of that conduct cannot also be ordered to pay a pecuniary penalty for that conduct.

Transitional, savings, and related provisions

Clause 71 inserts *new Part 5* into Schedule 1AA of the Act. *New Part 5* provides that in most cases amendments made by the Bill will apply to all tenancies whether they commence before, on, or after the commencement of the amendments.

Amounts payable for unlawful acts and infringement offences

Clause 73 replaces Schedule 1A of the Act, which sets out the maximum amounts payable for unlawful acts. More detail about unlawful acts is contained in the analysis of *clause 7* set out above.

Clause 74 relates to the infringement offence regime added to the Act by the Bill. *Clause 74* inserts *new Schedule 1B*, which sets out the infringement fine and fees that apply in respect of each infringement offence established by this Bill. More detail about the infringement offence regime is contained in the analysis of *clause 4* set out above.

Part 2

Consequential amendments to other enactments

Clause 75 gives effect to *Schedule 4*, which makes consequential amendments to other enactments.

Hon Kris Faafoi

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Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Residential Tenancies Amendment Act **2020**.

2 Commencement

This Act comes into force on the day that is 6 months after the date of Royal assent. 5

Part 1

Amendments to Residential Tenancies Act 1986

3 Principal Act

This Part amends the Residential Tenancies Act 1986 (the **principal Act**). 10

4 Section 2 amended (Interpretation)

(1) In section 2(1), insert in their appropriate alphabetical order:

associated person, in relation to a person (A), means a person (B) who is associated with A within the meaning given to that term in **subsection (2A)**

infringement fee has the meaning given to it by **section 126A** 15

infringement offence has the meaning given to it by **section 126A**

minor change has the meaning given to it by **section 42B(2)**

(2) In section 2(1), definition of **fixed-term tenancy**, delete “section 7(3) and”.

(3) In section 2(1), replace the definition of **member of the landlord’s or owner’s family** with: 20

member of the landlord’s or owner’s family, in relation to a landlord or an owner, means—

(a) any person who is or has been related to the landlord or owner—

(i) by blood; or

(ii) by or through marriage, a civil union, or a de facto relationship; or 25

(iii) by adoption:

(b) any other person who is a member of the landlord’s or owner’s whānau or other culturally recognised family group:

(c) any child who is being, or is to be, cared for on a continuous basis by—

- (i) the landlord or owner; or
- (ii) the landlord's or owner's spouse, civil union partner, or de facto partner
- (4) After section 2(2), insert:
- (2A) For the purposes of this Act, one person (A) is **associated** with another person (B),— 5
- (a) in the case where both A and B are individuals,—
- (i) if A is the parent or child of B; or
- (ii) if A is the spouse, civil union partner, or de facto partner of B; or 10
- (iii) if A is the parent or child of the spouse, civil union partner, or de facto partner of B:
- (b) in the case where B is a company, if A is a director or an officer of B, or is associated (within the meaning of **paragraph (a)**) with a director or an officer of B, or is directly or indirectly able to exercise control over the affairs of B: 15
- (c) in the case where A is a company, if B is a director or an officer of A, or is associated (within the meaning of **paragraph (a)**) with a director or an officer of A, or is directly or indirectly able to exercise control over the affairs of A:
- (d) in the case where both A and B are companies,— 20
- (i) if A is a holding company or subsidiary of B within the meaning of section 5 of the Companies Act 1993; or
- (ii) if A owns or controls shares that in aggregate carry the right to exercise or control the exercise of 20% or more of the voting power at meetings of B; or 25
- (iii) if B owns or controls shares that in aggregate carry the right to exercise or control the exercise of 20% or more of the voting power at meetings of A; or
- (iv) if A and B have the same holding company within the meaning of section 5 of the Companies Act 1993; or 30
- (v) if a third person owns or controls shares in each of them that carry the right to exercise or control the exercise of 20% or more of the voting power at meetings of each of them.
- (2B) For the purposes of any provision of this Act that applies to landlords that have 6 or more tenancies, a person who is a landlord (A) of 1 or more tenancies 35

must also be treated as if they were the landlord of any tenancy for which an associated person of A is a landlord.

Example

A, a landlord, has 3 tenancies. A's spouse, B, is also a landlord and has 4 tenancies. 5

Because B is an associated person of A, A must be treated as if A were also the landlord of B's 4 tenancies.

As a consequence, if A commits an infringement offence in relation to one of A's tenancies, A is liable to the fine or the infringement fee that applies to landlords who have 6 or more tenancies. 10

5 Section 5 amended (Act excluded in certain cases)

(1) Replace section 5(1)(s)(i) with:

(i) is genuinely entered into to enable a tenant (the **sublandlord**) to sublet the premises to provide accommodation for—

(A) other people for commercial gain; or 15

(B) the sublandlord's employees; or

(C) persons on low incomes; or

(D) persons with special housing needs; or

(E) persons whose disabilities mean that they need support or supervision in their housing; and 20

(2) Repeal section 5(2).

6 Section 7 amended (Short fixed-term tenancies)

(1) Replace the heading to section 7 with "**Tenancies for short fixed terms**".

(2) In section 7(1), replace "fixed-term tenancy of not more than 90 days" with "tenancy for a fixed term of not more than 90 days (whether or not terminable by notice)". 25

(3) In section 7(2A) and (2B), replace "fixed-term tenancy" with "tenancy for a fixed term".

(4) Repeal section 7(3).

7 Section 13 replaced (Form of tenancy agreement) 30

Replace section 13 with:

13 Tenancy agreement must be in writing and signed

(1) The landlord must ensure that the tenancy agreement is in writing.

(2) The landlord must, before the tenancy commences,—

(a) sign the tenancy agreement; and 35

- (b) provide a copy of the tenancy agreement to the tenant (whether or not the tenant has signed it).
- (3) The tenant must sign the tenancy agreement.
- (4) A landlord who fails to comply with **subsection (1) or (2)**—
- (a) commits an unlawful act; and 5
- (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.
- 8 Section 13A amended (Contents of tenancy agreement)**
- (1) In section 13A(1)(p), replace “tenancy will terminate” with “term will expire”.
- (2) After section 13A(1F), insert: 10
- (1G) The landlord commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B** if the landlord fails to comply with subsection (1A), (1CA), (1CB), or (2).
- 9 Section 15 amended (Notification of successor to landlord or tenant)**
- After section 15(1A), insert: 15
- (2) A landlord or tenant who fails to comply with this section commits an unlawful act.
- (3) A landlord who fails to comply with this section commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**. 20
- 10 Section 16 amended (Change of name or address)**
- After section 16(1A), insert:
- (2) A landlord or tenant who fails to comply with this section commits an unlawful act.
- (2A) A landlord who fails to comply with this section commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**. 25
- 11 Section 16A amended (Landlord must have agent if out of New Zealand for longer than 21 consecutive days)**
- Replace section 16A(6) with: 30
- (6) A landlord who fails to comply with this section—
- (a) commits an unlawful act; and
- (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.
- 12 Section 17 amended (Requiring key money prohibited)** 35
- (1) Replace section 17(2) with:

- (2) Nothing in subsection (1) limits or affects **section 44A** (which entitles a landlord to recover reasonable expenses on consenting to the tenant’s assigning, subletting, or parting with possession of the premises, or to termination of the tenancy by agreement).
- (2) After section 17(3), insert: 5
- (3A) A landlord who contravenes subsection (1) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.
- 13 Section 17A amended (Requiring letting fee prohibited)**
- (1) In section 17A(2), replace “section 44(5)” with “**section 44A**”.
- (2) After section 17A(3), insert: 10
- (4) A landlord who contravenes subsection (1) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.
- 14 Section 18 amended (Bonds to be no more than 4 weeks’ rent)**
- Replace section 18(4) with:
- (4) A landlord who contravenes this section— 15
- (a) commits an unlawful act; and
- (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.
- 15 Section 18A amended (Landlord must not require security other than permitted bond)** 20
- Replace section 18A(2) with:
- (2) A landlord who contravenes this section—
- (a) commits an unlawful act; and
- (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**. 25
- 16 Section 19 amended (Duties of landlord on receipt of bond)**
- After section 19(2), insert:
- (3) A landlord who fails to comply with subsection (1) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**. 30
- 17 New sections 22F and 22G inserted**
- After section 22E, insert:
- 22F Landlord must state amount of rent when advertising residential premises**
- (1) A landlord must not advertise or otherwise offer a tenancy of residential premises unless the amount of rent is stated in the advertisement or offer. 35

