

## RTA Amendments Bill 2020 -

If passed this will come into effect six months after Royal Assent.

### **Disclaimer:**

*Any commentary or opinion that has been made in this paper is the sole commentary or opinion of the writer and in no way should be deemed as legal instruction or advice.*

**Brian Kerr, NZPIF Executive Committee member.**

### **Introduction**

The sections are described in summary form for ease of reading – for a full text refer to the RTA Bill 2020.

I have not included section 66 (Boarding Houses) in this summary.

This is not an exhaustive list of the amendments but in my opinion it covers the major changes.

In reading this summary you should also refer to the RTA Bill and Explanatory Note: <http://legislation.govt.nz/bill/government/2020/0218/latest/LMS294929.html>

### **Issues Covered:**

1. Under Security of Tenure banner: Assignment provisions - Termination Provisions – Notice – Fixed term - Periodic
2. Section 55 – Landlord’s Right to Terminate – Three Strikes – Anti social behaviour
3. Penalties - Increased and new: Unlawful Acts – Infringement Offences – Infringement Fees – Improvement Notices – Enforcement Undertakings – Landlords owning six or more properties (associated persons)
4. Other: Fibre Installation – Increasing MBIE powers – Renaming the Act RTA 2020 – No bidding for a rental – Landlord must state rent in advertisement-Rent increases now 12 months – Suppression of Tenant’s details in Tribunal – Tenant undertaking alterations

Bill Clause (#) And Section	Description	Discussion
(24)	<b>ASSIGNMENT (Amended)</b>	
43A	Landlord can no longer prohibit Assignment	Any clauses in a tenancy agreement <i>prohibiting assignment of a tenancy</i> are of no effect.
43B(1)	Assign the Tenancy: A tenant at any time during a tenancy with the landlord’s consent (which can’t be unreasonably withheld –	The tenant can assign the tenancy.  A fixed term tenancy can be ended at any time by the tenant.

<p>43(C)</p> <p>43B(5)</p>	<p>but the landlord can attach reasonable conditions) ASSIGN THE TENANCY</p> <p>If the landlord unreasonably withholds their consent on the grounds of 'discrimination' set out in section 12 RTA – Is an <b>Unlawful Act - penalty \$6500</b></p> <p>Discrimination grounds are set out in the Human Rights Act: are, Race, employment status, children, beliefs</p> <p>The effect of the assignment is the date of assignment and obligations for the former tenant cease and the new tenant begin</p> <p>The landlord can withhold consent (and it will not be deemed unreasonable) if the landlord accepts the tenant's <b>surrendering</b> of the tenancy.</p>	<p>Discrimination: See <b>Human Rights Act 1993 -section 21</b></p> <p>Surrendering is where the tenant hands back the tenancy to the landlord and the landlord accepts that surrendering – '<i>on reasonable terms</i>' (this phrase I think will allow a landlord to request reasonable costs in re-tenancing the property)</p>
<p>43B (2)</p>	<p>Tenant commits an unlawful act if they assign without landlord's consent. (<b>\$750</b>)</p>	<p>Basically they can do this regardless– <b>there is no comment on the status of any non-consented tenant in the property</b></p> <p>A landlord wishing to maintain control of their tenant selection process and not be in the position of having an unlawful tenant in their property should agree to the tenant surrendering the tenancy.</p>
<p>(26) 44A</p>	<p>Landlord can recover the reasonable expenses from the tenant - as a result of the assignment, subletting, surrender or termination of the tenancy. But <b>must</b> provide an itemised account of expenses to the tenant.</p> <p>Failure to request costs without an itemised account -</p> <ul style="list-style-type: none"> <li>• Is an Unlawful act (\$750)</li> <li>• Can incur an IOP (\$1000-\$2000)</li> <li>• Can incur an IOF (\$500-\$1000)</li> </ul>	<p>Assume the itemised account is in writing or in a specific text / email.</p>
	<p><b>OPINION:</b></p> <ul style="list-style-type: none"> <li>• Due to this 'assignment' amendment the reality is -a fixed term tenancy is no longer a valid term and the tenant could assign the tenancy to another party at any time during the fixed term– with your consent which you can't unreasonably withhold, or at the end of a fixed term the tenant can decide to stay on as a periodic tenancy.</li> <li>• The latter part will have major ramifications for student tenancies where landlords will not be able to pre-let a student tenancy for the following term or year as the current tenant may decide to stay on.</li> </ul>	

