

**RESIDENTIAL TENANCIES (MOVABLE DWELLINGS)
AMENDMENT ACT 1991 No. 36**

NEW SOUTH WALES



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**RESIDENTIAL TENANCIES (MOVABLE DWELLINGS)
AMENDMENT ACT 1991 No. 36**

NEW SOUTH WALES



Act No. 36, 1991

An Act to amend the Residential Tenancies Act 1987 with respect to the resolution of certain disputes concerning changes to caravan park rules, with respect to notices of termination of tenancies of caravan park sites and for other purposes. [Assented to 20 November 1991]

Residential Tenancies (Movable Dwellings) Amendment 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Residential Tenancies (Movable Dwellings) Amendment Act 1991.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Residential Tenancies Act 1987 No. 26

3. The Residential Tenancies Act 1987 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 3 (**Definitions**):

In section 3 (1), insert in alphabetical order:

“**registrable movable dwelling**” means a movable dwelling which is, or is capable of being, registered under the Traffic Act 1909;

“**relevant code of practice**” means a code of practice prescribed under section 75 of the Fair Trading Act 1987 and declared by a regulation under this Act to be a code applying to residential tenancies;

“**relocatable home**” means a movable dwelling that is not:

- (a) a registrable movable dwelling or a tent; or
- (b) a movable dwelling of a type prescribed by the regulations for the purposes of this paragraph;

“**rigid annexe**” means an attachment to a movable dwelling used as an extension of the habitable area of the dwelling, not being an extension that (apart from any rigid support frame and any door, window or other securable opening constructed of non-flexible material) consists entirely of canvas or other flexible material;

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SCHEDULE 1—AMENDMENTS—*continued*

(2) Section 7 (**Application of Act to movable dwellings**):

After section 7 (3), insert:

(4) To avoid doubt, this section extends to provisions of this Act (such as section 33 (3), Division 3 of Part 3 and sections 58 (2A), 59 (2A) and 60 (3)) that are expressed to apply to movable dwellings or to any class or description of movable dwellings.

(3) Section 10 (**Additional terms**):

In section 10 (1) (a), after “Act”, insert “or any relevant code of practice”.

(4) Section 33 (**Right to assign rights or sub-let**):

After section 33 (2), insert:

(3) It is, however, an implied term of a residential tenancy agreement in respect of premises to which a relevant code of practice applies, being premises consisting of a site on which:

- (a) a relocatable home; or
- (b) a registrable movable dwelling with a rigid annexe attached to it,

(not being a home or dwelling owned or provided by the landlord) is situated or proposed to be situated, that the landlord may not unreasonably withhold or refuse consent to an assignment referred to in subsection (1).

(5) Part 3, Division 3:

After Division 2, insert:

Division 3—Caravan parks

Definitions

35A. (1) In this Division:

“**caravan park**” means any land for the time being licensed under section 289H of the Local Government Act 1919;

“**park rules**” means the rules with which residents of a caravan park are expected by its owner or manager to comply, but does not include any provisions of a relevant code of practice or of any instrument having the force of law.

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SCHEDULE 1—AMENDMENTS—*continued*

(2) A reference in this Division to a resident of a caravan park is a reference to a resident of a caravan park who is a tenant of the site in the caravan park that he or she occupies.

Referral to Tribunal of certain disputes in caravan parks

35B. (1) If a dispute arises between residents of a caravan park and the owner or manager of the park, in which:

- (a) the residents claim that a change to the park rules is unconscionable, harsh or oppressive, or contravenes a relevant code of practice applying to the caravan park; and
- (b) either:
 - (i) all procedures for settlement of the dispute under any relevant code of practice have been exhausted without resolution of the dispute to the satisfaction of the parties; or
 - (ii) there are no such procedures and the dispute has not been resolved,

the residents concerned (if there is a sufficient number of them to make the application), or the owner or manager, may apply for an order under this Division.

(2) For the purposes of this section:

- (a) a variation of a park rule; or
- (b) the addition to the park rules of a new rule; or
- (c) the abrogation of an existing park rule,

is a change to the park rules.

(3) For the purposes of this section, the number of residents is sufficient to make an application if:

- (a) there are 5 or more of them who are each from different sites at the caravan park; or
- (b) there are fewer than 10 sites at the park and the residents concerned form a majority.

(4) Rights conferred on any person by this section are in addition to any rights the person may have under the Fair Trading Act 1987.

SCHEDULE 1—AMENDMENTS—*continued*

Orders of the Tribunal in respect of park rules

35C. (1) The Tribunal may make an order:

- (a) setting aside the park rule; or
- (b) modifying the operation of the rule in its application to some or all of the residents of the caravan park; or
- (c) upholding the rule.

(2) The Tribunal may not make orders under this Division that are inconsistent with the provisions of any relevant code of practice.

(6) **Section 58 (Notice of termination by landlord without any ground):**

After section 58 (2), insert:

(2A) However, a notice of termination under this section given in respect of residential premises to which a relevant code of practice applies, being premises consisting of a site on which:

- (a) a relocatable home; or
- (b) a registrable movable dwelling with a rigid annexe attached to it,

(not being a home or dwelling owned or provided by the landlord) is situated or proposed to be situated, cannot specify a day earlier than 180 days after the day on which the notice is given as the day on which vacant possession of the residential premises is to be delivered up to the landlord.

(7) **Section 59 (Notice of termination by tenant without any ground):**

After section 59 (2), insert:

(2A) However, a notice of termination under this section given in respect of residential premises to which a relevant code of practice applies, being premises consisting of a site on which:

- (a) a relocatable home; or
- (b) a registrable movable dwelling with a rigid annexe attached to it,

(not being a home or dwelling owned or provided by the landlord) is situated or proposed to be situated, cannot

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SCHEDULE 1—AMENDMENT—*continued*

specify a day earlier than 30 days after the day on which the notice is given as the day on which vacant possession of the residential premises is to be delivered up to the landlord.

(8) Section 60 (**Notice of termination of fixed term agreement without any ground**):

After section 60 (2), insert:

(3) This section does not apply to residential premises to which a relevant code of practice applies, being premises consisting of a site on which:

- (a) a relocatable home; or
- (b) a registrable movable dwelling with a rigid annexe attached to it,

(not being a home or dwelling owned or provided by the landlord) is situated or proposed to be situated.

*[Minister's second reading speech made in—
Legislative Assembly on 2 July 1991
Legislative Council on 12 November 1991]*