- (2) **Subsection (1)** does not apply in relation to a tenancy described in **section 53B(1)(a)** (which relates to social housing tenancies).
- (3) A landlord who contravenes **subsection (1)**—
- (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**. 5
- 22G Landlord must not invite or encourage bids for rent**
- (1) A landlord must not invite or encourage a prospective tenant or any other person to offer to pay an amount of rent for residential premises that exceeds the amount of rent stated as part of the advertisement or offer of the premises in accordance with **section 22F(1)**. 10
- (2) **Subsection (1)** does not prohibit a prospective tenant or other person from offering to pay an amount that exceeds the stated amount of rent.
- (3) A landlord who contravenes **subsection (1)** commits an unlawful act.
- 18 Section 23 amended (Rent in advance)** 15
- Replace section 23(4) with:
- (4) A landlord who contravenes this section—
- (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**. 20
- 19 Section 24 amended (Rent increases)**
- (1) Replace section 24(1)(d) and (e) with:
- (d) the rent must not be increased within 12 months after the date of the commencement of the tenancy; and
 - (e) the rent must not be increased within 12 months after the date on which the last increase took effect; and 25
- (2) Repeal section 24(1)(f).
- (3) Repeal section 24(2).
- 20 Section 29 amended (Receipts for rent)**
- After section 29(5), insert: 30
- (6) A landlord who fails to comply with this section commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.
- 21 Section 30 amended (Landlord to keep records)**
- Replace section 30(2) with: 35

- (2) A landlord who fails to comply with this section—
- (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.
- 22 Section 42 amended (Tenant’s fixtures)** 5
- (1) In the heading to section 42, after “**fixtures**”, insert “, **etc**”.
 - (2) In section 42(1)(b), after “of the landlord”, insert “(see **section 42A**)”.
 - (3) Repeal section 42(2).
 - (4) After section 42(6), insert:
 - (7) Subsections (3) to (6) do not apply in relation to a fixture that is a minor change. (See instead **section 42B(4) to (6)**.) 10
- 23 New sections 42A and 42B inserted**
- After section 42, insert:
- 42A Consent for tenant’s fixtures, etc**
- (1) The landlord must not unreasonably withhold consent for a fixture, renovation, alteration, or addition. 15
 - (2) The landlord may impose reasonable conditions on the landlord’s consent.
 - (3) If the tenant makes a written request for consent, the landlord must respond in writing within 21 days after receiving the request.
 - (4) In the response, the landlord must indicate whether or not the landlord considers the fixture, renovation, alteration, or addition to be a minor change (see **section 42B(2)**). 20
 - (5) If the landlord considers the fixture, renovation, alteration, or addition to be more than a minor change and the landlord needs more time to consider the request, the landlord may, in the written response under **subsection (3)**, extend the time for responding to the tenant’s request. 25
 - (6) A landlord who extends the time for responding under **subsection (5)** must respond to the request in writing within a reasonable amount of time.
 - (7) A landlord commits an unlawful act if the landlord fails, without reasonable excuse, to comply with **subsection (3), (4), or (6)**. 30
- 42B Minor changes**
- (1) Without limiting **section 42A(1)**, it is unreasonable for a landlord to withhold consent to a minor change to premises.
 - (2) In this section and **section 42A**, a **minor change** is any fixture, renovation, alteration, or addition of or to the premises that— 35
 - (a) presents no more than a low risk of material damage to the premises; and

<ul style="list-style-type: none"> (b) would allow the premises to be returned easily to substantially the same condition; and (c) does not pose a risk to health and safety (including during work to install, remove, or undo the minor change) that cannot reasonably practicably be eliminated or minimised; and (d) does not compromise the structural integrity, weathertightness, or character of any building; and (e) would not have an unreasonable negative effect on any person’s enjoyment or use of any property outside the premises; and (f) does not require any regulatory consent (for example, a building consent); and (g) does not breach any obligation or restriction relevant to the premises (for example, an obligation or a restriction imposed by a bylaw, a planning or body corporate rule, or a covenant). 	<p>5</p> <p>10</p>
<p>(3) A landlord commits an unlawful act if the landlord withholds consent for a minor change.</p>	<p>15</p>
<p>(4) If a minor change is made in accordance with a request under section 42A, the tenant must, on or before the expiry of the tenancy, return the premises to a condition that is substantially the same as the condition that the premises were in before the minor change was made.</p>	<p>20</p>
<p>(5) Subsection (4) does not apply if the landlord and the tenant agree a different arrangement in relation to the minor change for the end of the tenancy (for example, that the minor change will remain in place).</p>	
<p>(6) A tenant who fails to comply with subsection (4) commits an unlawful act.</p>	
<p>24 New sections 43A to 43C inserted</p> <p>After section 43, insert:</p>	<p>25</p>
<p>43A Effect of provision prohibiting assignment by tenant</p>	
<ul style="list-style-type: none"> (1) A provision in a tenancy agreement that prohibits the tenant from assigning the tenancy is of no effect. (2) However, if the tenancy agreement relates to a tenancy described in section 53B(1)(a) (which relates to social housing tenancies) and contains a provision that expressly and unconditionally prohibits the tenant from assigning the tenancy, the provision has effect. 	<p>30</p>
<p>43B Assignment of tenancy by tenant</p>	
<ul style="list-style-type: none"> (1) A tenant may, at any time during the tenancy, assign the tenancy— <ul style="list-style-type: none"> (a) with the prior written consent of the landlord; and (b) in accordance with any reasonable conditions attached to that consent by the landlord. 	<p>35</p>

- (2) **Subsection (1)** does not apply in the circumstances described in **section 43A(2)**.
- (3) A tenant commits an unlawful act if the tenant assigns the tenancy—
- (a) without the prior written consent of the landlord; or
 - (b) if the tenancy is a tenancy described in **section 53B(1)(a)**, in contra- 5
vention of a provision described in **section 43A(2)**.
- (4) The landlord must not—
- (a) withhold consent unreasonably; or
 - (b) attach any unreasonable conditions to the consent.
- (5) A landlord’s consent must not be taken to have been withheld unreasonably if, 10
instead of consenting to an assignment, the landlord offers to accept a surrender of the tenancy on reasonable terms.
- (6) A landlord’s consent must be taken to have been withheld unreasonably if the 15
withholding of the consent is an unlawful act under section 12 (discrimination to be unlawful act).
- 43C Effect of assignment by tenant**
- (1) A tenant who assigns the tenancy with the consent of the landlord and in 20
accordance with any conditions attached to the consent ceases, on the date on which the assignment takes effect, to be responsible to the landlord for the obligations imposed on the tenant by the agreement and this Act.
- (2) **Subsection (1)** does not affect any liability already incurred by the tenant to 25
the landlord for anything done or omitted to be done before the date on which the assignment takes effect.
- 25 Section 44 amended (Assignment, subletting, or parting with possession by tenant)** 25
- (1) In the heading to section 44, replace “**Assignment, subletting, or parting**” 30
with “**Subletting or parting**”.
- (2) In section 44(1), replace “assignment, subletting, or parting” with “subletting or parting”.
- (3) In section 44(2), replace “assign, sublet, or otherwise part” with “sublet or 30
otherwise part”.
- (4) In section 44(2A), replace “assigns, sublets, or otherwise parts” with “sublets or otherwise parts”.
- (5) In section 44(4), after “section 12”, insert “(discrimination to be unlawful act)”.
- (6) Replace section 44(5) and (6) with: 35
- (5) Nothing in this section applies to the assignment of a tenancy by a tenant (*see sections 43A to 43C*).

26 New section 44A inserted (Recovery of expenses incurred by landlord)

After section 44, insert:

44A Recovery of expenses incurred by landlord

- (1) A landlord who consents to an assignment under **section 43B**, to a subletting or parting with possession under section 44, or to termination of the tenancy in accordance with **section 50(1)(d)**, is entitled to recover from the outgoing tenant any expenses reasonably incurred by the landlord in respect of the assignment, subletting, parting with possession, or termination. 5
- (2) A landlord who seeks to recover expenses from a tenant in accordance with **subsection (1)** must first provide an itemised account of the expenses to the tenant. 10
- (3) A landlord who takes any step to recover expenses referred to in **subsection (1)** without providing an itemised account of the expenses to the tenant—
- (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**. 15

27 Section 45 amended (Landlord's responsibilities)

Before section 45(2), insert:

- (1AC) If the tenant requests the landlord to provide information described in **section 123A(1)(e)** (relating to the healthy homes standards) to the tenant, the landlord must, within 21 days after the date of receiving the request, provide the information to the tenant. 20
- (1AD) A landlord who, without reasonable excuse, fails to comply with **subsection (1AC)**—
- (a) commits an unlawful act; and 25
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.

