

South Australia

# Housing Improvement Regulations 2017

under the *Housing Improvement Act 2016*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Housing Improvement Regulations 2017*.

### 3—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Housing Improvement Act 2016*;

*approval* includes consent, permission or authorisation;

*bedroom* means a room used, intended to be used, or reasonably capable of being used, as a bedroom;

*construction* includes alteration;

*habitable room* means a room used, intended to be used, or reasonably capable of being used, as a bedroom, kitchen or dining or living area.

## Part 2—General provisions supporting Act

### 4—Meaning of *owner* (section 4 of Act)

For the purposes of the definition of *owner* of land in section 4(1)(d) of the Act, land held under a lease granted to the Minister under any of the following Acts is held in prescribed circumstances:

- (a) the *Aboriginal Lands Trust Act 2013*;
- (b) the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*;
- (c) the *Maralinga Tjarutja Land Rights Act 1984*.

### 5—Recovery of costs and expenses incurred by Minister (section 18 of Act)

- (1) For the purposes of section 18(3)(a) of the Act, the prescribed rate of interest per annum on an amount recoverable by the Minister but not paid within the period fixed by the Minister is 24% calculated in respect of each month (or part of a month) for which the amount remains unpaid.
- (2) For the purposes of section 18(3)(c) of the Act, the prescribed form of notice is as set out in Schedule 1 Form 1.

### 6—Termination or variation of prescribed residential tenancy agreement by landlord (section 30 of Act)

For the purposes of section 30(1) of the Act—

- (a) the prescribed form for a notice of termination is as set out in Schedule 1 Form 2;
- (b) the prescribed form for a notice of variation of a prescribed kind (within the meaning of section 30(5) of the Act) is as set out in Schedule 1 Form 3.

### 7—Orders and notices under this Part to be declared in advertisements for sale or lease of land and in lease agreement (section 32 of Act)

For the purposes of section 32(4) of the Act, a lessee's intention not to be bound by the lease must be given to the lessor by notice in writing.

## **Part 3—Prescribed minimum housing standards**

### **8—Purpose of Part**

This Part establishes the prescribed minimum housing standards for the purposes of section 5 of the Act (being standards that must be met for residential premises to be considered safe and suitable for human habitation).

### **9—General standards**

The following general standards apply to residential premises:

- (a) the residential premises and any fixtures, fittings or other facilities provided with the residential premises must not present a health or safety hazard;
- (b) the fixtures, fittings and facilities prescribed as minimum housing standards under this Part must be—
  - (i) properly installed; and
  - (ii) fit for the purpose for which those fixtures, fittings or facilities are intended or ordinarily used; and
  - (iii) in good working order.

### **10—Toilet, bathroom, kitchen and laundry areas**

The following standards relating to toilet, bathroom, kitchen and laundry areas apply to residential premises:

- (a) the residential premises must be provided with the following items as reasonably required for domestic purposes:
  - (i) a toilet, bath or shower, hand basin, kitchen sink and laundry wash trough or basin;
  - (ii) space, and designated water supply outlets within immediate proximity of that space, for a washing machine;
  - (iii) a wastewater discharge pipe for a washing machine;
  - (iv) an oven and cooktop;
  - (v) adequate kitchen bench space for food preparation;
  - (vi) a food storage cupboard or pantry in or within reasonable proximity of the kitchen;
- (b) each room in the residential premises containing toilet, bathroom, kitchen or laundry facilities must be of such a size, and its facilities so configured, as to allow for ease of movement around, and reasonable access to, the facilities;
- (c) each room containing toilet or bathroom facilities must afford adequate privacy to the user;
- (d) each room containing a toilet must not open directly into a room used or intended to be used for the storage, preparation, cooking or consumption of food unless ventilated by means of an exhaust fan or similar device;

- (e) the construction of each room in the residential premises containing toilet, bathroom, kitchen or laundry facilities must comply with the following requirements in respect of waterproofing of walls and floors in such a room:
  - (i) if, in the opinion of the Minister, the construction of the room occurred before the repeal of the *Building Act 1971*, the construction must comply with the waterproofing requirements that, in the opinion of the Minister, applied in respect of such construction under that Act immediately before its repeal;
  - (ii) if, in the opinion of the Minister, the construction occurred after the repeal of the *Building Act 1971*—
    - (A) if the construction was the subject of a readily ascertainable approval under the *Development Act 1993*—the construction must comply with the waterproofing requirements under that approval; or
    - (B) in any other case—the construction must comply with the waterproofing requirements that, in the opinion of the Minister, applied in respect of such construction under the *Development Act 1993* at the time of construction.