<b>TERMINATION (Amended)</b>		
<b>(32) S51</b>	<b>Termination by Notice</b> (Replaced by new section)	<b>Landlord can no longer give no cause 90 days notice</b>
	<p>A landlord can give:</p> <p><b>63 days notice if:</b></p> <ul style="list-style-type: none"> <li>• For a family member (redefined family)</li> <li>• For an employee (if stated on agreement and is customarily used in that manner)</li> </ul> <p><b>90 days notice if:</b></p> <ul style="list-style-type: none"> <li>• The landlord wants to sell the property, and puts the property on the market within 90 days of the date of termination.</li> <li>• If sold with vacant possession</li> <li>• Landlord's interest in the property is due to end</li> <li>• Converted to commercial premises</li> <li>• If the premises/land are required for business activity (this is stated in the tenancy agreement)</li> <li>• Extensive alterations, refurbishments, repairs or redevelopment – and impractical for the tenant to remain.</li> <li>• The premises to be demolished</li> </ul>	<p>Tenancies can be ended by: Notice by either party, by agreement (surrender) or by an order of the Tenancy Tribunal for tenant fault, Assault, non-payment of rent, other serious breaches of the act.</p> <p><b><i>The landlord's current right to give notice in a periodic tenancy are:</i></b> <b><i>90 days without reason - this goes</i></b></p> <p><i>The following are extended to 90 days:</i> <b><i>42 days if sold with vacant possession</i></b> <b><i>42 days if for a member of the family</i></b> <b><i>42 days for an employee – if stated on the agreement.</i></b></p> <p>Currently four grounds to give notice including without reason. These are expanded to nine.</p>
<b>(39) 60A</b>	<b>Fixed term tenancy becomes periodic unless contrary notice given.</b>	<b>Cannot end a tenancy at the end of the fixed term</b>
	<p>This section is written with reference to many other sections and is very cumbersome to read. (I HAVE NOT TRIED TO STATE IT) The bottom line is: If the tenant wishes to stay on at the end of a fixed term tenancy - <b>they can</b> - UNLESS the landlord qualifies to give notice as per section 51 above.</p>	<ul style="list-style-type: none"> <li>• A landlord needs to be very careful they do not state, imply or write into the tenancy agreement a right of renewal unless they are agreeable to the right of renewal.</li> </ul>

<b>TERMINATION FOR TENANT BREACHES</b>		
<b>(36) S55</b>	<b>Termination for non-payment of rent, damage or assault (amended)</b>	
<b>(1)(a) (1)(aa)</b>	<p>The Tenancy Tribunal SHALL (<i>subject to subsection 2</i>) make an order terminating the tenancy if:</p> <ul style="list-style-type: none"> <li>• Tenant 21 days or more in arrears (remains)</li> <li>• Tenant goes into arrears for at least 5 days, on 3 separate occasions within a 90 day period. <ul style="list-style-type: none"> <li>○ On each occasion the landlord gave the tenant notice in writing</li> <li>○ The tenant has a right to contest this notice in the Tribunal</li> <li>○ Each notice must state how many other notices have been issued to the tenant in that 90 day period</li> <li>○ The landlord has to make an application to the Tribunal for termination within 28 days of the third notice.</li> <li>○</li> </ul> </li> </ul>	<p><b>Subsection (2)</b> The Tribunal may refuse to make an order under subsection (1) if, but only if, the breach has been remedied, the landlord has been compensated and it is unlikely that the tenant will commit any further breach. This section does not apply if the tenancy is deemed an unlawful residential tenancy.</p> <p>This still continues to be a strong section for landlords.</p> <p>The 3 notices within 90 days is arduous bureaucracy for a landlord.</p>
<b>(37) S55A</b>	<b>Termination for Anti-social behaviour (new )</b>	<b>Good idea but totally unworkable</b>
<b>Anti-Social Behaviour</b>	<p>Anti-social behaviour defined in Subsection (6) means:</p> <ul style="list-style-type: none"> <li>• Harassment or</li> <li>• Any act or omission (intentional or not) that reasonably causes alarm, distress, or nuisance that is more than minor</li> </ul>	<p>This seems a realistic bar to get to.</p> <p>Harassment definition: is set out in section 3 of the Harassment Act 2019. This is a very broad definition but should apply to the RTA.</p>
<b>S55A(2)(a)</b>	<p>The activity: <i>“the tenant, or a person in the premises with the tenant’s permission engage in anti-social activity in connection with the tenancy”.</i></p> <p>This is very broad and could be anyone in the tenancy or even an invited guest standing in the road abusing neighbours near the tenancy. Or, a constant stream of cars picking up drugs from the tenancy.</p>	<p><i>Pocket Oxford Dictionary:</i> Trouble and annoy continually</p>

