

Version
as at 5 December 2017



Residential Tenancies Amendment Act 2016

Public Act 2016 No 26
Date of assent 2 June 2016
Commencement see section 2

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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.

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Schedule

New Schedule 1AA inserted

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Residential Tenancies Amendment Act 2016.

2 Commencement

- (1) This Act, except the provisions referred to in subsections (2) to (4), comes into force on 1 July 2016.
- (2) Sections 3, 5, 15(2), 20, 43, 44(1), and 45 and the Schedule come into force on the day after the date on which this Act receives the Royal assent.
- (3) *[Repealed]*
- (4) *[Repealed]*

Section 2(3): repealed, on 5 December 2017, by section 8(3) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 2(4): repealed, on 5 December 2017, by section 8(3) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

3 Principal Act

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

Part 1

Tenancy agreements, Tenancy Tribunal, administration, etc

4 Section 2 amended (Interpretation)

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

income-related rent tenancy means a tenancy, other than a boarding house tenancy,—

- (a) that commences before 1 July 2016 and in relation to which section 72(1) or 92(1) of the Housing Restructuring and Tenancy Matters Act 1992 applies at the beginning of 1 July 2016; or
- (b) that commences on or after 1 July 2016 and in relation to which section 72(1) or 92(1) of the Housing Restructuring and Tenancy Matters Act 1992 applies at its commencement

New Zealand Standard has the meaning given in section 4(1) of the Standards and Accreditation Act 2015

- (2) *[Repealed]*

- (3) In section 2(1), replace the definition of **work order** with:

work order—

- (a) means an order by the Tribunal to carry out any repairs to any premises or to any chattels, or to rectify any deficiency in the performance of any services, by doing such work or attending to such matters (including the replacement of chattels) as may be specified in the order; and
- (b) includes (without limiting the generality of paragraph (a)), an order by the Tribunal requiring a party to carry out any work, as specified in the order, for the purpose of complying with any requirement in respect of smoke alarms or insulation imposed on the party by regulations made under section 138A or 138B

Section 4(2): repealed, on 5 December 2017, by section 8(3) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

5 New section 2A inserted (Transitional, savings, and related provisions)

After section 2, insert:

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

6 Section 13A amended (Contents of tenancy agreement)

- (1) After section 13A(1)(a), insert:

- (aa) the landlord's contact mobile telephone number (if any); and
- (ab) the landlord's contact email address (if any); and

- (2) After section 13A(1)(b), insert:
- (ba) the tenant's contact mobile telephone number (if any); and
 - (bb) the tenant's contact email address (if any); and
- (3) After section 13A(1), insert:
- (1A) The landlord must include in the tenancy agreement a statement, made and signed by the landlord, that provides the following information to the tenant (subject to subsections (1B) and (1C)):
- (a) whether or not there is, as at the date of the tenancy agreement, any insulation installed in connection with any ceilings, floors, or walls that are at the premises;
 - (b) details of the location, type, and condition of all insulation that is, as at the date of the tenancy agreement, installed in connection with any ceilings, floors, or walls that are at the premises;
 - (c) if the tenancy is, or will be, an income-related rent tenancy and requirements in respect of insulation are imposed on the landlord as referred to in section 45(1)(bb), an explanation of how the landlord will comply with those requirements.
- (1B) Subsection (1C) applies if, despite making all reasonable efforts to do so, the landlord has not been able to obtain some or all of the information required by subsection (1A)(a) or (b) in respect of a particular location (for example, above a ceiling, under a floor, or in a wall).
- (1C) The landlord's statement under subsection (1A) does not have to provide the information that the landlord has not been able to obtain in respect of the particular location, so long as the statement instead—
- (a) describes the information that the landlord has not been able to obtain in respect of the particular location; and
 - (b) explains why the landlord has not been able to obtain that information; and
 - (c) confirms that the landlord has made all reasonable efforts to obtain that information.
- (1D) The requirement that the landlord's statement under subsection (1A) be signed by the landlord is in addition to the requirement under section 13(1) that the landlord sign the tenancy agreement.
- (1E) The landlord's statement under subsection (1A) does not affect the landlord's duties in respect of insulation under section 45(1) or 66I(1) or otherwise.
- (1F) The landlord commits an unlawful act if—
- (a) the landlord fails to comply with subsection (1A); or
 - (b) the landlord's statement under subsection (1A) includes anything that the landlord knows to be false or misleading.

(4) *[Repealed]*

Section 6(4): repealed, on 5 December 2017, by section 8(3) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

7 Section 15 amended (Notification of successor to landlord or tenant)

After section 15(1), insert:

(1A) For the purposes of subsection (1)(a), the following must be notified with the person's contact address:

- (a) the person's contact mobile telephone number (if any):
- (b) the person's contact email address (if any).

8 Section 16 amended (Change of name or address)

After section 16(1), insert:

(1A) In subsection (1), **contact address** includes the following:

- (a) a person's contact mobile telephone number:
- (b) a person's contact email address.