28 New section 45B inserted (Landlord must permit and facilitate installation of fibre connection in certain circumstances)

Before section 46, insert:

45B Landlord must permit and facilitate installation of fibre connection in certain circumstances

- (1) The landlord must permit the installation of a fibre connection in the premises if—
- (a) there is no fibre connection in the premises; and 35
 - (b) it is possible to install a fibre connection in the premises; and
 - (c) the tenant requests a fibre connection; and

- (d) the fibre connection can be installed at no cost to the landlord (for example, because the cost is covered by the UFB Initiative).
- (2) However, a landlord is not required to permit the installation of a fibre connection if—
- (a) installation would compromise— 5
- (i) the structural integrity or weathertightness of any building; or
- (ii) the character of any building (other than by having a mere visual impact); or
- (b) installation would breach an obligation or a restriction that is relevant to the premises (for example, an obligation or a restriction imposed by a bylaw, a planning or body corporate rule, or a covenant); or 10
- (c) the landlord intends to carry out extensive alterations, refurbishment, repairs, or redevelopment of the premises and the installation would impede that work; or
- (d) installation requires the consent of a third party and the landlord or network operator is unable to obtain the consent; or 15
- (e) the Tribunal, on application by the landlord, determines that, due to the circumstances of the premises or the installation, the landlord should not be required to provide for the installation of a fibre connection in the premises. 20
- (3) A landlord who is required to permit the installation of a fibre connection must take all reasonable steps to facilitate the installation within a reasonable period of time.
- (4) If a tenant makes a written request for the installation of a fibre connection, the landlord must respond within 21 days after receiving the request. 25
- (5) If a network operator makes a written request for consent or information from the landlord, the landlord must respond to the request within 21 days after receiving the request.
- (6) A landlord commits an unlawful act if the landlord, without reasonable excuse, fails to comply with **subsection (3), (4), or (5)**. 30
- (7) In this section,—
- fibre connection**, in relation to premises, means a connection to a fibre fixed line access service from within the premises
- fibre fixed line access service**, **network operator**, and **UFB Initiative** have the same meanings as in section 5 of the Telecommunications Act 2001. 35

29 Section 47 amended (Landlord to give notice to tenant of intention to sell)

- (1) In the heading to section 47, replace “of intention to sell” with “if premises put on market”.
- (2) In section 47(1),—

- (a) replace “shall” with “must”;
- (b) replace “forthwith” with “, as soon as practicable,”.
- (3) After section 47(2), insert:
- (3) A landlord who fails to comply with subsection (1) or (2) commits an unlawful act. 5
- (4) A landlord who fails to comply with subsection (2) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.
- 30 Section 48 amended (Landlord’s right of entry)**
- (1) After section 48(4)(b), insert: 10
- (c) failure by the landlord to notify, or to provide results to, the tenant as required under subsection (3B).
- (2) After section 48(4), insert:
- (4A) A landlord who fails to notify, or to provide results to, the tenant as required under subsection (3B) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**. 15
- (3) In section 48(6), replace “\$2,000” with “\$3,000”.
- 31 Section 50 amended (Circumstances in which tenancies are terminated)**
- (1) Replace section 50(b) with:
- (b) in the case of a periodic tenancy to which a right of termination under any of sections 51 to **53B**, 56A(1), 58(1)(c), and 59 to 59B applies, by giving notice in accordance with the applicable section: 20
- (ba) in the case of a boarding house tenancy to which a right of termination under any of sections 52 to 53A, 58(1)(c), 59 to 59B, 66U, 66V, and 66X applies, by giving notice in accordance with the applicable section: 25
- (2) In section 50, insert as subsection (2):
- (2) No right of termination to which **subsection (1)** applies limits any other right of termination that may also apply.
- 32 Section 51 amended (Termination by notice)**
- (1) Replace section 51(1) and (2) with: 30
- (1) A landlord may terminate a periodic tenancy by giving at least 63 days’ notice if—
- (a) the owner of the premises requires the premises as the principal place of residence for at least 90 days for the owner or a member of the owner’s family; or 35
- (b) the landlord customarily uses the premises, or has acquired the premises, for occupation by employees of the landlord and—

- (i) that fact is clearly stated in the tenancy agreement; and
- (ii) the premises are required for that use.
- (2) A landlord may terminate a periodic tenancy by giving at least 90 days' notice if—
- (a) the premises are to be put on the market by the owner within 90 days after the termination date for the purposes of sale or other disposition; or
- (b) the owner is required, under an unconditional agreement for the sale of the premises, to give the purchaser vacant possession; or
- (c) the landlord is not the owner of the premises and the landlord's interest in the premises is due to end; or
- (d) the landlord or owner has acquired the premises to facilitate the use of nearby land for a business activity and—
- (i) that fact is clearly stated in the tenancy agreement; and
- (ii) the premises are required to be vacant of residential tenants to facilitate that use; or
- (e) the premises are to be converted into commercial premises by the landlord or owner; or
- (f) extensive alterations, refurbishment, repairs, or redevelopment of the premises are to be carried out by the landlord or owner, and it would not be reasonably practicable for the tenant to remain in occupation while the work is undertaken; or
- (g) the premises are to be demolished.
- (2A) A tenant may terminate a periodic tenancy in any case by giving at least 28 days' notice.
- (2) In section 51(3)(ca), replace “in any case where the tenant is given less than 90 days' notice,” with “if the notice is given by the landlord.”
- (3) In section 51(7), after “subsection (2)”, insert “or **(2A)**”.
- 33 Section 53 amended (Special provisions for notice terminating service tenancies)**
- (1) In section 53(1), replace “The landlord or the tenant must give a minimum period of notice of 14 days to terminate a service tenancy” with “The landlord or the tenant may terminate a service tenancy by giving at least 14 days' notice”.
- (2) In section 53(4), replace “the minimum period of notice required to be given by the landlord to terminate the tenancy shall, subject to subsection (5), be 14 days” with “the landlord may terminate the tenancy by giving at least 14 days' notice”.
- (3) In section 53(5), replace “In any case to which subsection (4) applies, the landlord may terminate the tenancy by the giving of notice of less than 14 days, but

at least 5 days,” with “However, in any case to which subsection (4) applies, the landlord may terminate the tenancy by giving at least 5 days’ notice”.

34 Section 53A amended (Special provisions for notice terminating certain student tenancies)

In section 53A(2), replace “on 14 days’ notice” with “by giving at least 14 days’ notice”.

35 New section 53B inserted (Special provisions for notice terminating social housing tenancies)

After section 53A, insert:

53B Special provisions for notice terminating social housing tenancies 10

(1) The landlord under a periodic tenancy may terminate the tenancy by giving at least 90 days’ notice if—

(a) the tenancy—

(i) was granted before 14 April 2014 and is a tenancy of Kāinga Ora housing; or 15

(ii) was granted as a tenancy of social housing to a tenant assessed under the Public and Community Housing Management Act 1992 as eligible to be allocated social housing; but

(b) following the grant of the tenancy,—

(i) the social housing provider is notified under section 103 of that Act that the tenant is no longer eligible for social housing; or 20

(ii) in the case of community housing, the community housing provider ceases to be a registered community housing provider; or

(iii) the social housing provider considers that the tenant should be transferred to other social housing because of the tenant’s needs, the social housing provider’s operational needs, or the needs of the community. 25

(2) In this section, **community housing**, **community housing provider**, **Kāinga Ora housing**, **registered community housing provider**, **social housing**, and **social housing provider** have the same meanings as in section 2(1) of the Public and Community Housing Management Act 1992. 30

36 Section 55 amended (Termination on non-payment of rent, damage, or assault)

(1) After section 55(1)(a), insert:

(aa) the tenancy is a periodic tenancy and— 35

(i) on 3 separate occasions within a 90-day period the rent has been at least 5 working days in arrear; and

- (ii) on each occasion the landlord gave the tenant written notice advising the tenant of the arrear, the dates for which rent was overdue, the amount or amounts of overdue rent, and the tenant's right to make an application to the Tribunal challenging the notice (*see* sections 77(1) and 78(1)(a) regarding the Tribunal); and 5
 - (iii) each notice stated how many other notices (if any) the landlord had given the tenant under this paragraph in relation to the same tenancy and 90-day period; and
 - (iv) the landlord's application to the Tribunal was made within 28 days after the landlord gave the third notice; or 10
- (2) In section 55(1A), replace "this section" with "subsection (1)(a)".