## **11—Water supply and sewerage**

The following standards relating to water supply and sewerage apply to residential premises:

- (a) the residential premises must have a sufficient and continuously available supply of—
  - (i) hot and cold water plumbed to each bath, shower, hand basin, kitchen sink and laundry wash trough or basin; and
  - (ii) cold water plumbed to each toilet and washing machine water supply outlet;
- (b) the water must be of a suitable quality for its intended purpose and, in the case of water plumbed to a kitchen sink, must be suitable for drinking;
- (c) each toilet, bath, shower, hand basin, kitchen sink, laundry wash trough or basin and washing machine waste water discharge pipe in the residential premises must be plumbed to a drainage system that is capable of disposing of all sewage and waste water from those facilities into—
  - (i) a wastewater system within the meaning of the *South Australian Public Health (Wastewater) Regulations 2013*; or
  - (ii) any other sewerage infrastructure within the meaning of the *Water Industry Act 2012*.

## **12—Electricity and gas**

The following standards relating to electricity and gas apply to residential premises:

- (a) the residential premises must have a sufficient and continuously available supply of electricity;

- (b) each habitable room in the residential premises and each room containing toilet, bathroom or laundry facilities must have at least 1 electric light fixture and a sufficient number of electrical power points as reasonably required for domestic purposes;
- (c) each electrical installation in the residential premises must comply with the law in force at the time of such installation (whether the *Electricity Act 1996* or a corresponding previous enactment);
- (d) each alteration to, or relocation, repair or maintenance of, an electrical installation must comply with the law in force at the time of such alteration, relocation, repair or maintenance (whether the *Electricity Act 1996* or a corresponding previous enactment);
- (e) each gas installation in the residential premises must comply with the law in force at the time of such installation (whether the *Gas Act 1997* or a corresponding previous enactment);
- (f) each alteration to, or relocation, repair or maintenance of, a gas installation must comply with the law in force at the time of such alteration, relocation, repair or maintenance (whether the *Gas Act 1997* or a corresponding previous enactment).

### 13—Fire safety

- (1) The following fire safety standards apply to residential premises:
  - (a) the residential premises must be maintained so as not to present a fire hazard;
  - (b) in the case of residential premises comprising a Class 1 or Class 2 building—the premises must be fitted with smoke alarms in accordance with regulation 76B of the *Development Regulations 2008*;
  - (c) in the case of residential premises other than a Class 1 or Class 2 building—1 or more smoke alarms must be installed in accordance with the requirements of regulation 76B of the *Development Regulations 2008* (including the requirements applying on transfer of title of land) as if the residential premises were a Class 1 or Class 2 building.

- (2) In this regulation—

*Class 1 building* has the same meaning as in regulation 76B of the *Development Regulations 2008*;

*Class 2 building* has the same meaning as in regulation 76B of the *Development Regulations 2008*.

### 14—Hazardous materials

- (1) Residential premises must be free from materials or substances that pose a material or serious risk of harm to the health of occupants.

**Examples—**

- 1 Disturbed or damaged asbestos.
- 2 Flaking lead paint.
- 3 Lead dust.
- 4 Chemical residues or vapours.

(2) In this regulation—

*material or serious risk of harm* means a risk of harm that is not trivial or negligible.

## **15—Miscellaneous**

The following miscellaneous standards apply to residential premises:

- (a) each internal wall and ceiling in the residential premises must be constructed of rigid material and form a regular and durable surface;
- (b) the floor to ceiling height in each room in the residential premises must be not less than the minimum floor to ceiling height that, in the opinion of the Minister, applied in respect of such a room under the *Building Act 1971* immediately before its repeal;
- (c) any stairs (including the risers and goings and any landings, balustrades and handrails) in the residential premises must—
  - (i) if the construction of the stairs was the subject of a readily ascertainable approval under the *Building Act 1971*, the *Development Act 1993* or a corresponding previous enactment—comply with the building requirements under that approval; or
  - (ii) in any other case—comply with the building requirements that, in the opinion of the Minister, applied in respect of such construction under the law in force at the time of the construction (whether the *Building Act 1971*, the *Development Act 1993* or a corresponding previous enactment);
- (d) each habitable room in the residential premises and each room containing toilet, bathroom or laundry facilities—
  - (i) must be adequately ventilated; and
  - (ii) must be able to be adequately lit;
- (e) each external door in the residential premises must be fitted with a lock that is able to be operated from the outside with a key and unlocked from the inside without a key;
- (f) each external window in the residential premises that is able to be opened must be fitted with a latch;
- (g) in order for occupants of the residential premises to safely screen visitors, the residential premises must be provided with the following items at the main point of entry to the residential premises:
  - (i) a suitably placed window, lockable screen door, peep-hole, security chain or intercom system;
  - (ii) an external light fitting;
- (h) the footings must provide effective structural support to the residential premises;
- (i) the residential premises must be reasonably draught proof and weatherproof;