9 Section 16A amended (Landlord must have agent if out of New Zealand for longer than 21 consecutive days)

After section 16A(4), insert:

(4A) For the purposes of subsection (4)(a), the following must be notified with the agent's contact address:

- (a) the agent's contact mobile telephone number (if any):
- (b) the agent's contact email address (if any).

10 Section 30 amended (Landlord to keep records)

After section 30(1), insert:

(1A) The records must be kept for 7 tax years after the tax year to which they relate.

(1B) In subsection (1A), **tax year** means—

- (a) the period of 9 months beginning with 1 July 2016 and ending with 31 March 2017; or
- (b) a later period of 12 months beginning with 1 April and ending with 31 March.

11 Section 38 amended (Quiet enjoyment)

After section 38(3), insert:

(3A) Without limiting the generality of subsection (3), the landlord commits an unlawful act under that subsection if the landlord enters the premises purportedly under section 48(2B) without any reasonable cause to believe that the tenant has abandoned the premises.

12 Section 40 amended (Tenant’s responsibilities)

After section 40(1)(c), insert:

- (ca) comply with all requirements in respect of smoke alarms imposed on the tenant by regulations made under section 138A; and

13 Section 43 amended (Disposition of landlord’s interest)

(1) After section 43(1), insert:

(1A) The following must also be included in the notice under subsection (1)(a) if known to the landlord:

- (a) the purchaser’s contact mobile telephone number (if any);
- (b) the purchaser’s contact email address (if any).

(2) In section 43(2), after “(1)(a)”, insert “or (1A)”.

14 Section 45 amended (Landlord’s responsibilities)

(1) After section 45(1)(b), insert:

- (ba) comply with all requirements in respect of smoke alarms imposed on the landlord by regulations made under section 138A; and
- (bb) if the tenancy is an income-related rent tenancy, comply with all requirements in respect of insulation imposed on the landlord by regulations made under section 138B; and
- (bc) if the tenancy is not an income-related rent tenancy, comply with any requirement imposed on the landlord by regulations made under section 138B that provides (generally or in specified circumstances)—
 - (i) for the prohibition of any insulation (or any material or other item related to insulation) of a specified description; or
 - (ii) that any work, or other activity, of a specified description that is carried out during the tenancy must be carried out in accordance with a specified New Zealand Standard or a specified provision of a New Zealand Standard; or
 - (iii) that specified requirements in relation to thermal resistance (as defined in the regulations) must be met where any work, or other activity, of a specified description is carried out during the tenancy; and

(2) *[Repealed]*

(3) *[Repealed]*

(4) After section 45(1A), insert:

(1B) The landlord in relation to an income-related rent tenancy that commences on or after 1 July 2016 but before 1 July 2019 is not required to comply with the requirements imposed on the landlord as referred to in subsection (1)(bb) until the 90th day after the date of commencement of the tenancy.

- (1C) Subsection (1B) does not apply to a requirement that provides (generally or in specified circumstances)—
- (a) for the prohibition of any insulation (or any material or other item related to insulation) of a specified description; or
 - (b) that any work, or other activity, of a specified description that is carried out during the tenancy must be carried out in accordance with a specified New Zealand Standard or a specified provision of a New Zealand Standard; or
 - (c) that specified requirements in relation to thermal resistance (as defined in the regulations) must be met where any work, or other activity, of a specified description is carried out during the tenancy.

(5) *[Repealed]*

Section 14(2): repealed, on 5 December 2017, by section 8(3) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 14(3): repealed, on 5 December 2017, by section 8(3) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Section 14(5): repealed, on 5 December 2017, by section 8(3) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

15 Section 48 amended (Landlord's right of entry)

- (1) In section 48(1)(b), replace “subsection (2) or subsection (3)” with “subsections (2) to (3)”.
- (2) After section 48(2)(c), insert:
- (ca) for the purpose of complying, or preparing to comply, with any requirements in respect of smoke alarms or insulation imposed, or prospectively imposed, on landlords by regulations made under section 138A or 138B, at any time between 8 o'clock in the morning and 7 o'clock in the evening of any day, after giving to the tenant notice of the intended entry and the reason for it at least 24 hours before the intended entry; or
- (3) After section 48(2), insert:
- (2A) Subsection (2B) applies if—
- (a) there is rent that is at least 14 days in arrear; and
 - (b) the landlord has reasonable cause to believe that the tenant has abandoned the premises.
- (2B) The landlord may enter the premises for the purpose of confirming whether the tenant has abandoned the premises at any time specified in a notice given to the tenant not less than 24 hours before the intended entry.
- (4) In section 48(4)(b), replace “subsection (2) or subsection (3)” with “subsections (2) to (3)”.
- (5) In section 48(5), replace “subsection (2) or subsection (3) or subsection (4)” with “subsections (2) to (4)”.

16 Section 54 amended (Tribunal may declare retaliatory notice of no effect)

- (1) In section 54(1), replace “14” with “28”.
- (2) After section 54(2), insert:
- (3) The giving of a notice terminating a tenancy is an unlawful act if the notice is declared under subsection (2) to be of no effect.

17 Section 61 amended (Abandonment of premises)

After section 61(5), insert:

- (6) A process for dealing with applications under subsection (1) within 10 working days and without a hearing is set out in section 91AA.