37 New sections 55A and 55B inserted

After section 55, insert:

55A Termination for anti-social behaviour

- (1) A landlord under a periodic tenancy may apply to the Tribunal for an order terminating the tenancy on the ground of anti-social behaviour. 15
- (2) The Tribunal must (subject to **subsection (3)**) make the order if satisfied that—
 - (a) on 3 separate occasions within a 90-day period the tenant, or a person in the premises with the tenant's permission (other than the landlord or a person acting on the landlord's behalf or with the landlord's authority), engaged in anti-social behaviour in connection with the tenancy; and 20
 - (b) on each occasion the landlord gave the tenant written notice—
 - (i) describing clearly which specific behaviour was considered to be anti-social and (if known to the landlord) who engaged in it; and 25
 - (ii) advising the tenant of the date, approximate time, and location of the behaviour; and
 - (iii) stating how many other notices (if any) the landlord has given the tenant under this paragraph in connection with the same tenancy and the same 90-day period; and 30
 - (iv) advising the tenant of the tenant's right to make an application to the Tribunal challenging the notice (*see* sections 77(1) and 78(1)(a) regarding the Tribunal); and
 - (c) the landlord's application to the Tribunal was made within 28 days after the landlord gave the third notice. 35
- (3) However, the Tribunal must not make the order if satisfied that—
 - (a) doing so would be unfair because of the circumstances in which the behaviour occurred or the notices were given; or

- (b) in making the application, the landlord was motivated wholly or partly by the exercise or proposed exercise by the tenant of any right, power, authority, or remedy conferred on the tenant by the tenancy agreement or by this or any other Act or any complaint by the tenant against the landlord relating to the tenancy (unless the Tribunal is satisfied that the purported exercise or the complaint was or would be vexatious or frivolous to such an extent that the landlord was justified in making the application). 5
- (4) In deciding whether to make an order under **subsection (2)**, the Tribunal must not take into account the impact that terminating the tenancy would have on the tenant. 10
- (5) In **subsection (2)(a)**, if a tenant is in the premises at the same time as another person (other than the landlord or a person acting on the landlord's behalf or with the landlord's authority), the tenant is presumed to have permitted the person to be in the premises unless the tenant proves that they took all reasonable steps to prevent the person from entering the premises or to eject the person from the premises. 15
- (6) In this section, **anti-social behaviour** means—
- (a) harassment; or
- (b) any other act or omission (whether intentional or not), if the act or omission reasonably causes alarm, distress, or nuisance that is more than minor. 20
- 55B Termination where it would be unreasonable to require landlord to continue with tenancy**
- (1) A landlord under a periodic tenancy may apply to the Tribunal for an order terminating the tenancy on the ground of hardship. 25
- (2) The Tribunal may make the order only if satisfied that—
- (a) without the order the landlord would suffer greater hardship than the tenant; and
- (b) because of that hardship, it would be unreasonable to require the landlord to continue with the tenancy. 30
- (3) In deciding whether it would be unreasonable to require the landlord to continue with the tenancy, the Tribunal must take into account the impact that terminating the tenancy would have on the tenant.
- (4) Any order under this section must specify a date for the termination. 35
- 38 New section 60AA inserted (Landlord acting to terminate tenancy without grounds)**
After section 60, insert:

60AA Landlord acting to terminate tenancy without grounds

A landlord commits an unlawful act if they give or purport to give a notice to terminate to the tenant or apply or purport to apply to the Tribunal for an order terminating the tenancy knowing that they are not entitled, under this Act, to give the notice or to make the application.

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39 Section 60A amended (Fixed-term tenancy becomes periodic unless contrary notice given)

Replace section 60A(2) to (6) with:

- (2) However, the tenancy does not continue as a periodic tenancy if,—
- (a) before the expiry, the parties renew or extend the existing tenancy agreement; or
 - (b) before the expiry, the parties agree not to continue with the tenancy; or
 - (c) at least 28 days before the expiry, the tenant gives the landlord written notice of the tenant's intention not to continue with the tenancy; or
 - (d) before the expiry, a party gives notice as mentioned in **section 50(1)(a), (ab), or (b)** that terminates the tenancy on or before the expiry or that would do if the tenancy were already periodic.
- (3) **Subsection (4)** applies if—
- (a) a tenancy continues as a periodic tenancy under subsection (1); but
 - (b) before the continuation, a party gave notice as mentioned in **section 50(1)(a), (ab), or (b)** that would, if the tenancy had been fixed-term throughout or periodic throughout, terminate the tenancy from a time after the continuation.
- (4) The tenancy is terminated with effect from that time (and the termination is to be treated as falling within **section 50(1)(a), (ab), or (b)** as appropriate).

40 Section 60B amended (Tenant must exercise right to renew or extend tenancy not later than 21 days before expiry)

- (1) In the heading to section 60B, replace “21 days” with “28 days”.
- (2) In section 60B(2), replace “21st day” with “28th day”.

41 Section 61 amended (Abandonment of premises)

In section 61(3)(a)(i), replace “21 days” with “28 days”.

42 Section 63 amended (Entry without order of Tribunal prohibited)

In section 63(2), replace “\$2,000” with “\$3,000”.

43 Section 66A amended (Application of Part)

Replace section 66A(2)(c) with:

35

- (c) sections 36 to 42, **43A** to 45A, and 46 to 49 (relating to the rights and obligations of landlords and tenants):

44 Section 66I amended (Landlord’s ongoing obligations)

After section 66I(5) (as inserted by the Residential Tenancies Amendment Act 2019), insert:

- (6) If the tenant requests the landlord to provide information described in **section 123A(1)(e)** (relating to the healthy homes standards) to the tenant, the landlord must, within 21 days after the date of receiving the request, provide the information to the tenant. 5
- (7) A landlord who, without reasonable excuse, fails to comply with **subsection (6)**— 10
- (a) commits an unlawful act; and
- (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.

45 Section 66J amended (Other obligations of landlord)

- (1) Replace section 66J(2) with: 15
- (2) If, at any time after entering into a boarding house tenancy agreement, the landlord puts the premises on the market for the purposes of sale or other disposition, the landlord must, as soon as practicable, give written notice of that fact to the tenant. 20
- (2A) If a landlord is offering a boarding house tenancy, the landlord must inform prospective tenants if the premises are on the market for the purposes of sale or other disposition.
- (2B) A landlord who fails to comply with— 25
- (a) subsection (1), **(2)**, or **(2A)** commits an unlawful act:
- (b) **subsection (2A)** commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.
- (2) Replace section 66J(4) with:
- (4) A landlord who fails to comply with subsection (3A)— 30
- (a) commits an unlawful act; and
- (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.

46 Section 66T amended (Consequence of abuse, or refusal, of right of entry)

- (1) After section 66T(1)(c), insert: 35
- (d) failure by the landlord to notify, or to provide results to, the tenant as required under section 66S(5).
- (2) After section 66T(1), insert:

- (1A) A landlord who fails to notify, or to provide results to, the tenant as required under section 66S(5) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.
- (3) In section 66T(2), replace “\$2,000” with “\$3,000”.
- 47 Section 77 amended (Jurisdiction of Tribunal)** 5
- (1) In section 77(2)(f), replace “service tenancy” with “tenancy to which this Act applies”.
- (2) After section 77(2)(m), insert:
- (maa) to determine whether a landlord is required to permit the installation of a fibre connection under **section 45B**: 10
- (mab) to determine whether a landlord has taken all reasonable steps to facilitate the installation of a fibre connection within a reasonable period of time under **section 45B**:
- (3) After section 77(2)(md), insert:
- (me) to make orders for a person to pay a pecuniary penalty under **sections 109B to 109E**: 15
- (mf) to determine objections to improvement notices under **section 126M**:
- (4) In section 77(5), replace “\$50,000” with “\$100,000”.
- (5) In section 77(6), replace “\$50,000” with “\$100,000”.
- (6) In section 77(7), replace “\$50,000” with “\$100,000”. 20
- 48 Section 86 amended (Filing of applications)**
- After section 86(1), insert:
- (1A) The chief executive may, if acting under section 124A, file an application to commence a proceeding that relates to 2 or more tenancies if, for each tenancy,— 25
- (a) 1 person is the landlord; or
- (b) 1 person (**P**) or an associated person of P is the landlord.
- Example**
- A is a landlord. A’s spouse, B, is also a landlord.
- B is an associated person of A. 30
- The chief executive may file a single application to commence a proceeding that relates to 1 or more of A’s tenancies and to 1 or more of B’s tenancies.
- 49 Section 90 amended (Tenancy Mediator to observe confidentiality)**
- In section 90(1), replace “\$1,000” with “\$1,800”.

