

South Australia

Residential Tenancies Variation Regulations 2014

under the *Residential Tenancies Act 1995*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Residential Tenancies Regulations 2010*

- 4 Variation of regulation 11—Items for which community housing provider is not responsible (section 68 of Act)
 - 5 Variation of regulation 16—Conferral of jurisdiction—registrars (section 16 of Act)
 - 6 Variation of Schedule 1—Forms
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Residential Tenancies Variation Regulations 2014*.

2—Commencement

These regulations will come into operation on the day on which Schedule 3 Part 3 Division 3 of the *Community Housing Providers (National Law) (South Australia) Act 2013* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Residential Tenancies Regulations 2010*

4—Variation of regulation 11—Items for which community housing provider is not responsible (section 68 of Act)

Regulation 11—delete "community housing organisation" and substitute:
registered community housing provider

5—Variation of regulation 16—Conferral of jurisdiction—registrars (section 16 of Act)

Regulation 16(h)—delete "South Australian Co-operative Housing Authority" and substitute:

South Australian Housing Trust

6—Variation of Schedule 1—Forms

(1) Schedule 1, Form 3—delete Form 3 and substitute:

Form 3—*Residential Tenancies Act 1995*

Notice of termination by landlord (General form for periodic tenancy)

Notice of termination by community housing provider (For fixed term or periodic agreement)

Note—

Unless a landlord is a registered community housing provider, the landlord cannot use this form to terminate a fixed term tenancy. If a landlord wishes to terminate a fixed term tenancy at the end of the fixed term, Form 2A must be used. In any other case, application must be made to the Residential Tenancies Tribunal.

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—

[tick appropriate box and complete details as required]

- not less than 90 days

A landlord may terminate a periodic tenancy by giving the tenant at least 90 days' notice without specifying a ground of termination.

- not less than *[insert number]* days, if this notice is being given on one (or more) of the following grounds:

The period of notice given on these grounds must be at least 60 days or if, under the terms of the periodic tenancy, rent is payable at intervals of greater than 60 days, that greater period.

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]*
- not less than 28 days, if, this notice is being given on one (or both) of the following grounds:
TICK ONE OR MORE OF THE FOLLOWING BOXES TO INDICATE THE GROUNDS
 - you have ceased to be a member of the community housing provider
 - you no longer satisfy a condition or conditions specified by the tenancy agreement with the community housing provider as essential to the continuation of the tenancy, namely *[state condition(s) no longer satisfied by the tenant]*

Signature of landlord/agent:

Date:

Full name of landlord/agent:

Address for service of landlord/agent:

Service of notice

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

- personally handing it to the tenant
- mailing it to the tenant
- placing it in the tenant's letterbox
- faxing or emailing it to the tenant
- other *[please specify below]*

Information for the landlord

1. If the landlord is a registered community housing provider and the tenant has ceased to be a member of the provider or no longer satisfies an essential requirement to remain as a tenant, the period of notice must be at least 28 days.

2. Except where the landlord is a registered community housing provider, this notice cannot be used if the tenancy has been entered into for a fixed term.
3. It is a criminal offence under the *Residential Tenancies Act 1995* to state a false ground of termination in this notice.
4. A landlord who recovers possession of premises after giving 60 days notice must not, without the consent of the Tribunal, grant a fresh tenancy over the premises within 6 months after recovering possession.
5. Except where the termination is for a failure to pay rent, if the premises are subject to a housing improvement notice or are subject (or potentially subject) to rent control, the Tribunal must give its authorisation to this notice before it is effective.
6. This notice may be served on the tenant (or on an agent of the tenant)—
 - (a) personally; or
 - (b) by sending it by post addressed to the person at his or her last known place of residence, employment or business; or
 - (c) by leaving it in a letterbox or other place where it is likely to come to his or her attention at his or her last known place of residence, employment or business; or
 - (d) by fax or email to a fax number or email address provided by the person for the purposes of service under the Act.
7. You should retain a copy of this notice.

Information for the tenant

1. If your tenancy agreement is for a periodic tenancy 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 serving a notice of termination (see Form 5) on the landlord at least 21 days before leaving, or a period equivalent to a single rental period of your tenancy (whichever is longer).

Example—

If you pay rent per calendar month, instead of giving 21 days written notice, you would be required to give 1 calendar month's written notice.

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 from the bond, or from you directly, 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. With the landlord or agent, you can then inspect the premises and note on the Inspection Sheet (which you filled in and received at the start of the tenancy) the state of cleanliness of the premises and any damage that has occurred during the tenancy. You can then decide with the landlord or agent how much of the bond should be paid to you and to the landlord (respectively).
4. If possible you should agree on how the bond should be paid. If you do agree, both of you should complete and sign the Refund of Bond form and lodge it with Consumer and Business Services. Make sure that your forwarding address is included on the form so that all or part of the bond, or any future correspondence, can be sent to you. If agreement cannot be reached, you should contact Consumer and Business Services.
5. When you vacate 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 the new tenants do not use gas, electricity and the telephone on your accounts, and so that mail can be forwarded to you.

Note—

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

Made by the Governor

with the advice and consent of the Executive Council
on 6 February 2014

No 38 of 2014

DCSICS/13/040