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

- (1) After section 66I(1)(b), insert:
 - (ba) comply with all requirements in respect of smoke alarms imposed on the landlord by regulations made under section 138A; and
 - (bb) comply with any requirement imposed on the landlord by regulations made under section 138B that provides (generally or in specified circumstances)—
 - (i) for the prohibition of any insulation (or any material or other item related to insulation) of a specified description; or
 - (ii) that any work, or other activity, of a specified description that is carried out during the tenancy must be carried out in accordance with a specified New Zealand Standard or a specified provision of a New Zealand Standard; or
 - (iii) that specified requirements in relation to thermal resistance (as defined in the regulations) must be met where any work, or other activity, of a specified description is carried out during the tenancy; and

- (2) *[Repealed]*

Section 18(2): repealed, on 5 December 2017, by section 8(3) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

19 Section 66K amended (Obligations of tenant)

After section 66K(1)(c), insert:

- (ca) comply with all requirements in respect of smoke alarms imposed on the tenant by regulations made under section 138A; and

20 Section 66S amended (Notice of entry)

After section 66S(1)(c), insert:

- (ca) without limiting paragraph (c), to comply, or to prepare to comply, with any requirements in respect of smoke alarms or insulation imposed, or

prospectively imposed, on landlords by regulations made under section 138A or 138B:

21 Section 73 amended (Seal of Tribunal)

- (1) In section 73(1), delete “, in the custody of each Registrar.”.
- (2) After section 73(1), insert:
 - (1A) The seal may be applied to a document physically or electronically.

22 Section 74 amended (Records of Tribunal)

- (1) Replace section 74(1) with:
 - (1) Registrars must keep the records and papers of the Tribunal in the way (including by electronic means) approved by the chief executive of the Ministry of Justice.
- (2) Replace section 74(3) with:
 - (3) The chief executive of the Ministry of Justice must make arrangements under which a true copy of any record or paper of the Tribunal that is available for public inspection will be provided to any person on—
 - (a) an application made by that person—
 - (i) to a Registrar; or
 - (ii) by any electronic means (for example, through an Internet site) approved by the chief executive of the Ministry of Justice (if the arrangements allow applications to be made by electronic means); and
 - (b) payment by that person of the prescribed fee (if any).
- (3) In section 74(4), replace “under the hand of a Tenancy Adjudicator or of” with “by a Tenancy Adjudicator or”.

23 Section 76 amended (Tenancy Mediators)

- (1) Replace section 76(1) with:
 - (1) The chief executive must, from time to time, appoint Tenancy Mediators for the purposes of this Act.
- (1A) For the purposes of subsection (1), the chief executive may appoint 1 or more of the following:
 - (a) natural persons under the State Sector Act 1988:
 - (b) natural persons otherwise than under that Act on terms and conditions determined by the chief executive:
 - (c) bodies corporate on terms and conditions determined by the chief executive.
- (1B) A Tenancy Mediator that is a body corporate must perform or exercise its duties, functions, and powers through natural persons who are officers or

employees of the body corporate and who are authorised by it for the purposes of this subsection.

(2) Repeal section 76(2) and (3).

(3) After section 76(9), insert:

(9A) In relation to a Tenancy Mediator that is a body corporate, subsection (9)(b) also applies to any officer or employee of the body corporate through whom the body corporate is performing or exercising its duties, functions, and powers in accordance with subsection (1B).

(9B) Subsection (9)(b) does not prevent the following:

- (a) the chief executive exercising a right under, or otherwise enforcing, the terms and conditions of a Tenancy Mediator’s employment contract or appointment:
- (b) a Tenancy Mediator that is a body corporate exercising a right under, or otherwise enforcing, the terms and conditions of the appointment or employment contract of any of its officers or employees.

(4) Repeal section 76(11).

24 Section 77 amended (Jurisdiction of Tribunal)

In section 77(1), replace “Limitation Act 1950” with “Limitation Act 2010”.

25 Section 78 amended (Orders of Tribunal)

After section 78(2), insert:

(2AA) Subsection (2) does not apply if the work order, or any part of the work order, relates to any of the following:

- (a) smoke alarms:
- (b) insulation:
- (c) a failure to comply with a standard of fitness or other requirement applying by virtue of section 120C of the Health Act 1956:
- (d) a failure to comply with any other requirement relating to health or safety under any enactment.

(2AAB) A work order may include a provision authorising the party in whose favour the order is made—

- (a) to undertake any work covered by the order if—
 - (i) the order is not complied with by the other party; and
 - (ii) the other party has not complied with the alternative money order provided for by subsection (2) (if any); and
- (b) to charge the cost of undertaking the work (up to the amount specified by the Tribunal) to the other party.