50 Section 95 amended (Proceedings usually to be in public)

Repeal section 95(3) and (4).

51 New section 95A inserted (Suppression orders)

After section 95, insert:

95A Suppression orders

5

(1) The Tribunal may, on the application of any party to the proceedings or on its own initiative, having regard to the interests of the parties and to the public interest, order that all or part of the evidence given or the name or any identifying particulars of any witness or party not be published.

(2) An order may be made subject to any conditions that the Tribunal considers appropriate. 10

(3) If a party that has wholly or substantially succeeded in the proceedings applies for an order that their name or identifying particulars not be published, the Tribunal must make the order unless the Tribunal considers that publication is in the public interest, or is justified because of the party's conduct or any other circumstances of the case. 15

(4) **Subsection (3)** does not limit **subsection (1)**.

52 Section 108 amended (Enforcement of work orders)

After section 108(2A), insert:

(2B) A person commits an offence if— 20

(a) the person intentionally fails to comply with a work order under section 78 or 78A; and

(b) the failure to comply creates or increases a risk to the health or safety of any person living at the premises to which the work order relates.

(2C) A person who commits an offence under **subsection (2B)** is liable on conviction to a fine not exceeding \$3,600. 25

53 Section 109 amended (Unlawful acts)

(1) Replace section 109(1) with:

(1) Any of the following persons (**A**) may apply to the Tribunal for an order requiring any other person (**B**) to pay to A an amount in the nature of exemplary damages on the ground that B has committed an unlawful act: 30

(a) a landlord:

(b) a tenant:

(c) the chief executive acting as the person responsible for the general administration of this Act or in the place of a landlord or a tenant under section 124A. 35

- (2) In section 109(2), replace “No application may be made under subsection (1) later than—” with “A landlord or a tenant may not apply under **subsection (1)** later than—”.
- (3) After section 109(2), insert:
- (2A) The chief executive may not apply under **subsection (1)** (whether acting as the person responsible for the general administration of this Act or in the place of a landlord or a tenant) later than 12 months after the date on which the chief executive first became aware of the unlawful act. 5
- (4) In section 109(3), replace “on such an application” with “on an application under **subsection (1)**”. 10
- (5) In section 109(4),—
- (a) replace “the first column” with “column 1”;
- (b) replace “the second column” with “column 3”.
- (6) In section 109(5), replace “acting on behalf of” with “acting in place of”.
- (7) Repeal section 109(7). 15
- 54 Section 109A amended (Tribunal may restrain further commissions of unlawful acts)**
- In section 109A(5), replace “\$2,000” with “\$3,600”.
- 55 New sections 109B to 109E inserted**
- After section 109A, insert: 20
- 109B Tribunal may make pecuniary penalty orders**
- (1) The Tribunal may, on the application of the chief executive, order a landlord to pay to the Crown the pecuniary penalty that the Tribunal determines to be appropriate if the Tribunal is satisfied that,—
- (a) at the time of committing the unlawful act, the landlord was a landlord with 6 or more tenancies (*see* **section 2(2B)**); and 25
- (b) the landlord intentionally committed an unlawful act under any of the following provisions:
- (i) section 45(1A) or 66I(4) (landlord’s responsibilities: cleanliness, maintenance, smoke alarms, healthy homes standards, and buildings, health, and safety requirements): 30
- (ii) section 45(1AB) or 66I(5) (landlord’s responsibilities: contaminated premises):
- (iii) section 54(3) (retaliatory notice of termination):
- (iv) **section 60AA** (acting to terminate without grounds): 35
- (v) section 137(2) (contracting to contravene or evade the provisions of this Act).

- (2) The chief executive may not make an application under **subsection (1)** later than 12 months from the date on which the chief executive first became aware of the unlawful act.
- 109C Maximum amount of pecuniary penalty**
The maximum amount of pecuniary penalty for an unlawful act referred to in **section 109B** is \$50,000. 5
- 109D Considerations for Tribunal in determining pecuniary penalty**
In determining an appropriate pecuniary penalty, the Tribunal must have regard to all relevant matters, including—
- (a) the nature and extent of the unlawful act; and 10
 - (b) the nature and extent of any loss or damage suffered by any person because of the unlawful act; and
 - (c) any gains made or losses avoided by the landlord in the unlawful act; and
 - (d) the circumstances in which the unlawful act took place. 15
- 109E Only 1 pecuniary penalty order may be made for same conduct**
If conduct by a landlord constitutes an unlawful act under 2 or more provisions, proceedings may be brought against that landlord for the unlawful act under any 1 or more of the provisions, but no landlord is liable to more than 1 pecuniary penalty order for the same conduct. 20
- 56 Section 110 amended (Failing to answer witness summons)**
In section 110(1), replace “\$2,000” with “\$3,600”.
- 57 Section 111A amended (Offence of breaching suppression order)**
In section 111A, replace “section 95(3)” with “**section 95A**”.
- 58 Section 114 amended (Powers of entry of Tenancy Mediators)** 25
In section 114(7), replace “\$2,000” with “\$3,000”.
- 59 Section 115B amended (Online publication of final written decisions)**
Repeal section 115B(3).
- 60 Section 123 amended (General functions and powers of chief executive)**
After section 123(1)(ca), insert: 30
- (cb) the monitoring and assessing of compliance by landlords with this Act:
- 61 Section 123A amended (Documents to be retained by landlord and produced to chief executive if required)**
- (1) Replace section 123A(1) with:

- (1) A landlord must retain the following documents (or copies of them) during, and for 12 months after the termination of, the tenancy:
- (a) the tenancy agreement and any variations or renewals of it:
 - (b) any reports of inspections of the premises carried out by or for the landlord during the tenancy: 5
 - (c) records of any building work, prescribed electrical work, or other maintenance or repair work carried out at the premises by or for the landlord during the tenancy:
 - (d) any reports or assessments by a professional tradesperson of work that is carried out or is required in relation to a premises that relates to the landlord's compliance with section 45 or 66I: 10
 - (e) the records or other documents that relate to the landlord's compliance with the healthy homes standards and that are prescribed by regulations under section 138B(5):
 - (f) any advertisement for the tenancy (including an advertisement from before the commencement of the tenancy): 15
 - (g) any notices or correspondence between a landlord (or a person acting on the landlord's behalf) and—
 - (i) a tenant (or a person acting on the tenant's behalf) in relation to the tenancy: 20
 - (ii) a prospective tenant (or a person acting on the prospective tenant's behalf) in relation to the tenancy.
- (2) In section 123A(2), replace “under subsection (1)(b) to (d)” with “under **subsection (1)(b) to (g)** or under section 30 (relating to rent and bond records)”.
- (3) Replace section 123A(4) with: 25
- (4) A landlord who receives a notice under subsection (2) must, within 10 working days of receiving the notice, produce the documents to the chief executive in the way specified in the notice.
- (5) A landlord who, without reasonable excuse, fails to comply with **subsection (4)**— 30
- (a) commits an unlawful act; and
 - (b) commits an infringement offence and is liable to a fine or an infringement fee specified in **Schedule 1B**.
- (6) In this section,— 35
- building work** has the same meaning as in section 7 of the Building Act 2004
- prescribed electrical work** has the same meaning as in section 2(1) of the Electricity Act 1992

professional tradesperson means a person whose occupation includes carrying out building work, prescribed electrical work, or other maintenance or repair work.

62 Section 123D amended (Power of entry to inspect premises)

In section 123D(9), replace “\$2,000” with “\$3,000”. 5

63 Section 124 repealed (Chief executive may take or defend proceedings on behalf of any party)

Repeal section 124.

64 Section 124A amended (Chief executive may take proceedings as if tenant)

(1) In the heading to section 124A, replace “as if tenant” with “in place of tenant or landlord”. 10

(2) Replace section 124A(1) with:

(1) The chief executive may, if satisfied that it is in the public interest to do so on any of the grounds listed in subsection (2), do any of the following in relation to a tenancy as if the chief executive were a party to the tenancy: 15

- (a) initiate any proceedings in the Tribunal or a court that could be brought by the party:
- (b) defend any proceedings in the Tribunal or a court that are brought against the party:
- (c) assume the conduct of any proceedings in the Tribunal or a court brought by or against the party: 20
- (d) take any steps that are necessary to enforce or protect the rights of the party in relation to any infringement or suspected infringement of any of those rights under the tenancy agreement or this Act.