- (j) the residential premises must be reasonably free from mould or other irritants, structural disrepair or other adverse effects caused, or contributed to, by moisture or damp;
- (k) the grounds of the residential premises must be effectively drained;
- (l) the residential premises must provide reasonably free and unimpeded access to and from the premises so that, in the event of an emergency—
  - (i) occupants are able to escape from the premises; and
  - (ii) persons are able to enter the premises to provide medical or other emergency services;
- (m) the residential premises and its grounds must be maintained to prevent—
  - (i) the accumulation of rubbish; and
  - (ii) infestation by vermin;
- (n) any swimming pool on the grounds of the residential premises must comply with the requirements relating to swimming pool safety features under section 71AA of the *Development Act 1993*.

## 16—Additional provisions relating to rooming houses

- (1) The following standards apply to residential premises occupied under a rooming house agreement within the meaning of the *Residential Tenancies Act 1995*:
  - (a) each bedroom in the premises must—
    - (i) have a minimum floor space of 7.5m<sup>2</sup>; and
    - (ii) be fitted with a locking device that is able to be operated from the outside with a key and unlocked from the inside without a key; and
    - (iii) have at least 2 electrical power points;
  - (b) each bedroom window in the premises must have a curtain or blind that can be opened and closed by the resident for privacy;
  - (c) the door to each shared toilet or bathroom facility in the premises must be fitted with a locking device enabling the door to be locked and unlocked from the inside only without a key;
  - (d) each of the following must be provided for use in the premises per maximum of 10 residents:
    - (i) a toilet;
    - (ii) a hand basin;
    - (iii) a bath or shower;
    - (iv) kitchen facilities (in accordance with the requirements of regulation 10);
    - (v) laundry facilities (in accordance with the requirements of regulation 10).
- (2) This regulation applies in addition to any other provision of this Part, however, in the case of any inconsistency between this regulation and any other provision of this Part, this regulation prevails to the extent of the inconsistency.

## Schedule 1—Forms

### Form 1—*Housing Improvement Act 2016*

#### Recovery of costs and expenses incurred by Minister—Notice seeking rental payments from tenant

To: *[insert name of tenant]*

Address of premises: *[insert address of rented premises]*

I give you notice that costs and expenses have been incurred by me in taking action under section 17 of the *Housing Improvement Act 2016* in relation to a housing assessment order, housing improvement order or housing demolition order that was issued to the owner of the premises that you currently occupy.

The amount of the costs and expenses have been followed up with the owner of the premises but remain unpaid.

I now seek to recover some or all of the costs and expenses referred to above in the form of rental payments that you would normally pay to your landlord until *[insert date]* or until such time as the full amount is paid. I am authorised to take this action under section 18 of the *Housing Improvement Act 2016*.

The costs and expenses are as follows:

*[include enough details so that the tenant receiving this notice will know exactly how much the Minister is seeking to recover]*

The following steps need to be taken by you: *[include enough details so that the tenant receiving this notice will know exactly what has to be done to pay the rent to the Minister]*

Signature of Minister or delegate:

Date:

Full name of landlord/agent:

Address for service of landlord/agent:

Full name of tenant:

Address for service of tenant:

#### Service of notice on tenant

This notice was served on the tenant on *[insert date]* by:

*[Tick 1 box]*

- personally handing it to the tenant
- leaving it for the tenant at their premises with someone apparently over 18 years of age
- posting it to the tenant
- faxing or emailing it to the tenant
- fixing it on a conspicuous part of the tenant's premises
- other *[please specify below]*



### Service of notice on landlord/agent (optional)

This notice was served on the landlord/agent on *[insert date]* by:  
*[Tick 1 box]*

- personally handing it to the landlord/agent
- leaving it for the landlord/agent at their premises with someone apparently over 18 years of age
- posting it to the landlord/agent
- faxing or emailing it to the landlord/agent
- other *[please specify below]*

### Information for the tenant

1. This notice has also been served on your landlord/agent for their information.
2. This notice may be served in the manner specified in section 51 of the *Housing Improvement Act 2016*, including the methods specified above.
3. You should retain a copy of this notice.

