

Reprint
as at 15 April 2017



Housing Restructuring and Tenancy Matters (Transitional) Regulations 2014

(LI 2014/119)

Housing Restructuring and Tenancy Matters (Transitional) Regulations 2014: revoked, on the close of 14 April 2017, by regulation 3.

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 7th day of April 2014

Present:

His Excellency the Governor-General in Council

Pursuant to section 3A and clause 20 of Schedule 4 of the Housing Restructuring and Tenancy Matters Act 1992, His Excellency the Governor-General makes the following regulations, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Housing made after being satisfied of the matters referred to in clause 20(2) of Schedule 4 of that Act.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

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Regulations

1 Title

These regulations are the Housing Restructuring and Tenancy Matters (Transitional) Regulations 2014.

2 Commencement

These regulations come into force on 14 April 2014.

3 Revocation of these regulations

These regulations are revoked on the close of 14 April 2017.

4 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Housing Restructuring and Tenancy Matters Act 1992

agency means the social housing agency appointed under section 100 of the Act

transitional period means the period commencing on 14 April 2014 and ending on the close of 14 April 2017.

5 Rent increases where tenant’s change of circumstances occurs before 14 April 2014

(1) This regulation applies for the transitional period if—

- (a) a social housing provider receives a notification from the agency under section 106 of the Act of an increase in an income-related rent due to a change in a tenant’s circumstances or the circumstances of an applicable person in relation to the tenant; and
- (b) the change in circumstances (as stated in that notification) occurred before 14 April 2014.

(2) If the social housing provider is HNZ,—

- (a) despite clause 6 of Schedule 4 of the Act, section 74 of the Act does not apply to the tenant, the social housing provider, or the agency; and
- (b) section 73(4) of the Act must be read as if the words “except to the extent that section 74 of this Act provides otherwise” do not have effect.

- (3) If the social housing provider is a registered community housing provider,—
- (a) section 94 of the Act does not apply to the tenant, the social housing provider, or the agency; and
 - (b) section 93(4) of the Act must be read as if the words “except to the extent that section 94 provides otherwise” do not have effect.

6 Definition of assessable assets

The definition of **assessable assets** in section 111(2) of the Act applies for the transitional period with the modification that it has the meaning prescribed in clause 11(1) of Schedule 2 of the Act (instead of the meaning prescribed in regulations made under section 114 of the Act).

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 14 April 2014, are made for the purposes of—

- facilitating the orderliness of the transition to the amendments made to the Housing Restructuring and Tenancy Matters Act 1992 (the **Act**) by the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Act 2013 (the **amendment Act**); and
- ensuring that existing rights or obligations continue as part of that transition.

By way of background, a function of the social housing agency (the Ministry of Social Development) is to calculate the income-related rent of a tenant of housing provided by a social housing provider (Housing New Zealand or a registered community housing provider) and give notification of the income-related rent to the provider.

Sections 74 and 94 of the Act apply where a social housing provider receives a notification from the agency of an increased income-related rent calculated for a tenant due to a change in the circumstances of the tenant or an applicable person in relation to the tenant. Unless the provider considers that the increased rent would not make a material difference to the rent already charged, the provider must give written notice to the tenant stating the date that the increased rent takes effect (which cannot be earlier than the date that is 61 days after the date (stated in the agency’s notification) on which the change in circumstances occurred). The provider must give the tenant notice of increased rent at least 2 weeks before the date on which the increased rent takes effect. Sections 74 and 94 of the Act also allow the agency to recover certain amounts owed by the tenant as debt due to the Crown.

Regulation 5 provides that sections 74 and 94 of the Act do not apply during the transitional period (14 April 2014 to the close of 14 April 2017) if—

- a social housing provider receives notification from the agency of an increased income-related rent calculated for a tenant due to a change in the circumstances of the tenant or an applicable person in relation to the tenant; and
- the change in circumstances (as stated in the notification) occurred before 14 April 2014.

The effect of *regulation 5* is to ensure that a tenant who, before 14 April 2014, had a change in circumstances that affected the tenant's income-related rent has, in respect of any rent increase arising from that change in circumstances, rights and obligations that are similar to those that the tenant had before sections 74 and 94 of the Act came into force.

The provider will still be required to give notice of increased rent in accordance with sections 72 and 73 of the Act. However, that notice must comply with section 24 of the Residential Tenancies Act 1986 without exception (which, among other things, prohibits any rent increase within 180 days after the date of the last increase). The agency's ability to recover debt under section 127 of the Act is not affected by these regulations.

Regulation 6 provides that, for the transitional period, the definition of assessable assets in clause 11(1) of Schedule 2 of the Act applies. The effect of *regulation 6* is to preserve, for the duration of the transitional period, the definition of assessable assets that was used for the purpose of calculating a tenant's income-related rent before 14 April 2014. Section 111(2) of the Act states that assessable assets has the meaning prescribed by regulations made under section 114 of the Act. Because those regulations have not been made, it is necessary to use the definition of assessable assets in Schedule 2 of the Act, which is the definition that applied before the commencement of the amendment Act. Once regulations made under section 114 of the Act come into force, Schedule 2 of the Act is repealed.

These regulations are revoked on the close of 14 April 2017.

Reprints notes

1 *General*

This is a reprint of the Housing Restructuring and Tenancy Matters (Transitional) Regulations 2014 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Housing Restructuring and Tenancy Matters (Transitional) Regulations 2014 (LI 2014/119): regulation 3