(3) In section 124A(2)(b), replace “the landlord” with “the tenant or the landlord”. 25

(4) In section 124A(2)(c), replace “the landlord” with “the tenant or the landlord”.

(5) Replace section 124A(3) with:

(3) The chief executive may act in the place of a party under **subsection (1)**— 30

- (a) without the consent of the party:
- (b) despite the party’s refusal to consent:
- (c) even if the tenancy has terminated.

65 Section 124B amended (Supplementary provision to section 124A)

(1) In section 124B(1), delete “, or assume the conduct of,”.

(2) In section 124B(2),—

- (a) replace “acts under section 124A(1)” with “acts in the place of a party (A) under **section 124A(1)**”; and 35

- (b) replace “the tenant” with “A” in each place.
- (3) Replace section 124B(2)(d) with:
- (d) the Tribunal must, on the chief executive’s application, order that any other claim by or against A be dealt with in separate proceedings brought by the claimant against A (and not against the chief executive): 5

66 New sections 126A to 126R and cross-headings inserted

After section 126, insert:

Infringement offences

126A Interpretation

In this Act,—

infringement fee, in relation to an infringement offence, means the infringement fee for the offence prescribed in accordance with **clause 2 of Schedule 1B** or in regulations made under this Act

infringement offence means an offence identified, in this Act or in regulations made under this Act, as being an infringement offence.

126B Proceedings for infringement offences

- (1) A person who is alleged to have committed an infringement offence may—
- (a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or
- (b) be issued with an infringement notice under **section 126C**.
- (2) Proceedings commenced in the way described in **subsection (1)(a)** do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.
- (3) *See* section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.

126C When infringement notice may be issued

The chief executive may issue an infringement notice to a person if the chief executive believes on reasonable grounds that the person is committing, or has committed, an infringement offence.

126D Infringement notice may be revoked

- (1) The chief executive may revoke an infringement notice before the infringement fee is paid, or an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.
- (2) An infringement notice is revoked by giving written notice to the person to whom it was issued that the notice is revoked.

- (3) The revocation of an infringement notice under this section is not a bar to any other enforcement action against the person to whom the notice was issued in respect of the same matter.

126E What infringement notice must contain

An infringement notice must be in the form prescribed in regulations and must contain the following particulars: 5

- (a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence:
- (b) the amount of the infringement fee:
- (c) the address of the department: 10
- (d) how the infringement fee may be paid:
- (e) the time within which the infringement fee must be paid:
- (f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:
- (g) a statement that the person served with the notice has a right to request a hearing: 15
- (h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing:
- (i) any other matters prescribed in regulations.

126F How infringement notice may be served 20

- (1) An infringement notice may be served on the person who the chief executive believes is committing or has committed the infringement offence by—
- (a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or
 - (b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or 25
 - (c) leaving it for the person at the person's place of business or work with another person; or
 - (d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or 30
 - (e) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand.
- (2) Unless the contrary is shown,—
- (a) an infringement notice (or a copy of it) sent by prepaid post to a person under **subsection (1)** is to be treated as having been served on that person on the fifth working day after the date on which it was posted: 35

- (b) an infringement notice sent to a valid electronic address is to be treated as having been served at the time the electronic communication first enters an information system that is outside the control of the chief executive.

126G Payment of infringement fees 5

All infringement fees paid in respect of infringement offences must be paid into a Crown Bank Account.

Improvement notices

126H Power to issue improvement notices

- (1) This section applies if the chief executive reasonably believes that a person— 10
- (a) is contravening a provision of this Act, of regulations made under this Act, or of a tenancy agreement; or
- (b) is likely to contravene a provision of this Act, of regulations made under this Act, or of a tenancy agreement.
- (2) The chief executive may issue an improvement notice requiring the person to— 15
- (a) remedy the contravention; or
- (b) prevent a likely contravention from occurring; or
- (c) remedy the things or activities causing the contravention or likely to cause a contravention. 20

Compare: 2015 No 70 s 101

126I Content of improvement notices

- (1) An improvement notice must state—
- (a) that the chief executive believes the person— 25
- (i) is contravening a provision of this Act, of regulations made under this Act, or of a tenancy agreement; or
- (ii) is likely to contravene a provision of this Act, of regulations made under this Act, or of a tenancy agreement; and
- (b) the provision the chief executive believes is being, or is likely to be, contravened; and 30
- (c) briefly, how the provision is being, or is likely to be, contravened; and
- (d) a reasonable period within which the person is required to remedy—
- (i) the contravention or likely contravention; or
- (ii) the things or activities causing the contravention or likely to cause a contravention. 35
- (2) An improvement notice may include recommendations concerning—

- (a) the measures that could be taken to remedy the contravention, or prevent the likely contravention, to which the notice relates:
- (b) the things or activities causing the contravention, or likely to cause a contravention, to which the notice relates.

Compare: 2015 No 70 s 102

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126J Compliance with improvement notice

- (1) A failure to comply with an improvement notice is an unlawful act.
- (2) It is not an unlawful act to fail to comply with recommendations in an improvement notice.

Compare: 2015 No 70 s 103

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126K Extension of time for compliance with improvement notices

- (1) This section applies if a person has been issued with an improvement notice.
- (2) The chief executive may, by written notice given to the person, extend the compliance period for the improvement notice.
- (3) However, the chief executive may extend the compliance period only if the period has not ended.

15

- (4) In this section, **compliance period**—

- (a) means the period stated in the improvement notice under **section 126I(1)**; and
- (b) includes any extension of that period under this section.

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Compare: 2015 No 70 s 104

126L Chief executive may withdraw improvement notice

- (1) The chief executive may withdraw an improvement notice.
- (2) The withdrawal of an improvement notice does not prevent another improvement notice from being served in relation to the same matter.

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Compare: 2000 No 24 s 223G

126M Objection to improvement notice

- (1) A person who has been issued with an improvement notice may file an objection with the Tribunal.
- (2) An objection must be filed with the Tribunal within 28 days after the date on which the improvement notice was served on the person.
- (3) In determining the objection, the Tribunal must consider—
 - (a) whether the person has failed, or is likely to fail, to comply with a specified provision of this Act, of regulations made under this Act, or of a tenancy agreement; and
 - (b) the nature and extent of the failure or likely failure to comply with the provision; and

30

35

- (c) the nature and extent of any loss suffered by any other party to the tenancy agreement as a result of the failure or likely failure to comply with the provision.

- (4) The Tribunal may confirm, vary, or rescind the improvement notice as the Tribunal thinks fit. 5

Compare: 2000 No 24 s 223E

Enforceable undertakings

126N Chief executive may accept enforceable undertakings

- (1) The chief executive and a party to a tenancy may agree in writing that the party will undertake by a specified date (an **enforceable undertaking**) to— 10
 - (a) rectify the breach of any provision of this Act, of regulations made under this Act, or of a tenancy agreement; or
 - (b) pay money owed to another party to the tenancy under this Act, of regulations made under this Act, or of a tenancy agreement; or
 - (c) take any other action that the chief executive determines is appropriate, 15
 - having regard to the nature of the breach.

- (2) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention or alleged contravention to which the undertaking relates.

126O When enforceable undertaking is enforceable 20

An enforceable undertaking takes effect and becomes enforceable when the chief executive's decision to accept the undertaking is given to the person who made the undertaking, or at any later date specified by the chief executive.

Compare: 2015 No 70 s 125

126P Compliance with enforceable undertaking 25

- (1) A person must not contravene an enforceable undertaking given by that person that is in force.
- (2) A person who contravenes **subsection (1)** commits an unlawful act.

Compare: 2015 No 70 s 126

126Q Withdrawal or variation of enforceable undertaking 30

- (1) A person who has given an enforceable undertaking may at any time, with the written agreement of the chief executive,—
 - (a) withdraw the undertaking; or
 - (b) vary the undertaking.

- (2) However, the provisions of the undertaking cannot be varied to provide for a different alleged contravention of this Act, the regulations, or the tenancy agreement.

Compare: 2015 No 70 s 128

126R Proceedings for alleged contravention

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- (1) Subject to this section, no proceedings (whether civil or criminal) for a contravention or an alleged contravention of this Act, the regulations, or a tenancy agreement may be brought against a person if an enforceable undertaking is in effect in relation to that contravention.

- (2) No proceedings may be brought for a contravention or an alleged contravention of this Act, the regulations, or a tenancy agreement against a person who—

- (a) has made an enforceable undertaking in relation to that contravention; and
 (b) has completely discharged the enforceable undertaking.

- (3) The chief executive may accept an enforceable undertaking in relation to a contravention or an alleged contravention before proceedings in relation to that contravention have been completed.