<p><b>(37) S55A(2) (2)(b)(1)-(iv)</b></p> <p><b>Sub S. (3)</b></p>	<p>The Tribunal <b>MUST</b> make the order (<i>subject to subsection 3</i>) if:</p> <ul style="list-style-type: none"> <li>• On 3 separate occasions within 90 days if the tenant or an invited person engage in anti-social behaviour.</li> <li>• On each occasion the landlord gave the tenant written notice: <ul style="list-style-type: none"> <li>○ Describing clearly the anti-social behaviour and if known who engaged in it.</li> <li>○ Advising the tenant of the date, time and location of the behaviour</li> <li>○ Stating how many other notices the landlord has issued within the same 90 day period.</li> </ul> </li> </ul> <p>Advising the tenant of the tenant's right to challenge that notice in the Tribunal</p> <p><b>Subsection (3) But the Tribunal MUST not make an order if:</b></p> <ul style="list-style-type: none"> <li>• If would be unfair – due to the circumstances in which the behaviour occurred or the notices were given.</li> <li>• The landlord was motivated by the tenant exercising their rights (similar to retaliatory notice)</li> </ul>	<p><b>The practical operation is unworkable:</b> This section is so complicated– every notice for ‘anti-social behaviour’ gives the tenant the opportunity to take the landlord to the Tribunal – and get the landlord to prove the anti-social behaviour:</p> <p><b>By prove:</b> Provide Evidence, witnesses. Harassment means a witness has to show they were troubled, annoyed, threatened, intimidated, or negatively affected by the tenant's actions. Neighbours will be too scared to be witnesses.</p> <p><b>This was an opportunity to make a simple straightforward, quick termination on the basis of anti-social behaviour – MBIE missed that opportunity. This ‘fix’ is NOT a fix and just prolongs the suffering of an abused neighbour</b></p> <p><b>What is needed is: One event of significant Anti-social behaviour should allow a landlord to apply urgently to the Tribunal for a possession order.</b></p>
<p><b>Sub S. (4)</b></p>	<p>In making an order the Tribunal must <b>not</b> take into account the impact that terminating the tenancy would have on the tenant.</p>	<p>Termination will be ordered</p>
<p><b>Sub S. (5)</b></p>	<p>If the person behaving in an anti-social manner was not invited in by the tenant – and the tenant can prove they took reasonable steps to eject the person</p>	<p><b>Unworkable:</b> It wasn't me – I didn't invite the person in!</p>
<p><b>S55(1)</b></p>	<p><b>OPINION - The Tribunal may terminate on application</b></p> <p>Currently section 55(1) covers:</p> <ol style="list-style-type: none"> <li>1. Rent arrears 21 days or more</li> <li>2. Assault of the landlord</li> <li>3. Substantial damage to the tenancy</li> </ol> <p>BUT NOT a significant event of anti-social behaviour.</p>	<p><b>A better option</b></p> <p><b>A one off event of anti-social behaviour should trigger an urgent application for termination.</b></p>

(37) S55B	<b>Terminating where it would be unreasonable to require the landlord to continue with tenancy (NEW)</b>	
	<ul style="list-style-type: none"> <li>• In a Periodic Tenancy</li> <li>• A landlord can apply to the Tribunal for a termination order on the grounds of HARDSHIP.</li> <li>• The Tribunal can make the order if: <ul style="list-style-type: none"> <li>○ The landlord would suffer greater hardship than the tenant</li> </ul> </li> <li>• The Tribunal must take account of the impact the termination would have on the tenant.</li> </ul>	<p>Good intent but a very wordy section - the Tribunal is given two opportunities not to terminate.</p> <ol style="list-style-type: none"> <li>1. If the tenant's hardship is greater than the landlord's</li> <li>2. In considering the impact on the tenant</li> </ol> <p>Point 1 is the only one that should be considered.</p>
(38) 60AA	<b>Landlord Acting to Terminate without grounds (NEW)</b>	<b>Ridiculous section</b>
	<p>Landlord commits an unlawful Act if they apply or purport to apply to the Tribunal for an order terminating the tenancy knowing they have no grounds.</p> <p><b>Unlawful Act - Penalty \$6500</b></p>	<p>You can no longer loosely threaten to take the Tenant to the Tribunal if you don't have grounds.</p> <p>A huge penalty <b>\$6500</b>.</p> <p>So even a minor discussion with the tenant about the Tenancy Tribunal may be interpreted by the tenant and so the Tribunal as a breach of this section</p>