### Information for the landlord

1. Please note that this notice has been served on the tenant of the above residential premises, under section 18 of the *Housing Improvement Act 2016*, for the purposes of recovering costs and expenses that remain unpaid by the owner of the premises referred to above (within the period of *[insert period fixed]* specified in a notice served on the owner on *[insert date of previous notice to owner]*) for action taken under a housing assessment order, housing improvement order or housing demolition order under section 17 of the *Housing Improvement Act 2016*.
2. If the owner wishes to pay the debt owed to me, they should contact an officer of my Department to arrange the necessary details as follows: *[insert contact details]*.
3. This notice may be served in the manner specified in section 51 of the *Housing Improvement Act 2016*, including the methods specified above.
4. You should retain a copy of this notice.

## Form 2—*Housing Improvement Act 2016*

### Notice of termination or variation of prescribed residential tenancy agreement by landlord (regulation 6(a))

Note—

This form will only apply where the tenancy agreement is a **prescribed residential tenancy agreement**, defined, in section 4(1) of the *Housing Improvement Act 2016*, as a residential tenancy agreement other than—

- (a) a residential park agreement within the meaning of the *Residential Parks Act 2007*; or
- (b) a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1995* to which that Act applies; or
- (c) a rooming house agreement within the meaning of the *Residential Tenancies Act 1995*.

**To:** *[insert name of tenant]*

I give you notice to deliver up vacant possession of the premises at:

**Address of premises:** *[insert address of rented premises]*

on *[insert date on which tenant is required to vacate premises]*, being a date that is not less than *[insert number]* days, if this notice is being given on 1 or more of the following grounds, (being prescribed grounds for the purposes of section 30(1) of the *Housing Improvement Act 2016*):

**TICK ONE OR MORE OF THE FOLLOWING BOXES TO INDICATE THE GROUNDS**

- the landlord requires possession of the premises for demolition
- the landlord requires possession of the premises for repairs or renovations that cannot be carried out conveniently while the tenant remains in possession of the premises
- the landlord requires possession of the premises for the landlord's own occupation, or occupation by the landlord's spouse, child or parent, or occupation by the spouse of the landlord's child or parent
- the landlord requires possession for the landlord to give vacant possession to a purchaser of the premises as they have entered into a contract of sale dated: *[insert date of contract of sale]*

Signature of landlord/agent:

Date:

Full name of landlord/agent:

Address for service of landlord/agent:

### **Service of notice**

This notice was served on the tenant on *[insert date]* by:

*[Tick 1 box]*

- personally handing it to the tenant
- leaving it for the tenant at their premises with someone apparently over 18 years of age
- posting it to the tenant
- faxing or emailing it to the tenant
- fixing it on a conspicuous part of the tenant's premises
- other *[please specify below]*

### **Information for the landlord of prescribed residential tenancy agreement**

1. It is a criminal offence under the *Housing Improvement Act 2016* to state a false ground of termination in this notice.
2. A landlord who recovers possession of premises pursuant to this notice must not, without the consent of the Tribunal, grant a fresh tenancy over the premises within 6 months after recovering possession.

3. This notice may be served in the manner specified in section 51 of the *Housing Improvement Act 2016*, including the methods specified above.
4. You should retain a copy of this notice.

### Information for the tenant of prescribed residential tenancy agreement

1. If the rented premises are subject to a housing assessment order, a housing improvement order, a housing demolition order or a rent control notice under the *Housing Improvement Act 2016* and you wish to leave the rented premises before the date on which the landlord has indicated vacant possession of the premises is required, you may do so by giving the landlord notice of the termination at least 7 days before leaving, and you need not specify a ground of termination.
2. When you vacate the premises, you should leave them in a reasonable condition and in a reasonably clean state. If you do not, the landlord may recover the costs of cleaning the premises, removing any rubbish, and so on.
3. You should contact the landlord or agent and arrange to meet him or her at the premises at an agreed time to inspect the premises before you leave.
4. When you leave the premises, ensure that you leave all the keys, remote controls and security devices with the landlord or agent, and notify the electricity entity, gas company, Australia Post, Telstra etc, so that any subsequent use of gas, electricity and the telephone at the premises is not charged to you, and so that mail can be forwarded to you.

### Form 3—*Housing Improvement Act 2016*

#### Notice of variation of prescribed residential tenancy agreement by landlord (regulation 6(b))

**Note—**

This form will only apply where the tenancy agreement is a ***prescribed residential tenancy agreement***, defined, in section 4(1) of the *Housing Improvement Act 2016*, as a residential tenancy agreement other than—

- (a) a residential park agreement within the meaning of the *Residential Parks Act 2007*; or
- (b) a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1995* to which that Act applies; or
- (c) a rooming house agreement within the meaning of the *Residential Tenancies Act 1995*.

