

**LANDLORD AND TENANT (PROTECTED TENANCIES)
AMENDMENT ACT 1985 No. 121**

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 121, 1985

An Act to amend the Landlord and Tenant (Amendment) Act 1948 in relation to the classes of premises which are subject to the provisions of that Act. [Assented to, 6th November, 1985.]

Landlord and Tenant (Protected Tenancies) Amendment 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Landlord and Tenant (Protected Tenancies) Amendment Act 1985".

Amendment of Act No. 25, 1948

2. The Landlord and Tenant (Amendment) Act 1948 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 2)

AMENDMENTS TO THE LANDLORD AND TENANT (AMENDMENT)
ACT 1948

(1) Sections 5AA, 5AB—

After section 5, insert:

No new protected tenancies to be created from 1 January 1986

5AA. On and from 1 January 1986, the provisions of Parts II, III, IV and V—

- (a) do not apply in respect of prescribed premises unless the premises were the subject of a lease immediately before 1 January 1986; and
- (b) cease to apply, and shall not thereafter apply, to any such premises upon vacant possession of the premises being obtained or upon those provisions ceasing to apply to the premises by reason of the operation of section 5A or any other provision of this Act.

Landlord and Tenant (Protected Tenancies) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS TO THE LANDLORD AND TENANT
(AMENDMENT) ACT 1948—*continued*

Evidence of vacant possession

5AB. (1) A statement, in or to the effect of the prescribed form, signed by the lessee of premises and stating that the lessee did not enter into possession of the premises until on or after 1 January 1986 is admissible in any proceedings arising out of or taken under this Act and, unless evidence is given to the contrary, shall be presumed to be correct.

(2) A statement under this section is not admissible in proceedings unless the lessor of the premises became the lessor after the statement was signed by the lessee.

(2) (a) Section 5A (7)—

After “subsection (1)” where firstly occurring, insert “and section 5AA”.

(b) Section 5A (8)—

After “subsection (1)” where firstly occurring, insert “and section 5AA”.

(c) Section 5A (8)—

Omit “the classes of prescribed premises referred to in subsection (1)”, insert instead “premises exempted from the operation of provisions of the Act by subsection (1) or section 5AA”.

(d) Section 5A (9A)–(9C)—

After section 5A (9), insert:

(9A) On and after 1 January 1986, the Rent Controller shall not register a lease under this section unless—

- (a) the lease was executed by the lessee before 1 January 1986; and

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LANDLORD AND TENANT
(AMENDMENT) ACT 1948—*continued*

(b) the application for registration was made on or before 30 June 1986, or a Fair Rents Board has recommended under subsection (9C) that the application be dealt with.

(9B) Where an application for the registration of a lease under this section is made to the Rent Controller after 30 June 1986, but before 1 January 1989, the Rent Controller may refer the application to a Fair Rents Board if of the opinion that the Board could make a recommendation under subsection (9C) that the application be dealt with.

(9C) A Fair Rents Board may, if satisfied that in the particular circumstances of an application for registration referred to it under subsection (9B) there is a reasonable excuse for the delay in the making of the application, recommend to the Rent Controller that the application be dealt with.

(3) (a) Section 81A (1)—

Omit “section 5A” where firstly occurring, insert instead “section 5AA or 5A”.

(b) Section 81A (1)—

Omit “section 5A” where secondly occurring, insert instead “section 5AA or 5A, as the case may be,”.