	<b>PENALTIES FOR LANDLORDS</b>	<b>This is a confusing and over the top punishment schedule for landlords.</b>
	<p><b>Current categories</b></p> <ul style="list-style-type: none"> <li>● Unlawful Acts (added to)</li> <li>● Offences</li> </ul> <p><b>New Penalty categories – in 2020 Bill</b></p> <ul style="list-style-type: none"> <li>● Infringement Offences – Criminal Offences</li> <li>● Infringement Fees – Criminal Offences</li> <li>● Pecuniary Penalties</li> <li>● Improvement Notices</li> <li>● Enforcement undertakings</li> </ul>	<p>The business model of landlording is being broken down by this and the previous legislation passed by this government. Obligations for landlords are very onerous and penalties are now severe.</p> <ul style="list-style-type: none"> <li>● The risk to business directly from the regulator is very high.</li> <li>● The tools to manage risk (generally poor performing tenants) are being significantly reduced.</li> </ul>
	<b>Unlawful Acts: (Number Increased to 60)</b>	
	<p><b>These are set out in Schedule 1A</b> Also a significant increase in penalties up to \$7000, and a number of new unlawful acts that would be very easy to carelessly do. Below are some of the new unlawful acts. But check Schedule 1A for the full list.</p> <ul style="list-style-type: none"> <li>● Not signing a tenancy agreement \$750</li> <li>● Failing to advise the successor to the landlord \$750</li> <li>● Failing to notify change of address \$750</li> <li>● Failing to state amount of rent when offering a tenancy \$1500</li> <li>● Landlord inviting bids for a tenancy \$1500</li> <li>● Landlord failing to respond to request for fixtures \$1500</li> <li>● Landlord failing to consent to minor changes \$1500</li> <li>● Landlord failing to itemise list of costs when tenant assigns tenancy \$750</li> <li>● Landlord acting to terminate tenancy without grounds \$6500</li> <li>● Failing to comply with improvement notice \$3000</li> </ul>	<ul style="list-style-type: none"> <li>● Unlawful Act penalties have been the standard way landlords and tenants were penalised within the bounds of the RTA.</li> <li>● A major criticism of unlawful acts has been the incentive for the tenant to make claims because they may be awarded money from the landlord. The incentive is now 3 times as great.</li> </ul> <p>Prior to Labour coming to power – pre 2017 <b>22 Penalties against landlords</b> and 11 Penalties against tenants</p> <p>Since Labour has come to power and including the new Bill <b>60 Penalties against landlords</b> and 17 Penalties against tenants</p>