- (4) If the chief executive accepts an enforceable undertaking before the proceedings are completed, the chief executive must take all reasonable steps to have the proceedings discontinued as soon as practicable.

20

Compare: 2015 No 70 s 129

67 Section 133 amended (Tribunal or chief executive may require terms of tenancy agreement)

- (1) In the heading to section 133, replace “**agreement**” with “**agreements**”.

- (2) Replace section 133(1) with:

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- (1) The Tribunal or the chief executive may, by notice in writing, require a landlord to inform the Tribunal or the chief executive of the provisions of any specified tenancy agreement or agreements, or of all tenancy agreements to which the landlord is a party, that—

- (a) are current; or
 (b) that terminated during the 12 months before the date on which the notice is given.

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- (3) In section 133(1A), replace “the tenancy agreement” with “each tenancy agreement”.

- (4) In section 133(2), replace “\$2,000” with “\$3,600”.

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68 Section 136 amended (Service of documents)

After section 136(10), insert:

- (11) Nothing in this section applies to the service of infringement notices (*see section 126F*).

69 New section 137A inserted (Only 1 penalty type for same conduct)

After section 137, insert:

137A Only 1 penalty type for same conduct

- (1) If a type of penalty described in **subsection (2)** is imposed on a person in relation to conduct relating to a tenancy, the other type of penalties described in that subsection cannot be imposed on the person in relation to the same conduct. 5
- (2) The types of penalty are— 10
- (a) a fine, an infringement fee, or a term of imprisonment under this Act or any other Act:
- (b) an order to pay a pecuniary penalty under this Act:
- (c) an order to pay an amount in the nature of exemplary damages under this Act. 15
- (3) The imposition of a penalty described in **subsection (2)** on a person does not affect or limit the person's liability to pay damages or compensation (other than an amount in the nature of exemplary damages) in relation to the same conduct.

70 Section 140 amended (Regulations relating to other matters)

- (1) After section 140(1)(da), insert: 20
- (db) specifying offences in this Act that are infringement offences, and prescribing infringement fees not exceeding \$500 for those offences:
- (2) In section 140(1)(e), delete “and, where the offence is a continuing one, a further amount not exceeding \$100 for every day or part of day during which the offence has continued”. 25
- (3) After section 140(1)(e), insert:
- (eaa) specifying offences in regulations made under this Act that are infringement offences, and prescribing infringement fees not exceeding \$500 for those offences:
- (4) After section 140(3), insert: 30
- (4) Regulations under this section that prescribe infringement fees may prescribe different infringement fees to apply in respect of different kinds or classes of persons.

71 Schedule 1AA amended

In Schedule 1AA, after Part 4, insert the **Part 5** set out in **Schedule 1** of this Act. 35

72 Schedule 1 amended

In Schedule 1, replace “180 days” with “12 months” in each place.

73 Schedule 1A replaced

Replace Schedule 1A with the **Schedule 1A** set out in **Schedule 2** of this Act. 5

74 New Schedule 1B inserted

After **Schedule 1A**, insert the **Schedule 1B** set out in **Schedule 3** of this Act.

Part 2**Consequential amendments to other enactments**

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75 Consequential amendments to other enactments

Amend the enactments specified in **Schedule 4** as set out in that schedule.

Schedule 1
New Part 5 inserted into Schedule 1AA

s 71

Part 5		
Provisions relating to Residential Tenancies Amendment Act 2020		5
23	Interpretation	
	In this Part,—	
	2020 Act means the Residential Tenancies Amendment Act 2020	
	amendment means an amendment to this Act made by a provision of the 2020 Act	10
	commencement date , in relation to an amendment, means the date on which the provision of the 2020 Act that makes the amendment comes into force.	
24	Existing tenancies, etc	
(1)	An amendment applies to a tenancy whether the tenancy commences before, on, or after the commencement date.	15
(2)	This clause is subject to clauses 25 to 34 .	
25	New unlawful acts and pecuniary penalties	
	An amendment that creates a new unlawful act or confers a power to impose pecuniary penalties does not apply to acts or omissions before the commencement date.	20
26	Proceedings that have commenced	
	An amendment does not apply to proceedings commenced before the Tribunal before the commencement date.	
27	Notices to terminate, renew, or extend tenancies	
(1)	An amendment made by any of sections 4(3), 32 to 34, and 36 of the 2020 Act does not apply to the termination of a tenancy by notice if the notice is given before the commencement date.	25
(2)	The amendment made by section 40 of the 2020 Act does not apply to the exercise of a right to renew or extend a tenancy unless the date on which the tenancy would otherwise expire is 28 or more days after the commencement date.	30
28	Assignment by tenant	
	Section 43A of this Act (as inserted by section 24 of the 2020 Act) does not apply to a tenancy granted before the commencement date.	

29	Documents to be retained and produced by landlord	
(1)	The amendment made by section 27 of the 2020 Act applies to any information retained by the landlord on or after the commencement date, whether the information came into the landlord’s possession or control before, on, or after that date.	5
(2)	Any new requirement imposed on a landlord by an amendment made by section 61 of the 2020 Act applies to any documents (or copies of them) in the landlord’s possession or control on or after the commencement date, whether the documents (or copies) were created before, on, or after that date.	
30	Rent arrears and anti-social behaviour	10
(1)	The amendment made by section 36 of the 2020 Act does not apply to rent arrears incurred before the commencement date.	
(2)	Section 55A of this Act (as inserted by section 37 of the 2020 Act) does not apply to anti-social behaviour engaged in before the commencement date.	
31	Continuation of existing fixed-term tenancies as periodic	15
	The amendment made by section 39 of the 2020 Act does not apply to tenancies granted before the commencement date.	
32	Abandonment of premises	
	The amendment made by section 41 of the 2020 Act does not apply to the abandonment of premises if the date determined by the Tribunal under section 61(2) of this Act in relation to the abandonment is before the commencement date.	20
33	Enforceable undertakings	
	Sections 126N to 126R of this Act (as inserted by section 66 of the 2020 Act) relate to any enforceable undertaking given on or after the commencement date, whether the contravention or alleged contravention to which the undertaking relates occurred or is alleged to have occurred on, before, or after that date.	25
34	Only 1 penalty type for same conduct	
	The amendment made by section 69 of the 2020 Act applies to conduct whether the conduct is engaged in before, on, or after the commencement date.	30

Schedule 2 Schedule 1A replaced

s 73

Schedule 1A		
Amounts for unlawful acts		
Column 1	Column 2	Column 3
Section	Description of unlawful act	Amount (\$)
12(1)	Unlawful discrimination	6,500
13(4)	Landlord failing to ensure tenancy agreement in writing, signed, and provided to tenant	750
13A(1F)(a)	Landlord failing to comply with section 13A(1A), (1CA), (1CB), (2), (3), or (4)	750
13A(1F)(b)	Landlord providing false or misleading statement or information under section 13A(1A), (1CA), (1CB), (2), (3), or (4)	900
15(2)	Successor landlord or tenant failing to give notice	750
16(2)	Failing to notify change of name or address	750
16A(6)	Landlord failing to appoint agent when outside New Zealand for longer than 21 consecutive days	1,500
17(3)	Requiring key money	1,500
17A(3)	Requiring letting fee	1,500
18(4)(a)	Landlord requiring bond greater than amount permitted	1,500
18A(2)(a)	Landlord requiring unauthorised form of security	1,500
19(2)	Breaching duties on receipt of bond	1,500
22F(3)(a)	Landlord failing to state amount of rent when offering tenancy	1,500
22G(3)	Landlord inviting or encouraging bids for rent	1,500
23(4)(a)	Landlord requiring rent more than 2 weeks in advance or before rent already paid expires	1,500
27(2)	Landlord requiring rent in excess of market rent order	350
29(5)	Failing to give receipt for rent	350
30(2)(a)	Landlord failing to keep records	350
33(2)	Landlord seizing or disposing of tenant's goods	3,000
38(3)	Interference with privacy of tenant	3,000
40(3A)(a)	Tenant failing, without reasonable excuse, to quit premises upon termination	1,500
40(3A)(b)	Tenant's interference, etc, with means of escape from fire	4,000
40(3A)(c)	Tenant using or permitting premises to be used for unlawful purpose	1,800

5

s 109(4)