(2AAC) Where any provision is made under subsection (2AAB)—

- (a) in favour of the landlord, the cost incurred by the landlord in undertaking any work in accordance with the provision (up to the amount specified by the Tribunal) is treated as rent in arrear and enforceable accordingly; or
 - (b) in favour of the tenant, the tenant may set off the cost incurred in undertaking any work in accordance with the provision (up to the amount specified by the Tribunal) against rent payable by the tenant.
- (2AAD) Without limiting subsection (2AAC)(b), where the tenant becomes authorised by any provision made under subsection (2AAB) to undertake any work, the tenant may pay to the chief executive any sum that would otherwise be payable by way of rent, up to the amount specified by the Tribunal, until sufficient has been accumulated to enable the tenant to undertake the work.
- (2AAE) Where any sum is paid to the chief executive under subsection (2AAD), the chief executive must give to the tenant a receipt showing the particulars of the payment, and must send a copy of the receipt to the landlord.
- (2AAF) Any money paid to the chief executive under subsection (2AAD) must be paid by the chief executive into the Residential Tenancies Trust Account, and must be paid out of that Account by the chief executive to the tenant if the chief executive is satisfied that the money is to be applied by the tenant to meet the cost of the work.
- (2AAG) The inclusion in a work order of any provision under subsection (2AAB) does not limit any other rights or remedies of the party in whose favour the order is made.

26 Section 86 amended (Filing of applications)

- (1) Replace section 86(1) with:
- (1) Proceedings before the Tribunal are commenced by filing an application in the approved form, with any prescribed fee,—
 - (a) at any office of the Tribunal; or
 - (b) by any electronic means (for example, through an Internet site) approved by the chief executive.
 - (2) After section 86(2), insert:
 - (2A) The approved form for an application under section 61(1) must (in particular) require the landlord, in the application,—
 - (a) to state whether the landlord wants the application to be dealt with under section 91AA; and
 - (b) to provide specified contact details of the tenant for use by the Tribunal under section 91AA(3), if the landlord wants the application to be dealt with under section 91AA.

27 Section 87 amended (Duties of chief executive on receipt of application)

- (1) After section 87(1), insert:
- (1A) Despite subsection (1), an application under section 61(1) must be referred directly to the Tribunal and the chief executive must refer the application to the appropriate Registrar accordingly.
- (2) After section 87(3), insert:
- (4) The chief executive must ensure that a Tenancy Mediator to whom an application is referred is, and continues during the case to be, independent of each of the parties.
- (5) If any of the State services is a party, the Tenancy Mediator's independence cannot be challenged just because the Tenancy Mediator is an officer or employee of any of the State services.

28 Section 88 amended (Functions of Tenancy Mediators)

- (1) In section 88(4), replace "his or her" with "the Tenancy Mediator's".
- (2) Replace section 88(5) with:
- (5) The chief executive and the chief executive of the Ministry of Justice must make arrangements under which an order made by a Tenancy Mediator to give effect to an agreed settlement will be referred to a Tenancy Adjudicator for sealing on an application made by the Tenancy Mediator or a party—
- (a) to the appropriate Registrar; or
 - (b) by any electronic means (for example, through an Internet site) approved by the chief executive and the chief executive of the Ministry of Justice (if the arrangements allow applications to be made by electronic means).
- (5A) The Tenancy Adjudicator must seal a copy of the order, unless subsection (6) applies.

29 Section 91 amended (Notice of hearing by Tribunal)

After section 91(2), insert:

- (3) This section is subject to section 91AA.

30 New section 91AA inserted (Process for determining abandonment applications within 10 working days without hearing)

After section 91, insert:

91AA Process for determining abandonment applications within 10 working days without hearing

- (1) This section applies if a landlord who files an application under section 61(1) (the **abandonment application**) in accordance with section 86 states in the abandonment application that the landlord wants the abandonment application to be dealt with under this section.

- (2) The Tribunal must complete the 2 stages set out in subsections (3) to (6) within 10 working days after the date on which the abandonment application was filed in accordance with section 86.

Stage 1

- (3) The Tribunal must, using the contact details provided by the landlord as referred to in section 86(2A)(b), take reasonable steps to attempt—
- (a) to bring the abandonment application to the attention of the tenant; and
 - (b) to ascertain whether the tenant wants to contest the abandonment application.

Stage 2

- (4) The Tribunal must—
- (a) decide whether it is satisfied of both of the matters in subsection (5); and
 - (b) if it decides that it is satisfied of both of those matters, determine the abandonment application in the way referred to in subsection (5)(b).
- (5) The matters referred to in subsection (4)(a) are as follows:
- (a) that the tenant does not want to contest the abandonment application;
 - (b) that the information provided by the landlord with the abandonment application is sufficient on its own, or with only minor clarifications from the landlord, to enable the Tribunal to determine the abandonment application properly without a hearing and on the basis only of that information, or of that information with those minor clarifications.
- (6) For the purposes of subsection (5)(a), the Tribunal may treat the tenant as not wanting to contest the abandonment application if the tenant does not, within a period determined by the Tribunal, respond to the steps taken by the Tribunal under subsection (3) or respond to those steps in a way required by the Tribunal.
- (7) If the Tribunal decides that it is not satisfied of both of the matters in subsection (5), the Tribunal must proceed with the abandonment application in accordance with section 91.

31 Section 91B replaced (Hearing may proceed even if party not served)

Replace section 91B with:

91B Substituted service, etc

- (1) This section applies if—
- (a) a notice or other document that is required to be served on a party is not served in accordance with this Act; and
 - (b) the Tribunal is satisfied that all reasonable efforts have been made to serve the notice or other document on the party in accordance with this Act.