	<b>Infringement Offences – Infringement Fees (NEW)</b>	<b>This additional level of punishment is hard to believe</b>
<b>(66) S126A to S126G</b>	<p><b>26 New Criminal Offences against a landlord</b> (0 against tenant) <b>Offences</b></p> <ul style="list-style-type: none"> <li>Infringement offences are a category of criminal offence that can be dealt with either by an infringement notice (this requires the alleged offender to pay an infringement fee) much like a speeding ticket or</li> <li>By the regulator filing a charging document - to prosecute a criminal offence (but no conviction will be entered on the landlord – yet).</li> <li>The tenant can also make an unlawful act application for the same issue.</li> </ul> <p>MBIE can issue an infringement notice to a landlord if they believe the landlord is committing or has committed an infringement offence.</p> <p><b>MBIE can choose:</b></p> <ul style="list-style-type: none"> <li>To charge an infringement fee, or (\$250 - \$500 fine) or</li> <li>To charge an Infringement offence (\$1000 - \$3000) – Managed under the Criminal Proceedings legislation.</li> </ul> <p>There is no rationale stated for MBIE to choose offence or fee action.</p> <p>Section sets out – What an infringement notice must contain and how they must be served.</p> <p><b>Landlords right to contest:</b> (Under the Criminal Proceedings Act) Assume this will be managed in the Tenancy Tribunal. Allows opportunities to contest the alleged offence</p>	<ul style="list-style-type: none"> <li>Refer to Schedule 1B</li> <li><b>26 Infringement Offences Created</b></li> <li><b>26 Infringement Fees Created</b></li> <li>The regulator can take direct action against a landlord and issue Infringement Offence notices or Infringement Fees notices.</li> <li>The penalty for a landlord with <b>six</b> or more properties doubles.</li> <li>To define the number of properties held, there is now a section defining <b>'associated persons'</b> ( section(S2A))to ensure as many of a landlord's <b>'associated'</b> entities are included into the property count.</li> <li>Infringement Offences <ul style="list-style-type: none"> <li>&lt; 6 Properties - Max Fine is \$1500</li> <li>6+ Properties – Max Fine is \$3000</li> </ul> </li> <li>Infringement Fees <ul style="list-style-type: none"> <li>&lt; 6 Properties – Fee is \$500</li> <li>6+ Properties – Fee is \$1000</li> </ul> </li> <li>The rationale is to make the punishing of landlords quicker and easier for the regulator.</li> <li>The penalty awarded is paid to the crown account</li> </ul>



<b>(66) S126H – S126M</b>	<b>Improvement Notices (NEW)</b>	
	<p>MBIE can issue improvement notices to a landlord to remedy a breach or likely breach of the RTA or the tenancy agreement. Failure to comply with the notice is an unlawful act.</p> <p>An improvement Notice will require the landlord to:</p> <ol style="list-style-type: none"> <li>1. Remedy a contravention</li> <li>2. Prevent a contravention</li> <li>3. Remedy things or activities causing the contravention</li> </ol> <p>Within a time frame.</p> <p>An improvement Notice may also contain recommendations concerning any contravention – noncompliance of the recommendations is not an unlawful act.</p> <p>Improvement Notices</p> <ul style="list-style-type: none"> <li>• Can be extended</li> <li>• Can be withdrawn by MBIE</li> <li>• Can be objected against by the landlord at the Tribunal</li> </ul>	<p>\$3000 penalty for failing to comply with Improvement Notice</p> <p><b>This will create significantly more work for the Tenancy Tribunal.</b></p> <p>The question is: How does MBIE get to inspect your property so they can issue an improvement notice?</p> <p>Answer: Under Official Information Act questions – the only way MBIE have been gaining access to tenancies is with the tenant’s consent. Mainly by cold calling at properties.</p>
<b>(55) S109B – S109E</b>	<b>Pecuniary Penalties (NEW)</b>	<b>Max penalty \$50,000</b>
	<p>The Tribunal can order a landlord with 6 or more tenancies to pay a pecuniary penalty if the Tribunal is satisfied that:</p> <ul style="list-style-type: none"> <li>• The landlord intentionally committed an unlawful act – as set out in section 109B <ul style="list-style-type: none"> <li>○ Section 45(1)(A) – Landlord’s responsibilities – Cleanliness, maintenance, smoke alarms, healthy homes standards.....etc.</li> <li>○ Section 45(1)(AB) - landlord’s responsibilities re contaminated premises.</li> <li>○ Section 54(3) – Retaliatory Notice</li> <li>○ Section 60AA – Acting to terminate without grounds</li> <li>○ Section 137(2) – Contravene or evade the RTA</li> </ul> </li> </ul>	<p>For example a breach of Cleanliness (s45), a landlord may have the following penalties awarded against them:</p> <ol style="list-style-type: none"> <li>1. Unlawful Act Penalty - \$7,200</li> <li>2. Pecuniary Penalty – up to \$50,000</li> </ol>