**To:** *[insert name of tenant]*

I give you notice of my intention to make a variation of the prescribed residential tenancy agreement of the premises at:

**Address of premises:** *[insert address of rented premises]*

on *[insert date on which the variation will commence]*, being a date that is not less than 30 days:

**TICK ONE OR MORE OF THE FOLLOWING BOXES TO INDICATE THE NATURE OF THE VARIATION AND STATE REASONS**

- property or rights ordinarily enjoyed by the tenant in connection with the premises will be removed

The reasons for this are: *[state reasons]*

- property or rights ordinarily enjoyed by the tenant in connection with the premises will be subject to a new or additional charge

The reasons for this are: *[state reasons]*

Signature of landlord/agent:

Date:

Full name of landlord/agent:

Address for service of landlord/agent:

### **Service of notice**

This notice was served on the tenant on *[insert date]* by:  
*[Tick 1 box]*

- personally handing it to the tenant
- leaving it for the tenant at their premises with someone apparently over 18 years of age
- posting it to the tenant
- faxing or emailing it to the tenant
- fixing it on a conspicuous part of the tenant's premises
- other *[please specify below]*

### **Information for the landlord of prescribed residential tenancy agreement**

1. It is a criminal offence under the *Housing Improvement Act 2016* to make a false statement in this notice.
2. This notice may be served in the manner specified in section 51 of the *Housing Improvement Act 2016*, including the methods specified above.
3. You should retain a copy of this notice.

### **Information for the tenant of prescribed residential tenancy agreement**

1. If the rented premises are subject to a housing assessment order, a housing improvement order, a housing demolition order or a rent control notice under the *Housing Improvement Act 2016* and you wish to leave the rented premises before the date on which the landlord has indicated the commencement of the variation, you may do so by giving the landlord notice of the termination at least 7 days before leaving, and you need not specify a ground of termination.
2. When you vacate the premises, you should leave them in a reasonable condition and in a reasonably clean state. If you do not, the landlord may recover the costs of cleaning the premises, removing any rubbish, and so on.
3. You should contact the landlord or agent and arrange to meet him or her at the premises at an agreed time to inspect the premises before you leave.

4. When you leave the premises, ensure that you leave all the keys, remote controls and security devices with the landlord or agent, and notify the electricity entity, gas company, Australia Post, Telstra etc, so that any subsequent use of gas, electricity and the telephone at the premises is not charged to you, and so that mail can be forwarded to you.

## **Schedule 2—Transitional provisions**

### **Part 2—Transitional provisions**

#### **2—Information under repealed Act**

- (1) The Minister may, on application, provide details of any notice under section 52(1) or (3) or section 54 of the repealed Act that was in force in relation to residential premises during the period of 5 years immediately preceding the commencement of this clause.
- (2) An application under subclause (1)—
  - (a) must be in the form determined by the Minister; and
  - (b) must be accompanied by the fee prescribed for the purposes of the Act.
- (3) The Minister may, in the Minister's absolute discretion, decline to provide particular details in particular circumstances.
- (4) This clause expires on the expiration of 5 years from the commencement of this clause.
- (5) In this clause—

*repealed Act* means the *Housing Improvement Act 1940*.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Housing Improvement Regulations 2017* revoked the following:

*Housing Improvement (Section 60 Statements) Regulations 2016*

*Housing Improvement (Standards) Regulations 2007*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2017	17	<i>Gazette 7.3.2017 p831</i>	3.4.2017: r 2
2018	108	<i>Gazette 21.6.2018 p2267</i>	1.7.2018: r 2
2018	256	<i>Gazette 20.12.2018 p4368</i>	20.12.2018: r 2
<b>2020</b>	<b>157</b>	<b><i>Gazette 4.6.2020 p3007</i></b>	<b>1.7.2020: r 2</b>

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2018</i>
r 3		
bedroom	inserted by 256/2018 r 4(1)	20.12.2018
habitable room	varied by 256/2018 r 4(2)	20.12.2018
r 9	substituted by 256/2018 r 5	20.12.2018
r 10	varied by 256/2018 r 6	20.12.2018
r 11	varied by 256/2018 r 7(1)—(3)	20.12.2018
r 13	substituted by 256/2018 r 8	20.12.2018
rr 14—16	inserted by 256/2018 r 8	20.12.2018
Sch 2		

<i>Pt 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2018</i>
Pt 2		
cl 2	will expire: cl 2(4)	(3.4.2022)
cl 2(2)	varied by 108/2018 r 4	1.7.2018
	<b>varied by 157/2020 r 4</b>	<b>1.7.2020</b>

## Historical versions

1.7.2018

20.12.2018