- (2) The Tribunal may—
- (a) direct—
 - (i) that, instead of service in accordance with this Act, specified steps be taken that are likely to bring the notice or other document to the attention of the party; and
 - (ii) that the notice or other document be treated as served on the party on the happening of a specified event or on the expiry of a specified period; or
 - (b) direct that the notice or other document be treated as served on the party on a specified date, if steps have already been taken that have brought, or are likely to bring or to have brought, the notice or other document to the attention of the party; or
 - (c) dispense with the requirement for service and proceed as if the notice or other document had been served on the party in accordance with this Act.

32 Section 93 amended (Right of audience)

In section 93(2)(c), after “124”, insert “or 124A”.

33 Section 99 amended (Tribunal may require inquiry and report by Tenancy Mediator or suitable person)

After section 99(3), insert:

- (4) A person appointed under subsection (3) may be a natural person or a body corporate.

34 Section 101 amended (Protection of persons appearing, etc)

After section 101(2), insert:

- (3) In relation to a Tenancy Mediator that is a body corporate, subsection (2)(a) also applies to any officer or employee of the body corporate through whom the body corporate is exercising any power or jurisdiction under any of the provisions of this Act in accordance with section 76(1B).

35 Section 108 amended (Enforcement of work orders)

- (1) In section 108(1)(b) and (2)(b), after “78(2)”, insert “(if any)”.
- (2) In section 108(2A), replace “intentionally” with “, without reasonable excuse,”.

36 Section 109 amended (Unlawful acts)

- (1) In section 109(3), after “application”, insert “(other than one referred to in subsection (3A))”.
- (2) After section 109(3), insert:
 - (3A) In the case of an application in respect of an unlawful act under section 54(3), the Tribunal may order the landlord to pay a sum in the nature of exemplary

damages if the Tribunal is satisfied that it is just to do so having regard to the matters referred to in subsection (3)(b) to (d).

37 Section 114 amended (Powers of entry of Tenancy Mediators)

In section 114(1), after “Mediator”, insert “who is a natural person”.

38 Section 123 amended (General functions and powers of chief executive)

After section 123(1)(da), insert:

(db) the publication of comments about particular persons who are, or have been, landlords:

39 New sections 123A to 123E inserted

After section 123, insert:

123A Documents to be retained by landlord and produced to chief executive if required

- (1) A landlord must retain the following documents during, and for 12 months after the termination of, the tenancy:
 - (a) the tenancy agreement and any variations or renewals of it (or copies):
 - (b) any reports of inspections of the premises carried out by or for the landlord during the tenancy (or copies):
 - (c) records of any maintenance or repair work carried out at the premises by or for the landlord during the tenancy (or copies):
 - (d) any notices or letters, emails, or other forms of correspondence between the landlord (or a person acting on the landlord’s behalf) and the tenant (or a person acting on the tenant’s behalf) in relation to the tenancy (or copies).
- (2) The chief executive may by notice in writing require a landlord to produce to the chief executive any specified documents, or any documents of a specified class, that the landlord is required to retain under subsection (1)(b) to (d).
- (3) A notice under subsection (2)—
 - (a) may be given only if the chief executive reasonably requires the documents for the purposes of the chief executive’s functions or powers under this Act; and
 - (b) may not be given any later than 12 months after the termination of the tenancy; and
 - (c) must specify the way in which the documents must be produced to the chief executive.
- (4) A landlord commits an unlawful act if, without reasonable excuse, the landlord fails, within 10 working days after receiving a notice under subsection (2), to produce the documents to the chief executive in the way specified in the notice.

123B Documents to be produced by tenant to chief executive if required

- (1) The chief executive may by notice in writing require a tenant to produce to the chief executive any specified documents, or any documents of a specified class, that—
 - (a) fall within section 123A(1)(a) to (d); and
 - (b) are in the tenant’s possession or under the tenant’s control.
- (2) A notice under subsection (1)—
 - (a) may be given only if the chief executive reasonably requires the documents for the purposes of the chief executive’s functions or powers under this Act; and
 - (b) may not be given any later than 12 months after the termination of the tenancy; and
 - (c) must specify the way in which the documents must be produced to the chief executive.

123C Chief executive’s powers in relation to produced documents

If a document is produced to the chief executive under section 123A or 123B, the chief executive may—

- (a) inspect and make records of the document; and
- (b) take copies of the document or extracts from it.