	<ul style="list-style-type: none"> <li>• Setting the level of Penalty – the Tribunal must consider: <ul style="list-style-type: none"> <li>○ The nature and extent of the unlawful act</li> <li>○ The loss or damage suffered by the unlawful act</li> <li>○ Any gains or losses avoided by the landlord</li> <li>○ The circumstances in which the unlawful act took place.</li> </ul> </li> </ul>	
(66) 126N – 126R	<b>Enforceable Undertakings (NEW)</b>	??
	<p>MBIE can agree in writing with the landlord that they will rectify a breach of the RTA, Regulations, Tenancy agreement, or pay money to another person.</p> <p>A person who contravenes an undertaking commits an Unlawful Act penalty <b>\$1000</b></p>	
	<b>Other Amendments</b>	
S45	<b>Landlord must permit and facilitate fibre connection in certain circumstances</b>	
(51) S95A	<b>Tribunal may make suppression order</b>	
	<ul style="list-style-type: none"> <li>• Prohibiting the publication of the name or identifying particulars of any witness or party.</li> <li>• If the party applies for the order and it is in the public interest justified by the party’s conduct or any other circumstance.</li> </ul>	
(61) s123A	<b>Range of documents a landlord must retain is expanded</b>	
(17) s22G	<b>No Rent Bidding</b>	

(220-(23) S42, 42A, 42B	<b>Tenant can make Minor Alterations</b>	<b>(NEW)</b>
S42A	<p>Landlord cannot unreasonably withhold consent - Unlawful act penalty <b>\$1500</b></p> <p>The landlord can impose reasonable conditions on consent</p> <ul style="list-style-type: none"> <li>• If a tenant makes a written request for alterations</li> <li>• The landlord must respond within 21 days – or unlawful act penalty <b>\$1500</b></li> </ul> <p>There are some further technicalities in this section about extensions of time and more information but the essence is the landlord can commit three unlawful acts in this process, of <b>\$1500</b> each.</p>	<p>S42 Currently allows tenants to make changes with the landlords consent (which can't be unreasonably withheld)</p> <p>Basically – if it is a reasonable request to you have to allow the alteration. If these are contested in the Tribunal – the arguments may be technical and take considerable Tribunal time.</p>
S42B	<p>States: It is unreasonable for a landlord to withhold consent to a minor change</p>	<p>This appears to state that a tenant has the full right to undertake a minor change and if the landlord does not agree it is likely to be seen as 'unreasonable'.</p>
S42B(2)	<p>Defines minor change – as any fixture, renovation, alteration, or addition of or to the premises that-</p> <ul style="list-style-type: none"> <li>• Presents as a low risk of damage to the premises, and</li> <li>• Can be returned substantially to the same condition, and</li> <li>• Is not a health and safety risk (including to install or remove),</li> <li>• Does not compromise structural integrity or character of the building, and</li> <li>• Would not affect others enjoyment of any property outside the premises</li> <li>• Does not require regulatory consent</li> <li>• Does not breach an; planning, bylaw, body corp rule obligation</li> </ul>	<p>A consideration:</p> <ul style="list-style-type: none"> <li>• <i>Health and safety</i> may be an issue with alterations affecting building structure that may contain asbestos. Many wall boards (internal and external), ceiling products, vinyl, etc can contain asbestos.</li> <li>• I understand that sealed in and 'stable' asbestos is not a problem. It is when exposed that a problem arises.</li> </ul>
42B(4)	<p>At the end of the tenancy the tenant must return the premises to the condition (substantially) it was prior to the alteration. But this does not apply if the landlord agrees with the change remaining.</p> <ul style="list-style-type: none"> <li>• A tenant that fails to comply – Unlawful Act penalty <b>\$1500</b></li> </ul>	<p>There is no comment on the landlord compensating the tenant for the change if the landlord receives a benefit from that change (which is left behind)</p>

## Appendix 1

### Section 3 of the Harassment Act 2019

#### Meaning of harassment

(1) For the purposes of this Act, a person harasses another person if he or she engages in a pattern of behaviour that is directed against that other person, being a pattern of behaviour that includes doing any specified act to the other person on at least 2 separate occasions within a period of 12 months.

(2) To avoid any doubt,—

(a) The specified acts required for the purposes of subsection (1) may be the same type of specified act on each separate occasion, or different types of specified acts:

(b) The specified acts need not be done to the same person on each separate occasion, as long as the pattern of behaviour is directed against the same person.

(3) For the purposes of this Act, a person also harasses another person if—

(a) He or she engages in a pattern of behaviour that is directed against that other person; and

(b) That pattern of behaviour includes doing any specified act to the other person that is one continuing act carried out over any period.

(4) For the purposes of subsection (3), **continuing act** includes a specified act done on any one occasion that continues to have effect over a protracted period (for example, where offensive material about a person is placed in any electronic media and remains there for a protracted period).