Column 1	Column 2	Column 3
Section	Description of unlawful act	Amount (\$)
40(3A)(d)	Tenant's harassment of other tenant or neighbour	3,000
40(3A)(e)	Tenant failing to ensure number of residents does not exceed maximum allowed	1,000
42A(7)	Landlord failing to respond to written request seeking consent for fixtures, etc	1,500
42B(3)	Landlord failing to consent to request for minor change	1,500
42B(6)	Tenant failing to reinstate premises at end of tenancy following minor change	1,500
43B(3)	Tenant assigning tenancy without the landlord's written consent or when prohibited to do so	750
44(2A)	Tenant subletting or parting with possession when prohibited to do so or without the landlord's written consent	1,500
44A(3)(a)	Landlord failing to itemise expenses incurred on assignment, subletting, parting with possession, or termination by consent	750
45(1A)	Landlord failing to meet obligations in respect of cleanliness, maintenance, smoke alarms, the healthy homes standards, or buildings, health, and safety requirements	7,200
45(1AD)(a)	Landlord failing to provide healthy homes information	750
45(2A)	Landlord interfering with supply of services to premises	1,800
45(2D)	Landlord failing to meet obligations to provide insurance policy or to correct information provided	900
45B(6)	Landlord failing to take all reasonable steps to facilitate installation of fibre connection or to respond to request	1,500
46(3)	Landlord failing to provide locks or landlord or tenant altering locks without consent of other party	1,500
47(3)	Landlord failing to give notice that premises are on the market	1,800
48(4)(a)	Unlawful entry by landlord	1,500
48(4)(b)	Tenant failing to allow landlord to enter upon premises in circumstances where landlord entitled to enter	1,500
48(4)(c)	Landlord failing to notify tenant of results of contamination test	1,000
49D	Unlawful acts of landlord related to tenant's liability under section 49B	1,800
54(3)	Landlord giving retaliatory notice of termination	6,500
60AA	Landlord acting to terminate tenancy without grounds	6,500
61(5)	Tenant abandoning premises without reasonable excuse	1,500
66G(4)	Harassment of tenant in boarding house	3,000
66I(4)	Landlord of boarding house failing to meet obligations in respect of cleanliness, maintenance, smoke alarms, the healthy homes standards, or buildings, health, and safety requirements	7,200
66I(7)	Landlord failing to provide healthy homes information	

Column 1	Column 2	Column 3
Section	Description of unlawful act	Amount (\$)
66J(2B)	Landlord of boarding house interfering with services or failing to advise that premises on market	1,800
66J(4)	Landlord of boarding house failing to notify results of contamination test (relating to boarding house facilities)	1,000
66J(7)	Landlord of boarding house failing to meet obligations to provide insurance policy or to correct information provided	900
66K(4)(a)	Tenant of boarding house interfering, etc, with means of escape from fire	4,000
66K(4)(b)	Tenant using or permitting boarding room to be used for unlawful purposes	1,500
66K(4)(c)	Tenant of boarding house harassing neighbour	3,000
66P(4)	Landlord of boarding house failing to comply with order relating to house rules	3,000
66T(1)(a) to (c)	Contraventions relating to entry, or attempted entry, of tenant's boarding room	1,500
66T(1)(d)	Landlord of boarding house failing to notify results of contamination test (relating to boarding room)	1,000
66X(5)	Tenant of boarding house abandoning premises without reasonable excuse	1,500
108(2A)	Breach of work order (other than section 78A work order)	5,000
108(2A)	Landlord breaching section 78A work order	5,000
123A(5)(a)	Landlord failing to produce documents to chief executive	1,500
126J(1)	Failing to comply with improvement notice	3,000
126P(2)	Breaching an enforceable undertaking	1,000
137(2)	Contracting to contravene or evade the provisions of this Act	1,800

Schedule 3
New Schedule 1B inserted

s 74

Schedule 1B
Fines and fees for infringement offences

5

s 126A

1 Maximum fine for infringement offences

The maximum fine for an infringement offence specified in column 1 of the table in **clause 3** is an amount not exceeding,—

- (a) if the landlord has 6 or more tenancies when they commit the offence, the corresponding amount in column 3 of the table; and 10
- (b) in any other case, the corresponding amount in column 4 of the table.

2 Infringement fee for infringement offences

The infringement fee for an infringement offence specified in column 1 of the table in **clause 3** is,— 15

- (a) if the landlord has 6 or more tenancies when they commit the offence, the corresponding amount in column 5 of the table; and
- (b) in any other case, the corresponding amount in column 6 of the table.

3 Table of fines and fees for infringement offences

The following table sets out the fines and fees for infringement offences under this Act: 20

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
		Fine (6 or more tenancies)	Fine (5 or fewer tenancies)	Fee (6 or more tenancies)	Fee (5 or fewer tenancies)
Section	Description of offence	(\$)	(\$)	(\$)	(\$)
13(4)(b)	Failing to ensure tenancy agreement in writing, signed, and provided to tenant	2,000	1,000	1,000	500
13A(1G)	Failing to comply with section 13A(1A), (1CA), (1CB), or (2)	2,000	1,000	1,000	500
15(3)	Failing to give notice as successor	2,000	1,000	1,000	500
16(2A)	Failing to notify change of name or address	2,000	1,000	1,000	500
16A(6)(b)	Failing to appoint agent when outside	3,000	1,500	1,000	500

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Section	Description of offence	Fine (6 or more tenancies) (\$)	Fine (5 or fewer tenancies) (\$)	Fee (6 or more tenancies) (\$)	Fee (5 or fewer tenancies) (\$)
	New Zealand for longer than 21 consecutive days				
17(5)	Requiring key money	3,000	1,500	1,000	500
17A(4)	Requiring letting fee	3,000	1,500	1,000	500
18(4)(b)	Requiring bond greater than amount permitted	3,000	1,500	1,000	500
18A(2)(b)	Requiring unauthorised form of security	3,000	1,500	1,000	500
19(3)	Breaching duties on receipt of bond	3,000	1,500	1,000	500
22F(3)(b)	Failing to state amount of rent in advertisement or offer	2,000	1,000	1,000	500
23(4)(b)	Requiring rent more than 2 weeks in advance or before rent already paid expires	3,000	1,500	1,000	500
29(6)	Failing to give receipt for rent	2,000	1,000	1,000	500
30(2)(b)	Failing to keep records	2,000	1,000	1,000	500
44A(3)(b)	Failing to itemise expenses incurred on assignment, subletting, parting with possession, or termination by consent	2,000	1,000	1,000	500
45(1AD)(b)	Failing to provide healthy homes information	2,000	1,000	1,000	500
47(4)	Failing to inform prospective tenants that premises on the market	3,000	1,500	1,000	500
48(4A)	Failing to notify tenant of results of test for contaminants	2,000	1,000	1,000	500
66I(7)	Failing to provide healthy homes information	2,000	1,000	1,000	500
66J(2B)(b)	Failing to inform prospective tenants that boarding house premises on the market	3,000	1,500	1,000	500
66J(4)(b)	Failing to notify tenant of results of test for	2,000	1,000	1,000	500

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Section	Description of offence	Fine (6 or more tenancies) (\$)	Fine (5 or fewer tenancies) (\$)	Fee (6 or more tenancies) (\$)	Fee (5 or fewer tenancies) (\$)
	contaminants (relating to boarding house facilities)				
66T(1A)	Failing to notify tenant of results of test for contaminants (relating to boarding room)	2,000	1,000	1,000	500
123A(5)(b)	Failing to produce documents to chief executive	3,000	1,500	1,000	500

Schedule 4

Consequential amendments to other enactments

s 75

Part 1

Amendments to Acts

5

Public and Community Housing Management Act 1992 (1992 No 76)

In section 74(5), delete “and (2)”.

In section 94(5), delete “and (2)”.

Summary Proceedings Act 1957 (1957 No 87)

In section 2(1), definition of **infringement notice**, after paragraph (je), insert: 10

(jf) section 126C of the Residential Tenancies Act 1986; or

Unit Titles Act 2010 (2010 No 22)

After section 176(1)(aa), insert:

(ab) **section 95A(3) and (4)** (which relates to orders of the Tribunal for suppression of a party’s name or identifying particulars): 15

After section 176(1)(b), insert:

(ba) **section 108(2B)** (which relates to certain failures to comply with work orders):

After section 176(1)(c), insert:

(d) **sections 109B to 109E** (which relate to pecuniary penalties). 20

Part 2

Amendments to legislative instrument

Residential Tenancies (Healthy Homes Standards) Regulations 2019 (LI 2019/88)

In regulation 40(1), replace “section 123A(1)(ca) of the Act” with “**section 123A(1)(e)** of the Act”. 25

In regulation 40(2)(b), replace “section 123A(1)(ca)” with “**section 123A(1)(e)**”.