123D Power of entry to inspect premises

- (1) An authorised person may, at any reasonable time, enter any premises that are the subject of a tenancy to inspect the premises, and any fixtures, fittings, and chattels in the premises, if—
 - (a) the inspection is authorised by an order of the Tribunal under section 123E and is carried out in accordance with any conditions set out in that order; and
 - (b) the authorised person gives both the landlord and the tenant at least 24 hours’ written notice of the authorised person’s intention to enter the premises.
- (2) A notice under subsection (1)(b) must—
 - (a) state that it is given under this section; and
 - (b) state the address of the premises to which it relates; and
 - (c) state the time at which, and the date on which, the authorised person proposes to inspect the premises; and
 - (d) include a copy, sealed with the Tribunal’s seal, of the Tribunal’s order under section 123E.
- (3) The authorised person’s power to inspect includes the power to do any of the following:

- (a) to bring onto, and operate on, the premises any equipment (and to use electricity from the electricity supply at the premises for the purpose of operating the equipment):
 - (b) to take or make photographs, sound or video recordings, measurements, or drawings:
 - (c) to take samples of things for analysis:
 - (d) to test things.
- (4) The landlord or the tenant (as the case may be) must provide the authorised person with all assistance that the authorised person reasonably requests from the landlord or the tenant in relation to the inspection, including (for example) assistance reasonably requested for the purpose of enabling the authorised person to enter the premises or to access any part of the premises.
- (5) Both the landlord and the tenant may accompany, or have a person acting on behalf of the landlord or the tenant accompany, the authorised person while the authorised person is inspecting the premises.
- (6) A person (A) may accompany the authorised person under subsection (5) whether or not A would otherwise be entitled to enter or be in the premises.
- (7) An authorised person who enters any premises under this section must,—
- (a) on initial entry, produce evidence of the authorised person's identity; and
 - (b) while subsequently on the premises, produce that evidence to any person who reasonably requests to see it.
- (8) In respect of any premises in any defence area (within the meaning of the Defence Act 1990), an authorised person must exercise the authorised person's powers under this section subject to any conditions relating to security that the officer in charge of the defence area imposes.
- (9) A person commits an offence and is liable on conviction to a fine not exceeding \$2,000 if the person, without reasonable excuse,—
- (a) fails to comply with subsection (4); or
 - (b) obstructs or hinders an authorised person in the exercise of the authorised person's powers under this section.
- (10) Sections 166 and 167 of the Search and Surveillance Act 2012 apply (with any necessary modifications) in relation to the powers of an authorised person under this section.
- (11) In this section, **authorised person** means an officer of the department, or any other person, who is authorised by the chief executive to enter premises under this section.
- (12) The chief executive may authorise a person for the purposes of subsection (11) only if the chief executive is satisfied that the person is properly qualified or trained to exercise the powers of an authorised person under this section.

- (13) This section does not affect any power or right that a person has apart from this section to enter any premises or to do anything on any premises.

123E Tribunal may authorise inspection

- (1) The chief executive may, in relation to a tenancy, apply to the Tribunal for an order authorising an inspection under section 123D.
- (2) The Tribunal may make an order authorising the inspection if it is satisfied that the chief executive has reasonable grounds for believing—
- (a) that there has been a breach of the tenancy agreement or a breach of this Act in relation to the tenancy; and
 - (b) that the inspection is reasonably necessary for the purposes of the chief executive's functions or powers under this Act in relation to the breach.
- (3) The Tribunal's authorisation may be given subject to conditions, which must be set out in the order.

40 New sections 124A and 124B inserted

After section 124, insert:

124A Chief executive may take proceedings as if tenant

- (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 the tenant:
- (a) initiate any proceedings in the Tribunal or a court that could be brought by the tenant:
 - (b) assume the conduct of any proceedings in the Tribunal or a court brought by the tenant:
 - (c) without limiting the generality of paragraphs (a) and (b), apply to the Tribunal for a work order.
- (2) The grounds referred to in subsection (1) are as follows:
- (a) in the chief executive's opinion, the condition of the premises, or the condition of any premises in relation to which the landlord is the landlord under another tenancy, poses a significant risk to the health or safety of any person:
 - (b) in the chief executive's opinion, the landlord has committed a serious breach of this Act, or has persistently breached this Act, in relation to the tenancy or otherwise:
 - (c) in the chief executive's opinion, any conduct of the landlord in relation to the tenancy or otherwise risks undermining public confidence in the administration of this Act:
 - (d) any other ground that the chief executive considers appropriate.

- (3) The chief executive may act under subsection (1) without the tenant's consent and despite the tenant's refusal to consent, and even if the tenancy has terminated.
- (4) If the tenancy has terminated,—
 - (a) any application for a work order that is made, or the conduct of which is assumed, by the chief executive must be dealt with (or continue to be dealt with after the termination) as if the tenancy were still in force; and
 - (b) any work order granted on an application that was made, or the conduct of which was assumed, by the chief executive must be complied with, and may be enforced by the chief executive, despite the tenancy's termination.

124B Supplementary provision to section 124A

- (1) The chief executive may not initiate, or assume the conduct of, any proceedings under section 124A(1) any later than 12 months after the date on which the chief executive becomes aware of the matters on which the proceedings are based.
- (2) If the chief executive acts under section 124A(1), the following provisions apply in relation to the proceedings in question:
 - (a) the chief executive has the same rights and remedies as the tenant, including the right to settle the proceedings:
 - (b) the chief executive may do anything in relation to the proceedings that the tenant could do and, as between the chief executive and the tenant, has control of the proceedings:
 - (c) if the proceedings have already commenced, the Tribunal or court must substitute the chief executive for the tenant as a party to the proceedings:
 - (d) any claim that a person has against the tenant must be dealt with in separate proceedings brought by the person against the tenant (and not against the chief executive):
 - (e) any order or judgment may be enforced by the chief executive as if the chief executive were the tenant:
 - (f) any money (excluding costs) recovered by the chief executive must, without any deduction, be paid by the chief executive to the tenant:
 - (g) the tenant must reasonably co-operate with the chief executive.
- (3) In subsection (2)(d), **claim** means a claim for money, a possession order, a work order, or anything else, whether under the tenancy agreement, this Act, or otherwise.
- (4) If a person is the landlord under 2 or more tenancies and the chief executive acts under section 124A(1) in relation to 2 or more of those tenancies, the Tribunal or any court may allow any of the proceedings in question that are

before it to be consolidated with 1 or more of any of the other proceedings in question that are before it.

- (5) Any certificate given by the chief executive relating to the chief executive's powers under section 124A or this section is, in the absence of proof to the contrary, sufficient evidence of the matters referred to in the certificate.

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

- (1) After section 133(1), insert:

(1A) A notice under subsection (1) may require the landlord to produce to the Tribunal or the chief executive, in the way specified in the notice, the tenancy agreement and any variations or renewals of it (or copies), and the Tribunal or the chief executive may—

- (a) inspect and make records of any document that is produced; and
- (b) take copies of the document or extracts from it.

- (2) In section 133(2), replace “such a notice” with “a notice under subsection (1)”.

- (3) In section 133(2), replace “\$400” with “\$2,000”.

42 Section 136 amended (Service of documents)

- (1) After section 136(1)(b), insert:

(ba) if the landlord is a company, it may be sent by post addressed to the landlord at the address of the landlord's registered office:

- (2) After section 136(1)(c), insert:

(ca) if the landlord is a company, it may be delivered to the landlord's registered office, and either placed in the mailbox or attached to the door in a prominent position:

- (3) After section 136(8), insert:

(9) Where any document is transmitted by email in accordance with this section after 5 pm on any day, it is to be treated, in the absence of evidence to the contrary, to have been given or served on the next working day after the date on which it was transmitted.

(10) In proving service of a document transmitted by email, it is sufficient to prove that the email was—

- (a) properly addressed to the email address in question; and
- (b) properly transmitted with the document to that email address.

43 New section 138A inserted (Regulations in respect of smoke alarms)

After section 138, insert:

138A Regulations in respect of smoke alarms

- (1) The Governor-General may, by Order in Council, make regulations imposing on landlords or tenants requirements in respect of smoke alarms for the purposes of section 40(1)(ca), 45(1)(ba), 66I(1)(ba), or 66K(1)(ca).
- (2) Regulations under this section may do the following:
 - (a) impose different requirements for different descriptions of landlords or tenants, premises, areas in New Zealand, or other circumstances:
 - (b) impose requirements on all landlords or tenants or requirements that apply only for particular descriptions of landlords or tenants, premises, areas in New Zealand, or other circumstances:
 - (c) impose requirements that are subject to exceptions.
- (3) The requirements that may be imposed by regulations under this section include the following (for example):
 - (a) requirements that smoke alarms be installed at premises:
 - (b) requirements about the inspection, maintenance, or replacement of smoke alarms that are installed at premises:
 - (c) requirements about the numbers, locations, condition, types, or technical specifications of smoke alarms that are installed at premises and requirements about methods of installation.
- (4) However, the requirements that may be imposed on tenants by regulations under this section are limited to requirements in respect of the replacement of worn-out batteries contained in smoke alarms.

44 New section 138B inserted (Regulations in respect of insulation)

- (1) After section 138A (as inserted by section 43 of this Act), insert:

138B Regulations in respect of insulation

- (1) The Governor-General may, by Order in Council, make regulations imposing on landlords requirements in respect of insulation for the purposes of section 45(1)(bb) or (bc) or 66I(1)(bb).
- (2) Regulations under this section may do the following:
 - (a) impose different requirements for different descriptions of landlords, premises, areas in New Zealand, or other circumstances:
 - (b) impose requirements on all landlords or requirements that apply only for particular descriptions of landlords, premises, areas in New Zealand, or other circumstances:
 - (c) impose requirements that are subject to exceptions.
- (3) The requirements that may be imposed by regulations under this section include the following (for example):

- (a) requirements that insulation (or any material or other item related to insulation) be installed in connection with ceilings, floors, or walls that are at premises:
- (b) requirements about the inspection, maintenance, or replacement of insulation (or any material or other item related to insulation) that is installed in connection with ceilings, floors, or walls that are at premises:
- (c) requirements about the quantities, locations, condition, types, or technical specifications of insulation (or any material or other item related to insulation) that is installed in connection with ceilings, floors, or walls that are at premises and requirements about methods of installation.

(2) *[Repealed]*

Section 44(2): repealed, on 5 December 2017, by section 8(3) of the Healthy Homes Guarantee Act 2017 (2017 No 46).

Part 2 Amendments to schedules of principal Act

45 New Schedule 1AA inserted

Insert the Schedule 1AA set out in the Schedule of this Act as the first schedule after the last section of the principal Act.

46 Schedule 1A amended

(1) In Schedule 1A, insert in their appropriate numerical order:

13A(1F)	(Non-compliance with section 13A(1A), etc)	500
30(2)	(Landlord failing to keep records)	200
48(4)(b)	(Tenant failing, without reasonable excuse, to allow landlord to enter upon premises in circumstances where landlord entitled to enter)	1,000
54(3)	(Retaliatory notice of termination)	4,000
123A(4)	(Landlord failing to provide required documents to chief executive)	1,000

- (2) In Schedule 1A, item relating to section 45(1A), after “maintenance,”, insert “smoke alarms, insulation,”.
- (3) In Schedule 1A, item relating to section 45(1A), replace “3,000” with “4,000”.
- (4) In Schedule 1A, item relating to section 66I(4), after “maintenance,”, insert “smoke alarms, insulation,”.
- (5) In Schedule 1A, item relating to section 66I(4), replace “3,000” with “4,000”.
- (6) In Schedule 1A, item relating to section 108(2A), replace “Intentional breach of work order” with “Breach of work order without reasonable excuse”.

Schedule
New Schedule 1AA inserted

s 45

Schedule 1AA
Transitional, savings, and related provisions

s 2A

Part 1
Provisions relating to Residential Tenancies Amendment Act 2016

1 Interpretation

In this Part,—

amendment means an amendment to this Act made by a provision of the Amendment Act

Amendment Act means the Residential Tenancies Amendment Act 2016

commencement date, in relation to an amendment, means the date on which the provision of the Amendment Act that makes the amendment comes into force.

2 Existing tenancies, etc

- (1) An amendment applies to a tenancy whether the tenancy commences before, on, or after the commencement date.
- (2) Without limiting the generality of subclause (1), an amendment made to a provision referred to in section 90(2) of the Residential Tenancies Amendment Act 2010 amends that provision as it applies in accordance with section 90(1) of that Act.
- (3) This clause is subject to clause 3.

3 Application of amendments to sections 13A, 15, 16, 16A, and 43 (contents of tenancy agreement, etc)

An amendment made by section 6, 7, 8, 9, or 13 of the Amendment Act applies to a tenancy only if the tenancy agreement is made on or after the commencement date.

4 Application of amendment to section 30 (landlord to keep records)

The amendment made by section 10 of the Amendment Act does not apply to records in respect of times before the commencement date.

5 Application of amendments to section 54 (Tribunal may declare retaliatory notice of no effect)

An amendment made by section 16 of the Amendment Act applies only if the notice terminating the tenancy is given on or after the commencement date.

6 Application of amendments to sections 61, 76, 78, 86, 87, 88, 91, 99, 101, and 114 and new section 91AA (abandonment applications, Tenancy Mediators, etc)

An amendment made by section 17, 23, 25, 26, 27, 28(1), 29, 30, 33, 34, or 37 of the Amendment Act does not apply to proceedings commenced before the Tribunal before the commencement date.

7 Application of amendments to section 108 and Schedule 1A (enforcement of work orders)

An amendment made by section 35(2) or 46(6) of the Amendment Act applies only if the work order is made on or after the commencement date.

8 Application of new section 123A (documents to be retained by landlord and produced to chief executive if required)

(1) The amendment made by section 39 of the Amendment Act applies subject to subclauses (2) and (3) of this clause.

(2) A landlord is not required under section 123A(1)(a) to (d) (as inserted by the amendment) to retain any of the following (or copies of any of the following):

- (a) a tenancy agreement, or a variation or renewal of a tenancy agreement, made before the commencement date:
- (b) reports of inspections carried out before the commencement date:
- (c) records of maintenance or repair work carried out before the commencement date:
- (d) notices given, or letters, emails, or other forms of correspondence sent, before the commencement date.

(3) A notice under section 123A(2) (as inserted by the amendment) may require a landlord to produce to the chief executive any document covered by subclause (2)(b) to (d) of this clause that, at the time the landlord receives the notice, is in the landlord's possession or under the landlord's control.

9 Application of amendments to section 133 (Tribunal or chief executive may require terms of tenancy agreement)

(1) The amendment made by section 41(1) of the Amendment Act applies to a tenancy agreement, or a variation or renewal of a tenancy agreement, made before the commencement date only if, at the time the landlord receives the notice under section 133(1), the tenancy agreement or the variation or renewal (or a copy) is in the landlord's possession or under the landlord's control.

- (2) The amendment made by section 41(3) of the Amendment Act applies only to offences committed on or after the commencement date.

10 Application of amendments to Schedule 1A (amounts for unlawful acts)

- (1) The amendments made by section 46(1) of the Amendment Act in relation to sections 30(2) and 48(4)(b) of this Act apply only to unlawful acts that occur on or after the commencement date.
- (2) The amendments made by section 46(3) and (5) of the Amendment Act apply only to unlawful acts that occur on or after the commencement date.

Reprints notes

1 *General*

This is a reprint of the Residential Tenancies Amendment Act 2016 that incorporates all the amendments to that Act as at the date of the last amendment to it.

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*

Healthy Homes Guarantee Act 2017 (2017 No 46): section 8(3)