



New South Wales

# Residential Tenancies Amendment Act 1996 No 79

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Residential Tenancies Act 1987 No 26	2
 Schedule 1 Amendments	 3

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New South Wales

# **Residential Tenancies Amendment Act 1996 No 79**

Act No 79, 1996

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An Act to amend the *Residential Tenancies Act 1987* in relation to the recovery of tenants' goods and the payment of compensation as a result of the termination of residential site agreements. [Assented to 1 November 1996]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Residential Tenancies Amendment Act 1996*.

**2 Commencement**

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

**3 Amendment of Residential Tenancies Act 1987 No 26**

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

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## Schedule 1 Amendments

(Section 3)

### [1] Sections 79A, 79B

Insert after section 79:

#### **79A Goods left by tenant, but not abandoned, after residential tenancy agreement is terminated**

- (1) If a residential tenancy agreement is terminated and goods are left by the tenant on the residential premises:
  - (a) the tenant, or
  - (b) any other person having an interest in the goods,may apply to the Tribunal for an order for the delivery of the goods into the tenant's or other person's possession.
- (2) The Tribunal may, on application under this section, make any one or more of the following orders:
  - (a) an order for the delivery of the goods into the tenant's or other person's possession,
  - (b) an order requiring the tenant or other person to pay any reasonable costs incurred by the landlord in connection with the removal, storage or delivery of the goods,
  - (c) any ancillary order that the Tribunal, in the circumstances, thinks appropriate.
- (3) A former landlord does not incur any liability in respect of the disposal of goods in accordance with an order of the Tribunal under this section.

#### **79B Time within which application under section 79 or 79A to be made**

An application under section 79 or 79A may not be made more than 28 days after the date on which the landlord gains possession of the residential premises concerned,

whether as a result of the tenant delivering up vacant possession of the premises to the landlord, the tenant abandoning the premises, the landlord recovering possession of the premises under an order for possession or otherwise.

**[2] Schedule 3, clauses 9, 10, 11, 12**

Omit “to compensation”, wherever occurring, from clauses 9 (3), 10 (5), 11 (4) and 12 (4).

Insert instead “to be paid compensation by the landlord”.

**[3] Schedule 3, clause 13**

Omit clause 13 (3). Insert instead:

- (3) A tenant who relocates in accordance with the requirements of a notice under this clause is entitled to be paid compensation by the landlord in accordance with clause 14.

**[4] Schedule 3, clause 14**

Omit the clause. Insert instead:

**14 Compensation for termination or relocation**

- (1) The amount of compensation that a tenant is entitled to be paid by a landlord under this Division is to be fixed by the Tribunal by order under section 85.
- (2) An application for such an order may be made, by the landlord or by the tenant:
  - (a) in any proceedings on an application under section 64, being an application made on a ground referred to in clause 9, 10 or 11, or
  - (b) in any proceedings on an application referred to in clause 12, or
  - (c) in any proceedings commenced within 6 months after the tenant vacates a residential site in compliance with a notice or order referred to in clause 9, 10, 11, 12 or 13.

- (3) In fixing the amount of compensation to which a tenant is entitled in connection with the relocation of a dwelling to a new residential site, whether in accordance with the requirements of a notice under clause 13 or otherwise, the Tribunal must have regard to the following matters:
- (a) the reasonable costs of removing the dwelling from the old residential site (including the costs of disconnecting any services),
  - (b) the reasonable costs of transporting the dwelling and the possessions of its residents to the new residential site,
  - (c) the reasonable costs of installing the dwelling at the new residential site (including the costs of connecting to the available services),
  - (d) the reasonable costs of repairing any damage to the dwelling arising from its relocation,
  - (e) the reasonable costs of landscaping the new residential site so as to bring it up to the condition of the old residential site,
  - (f) the value of any financial or other assistance that the landlord has given to the tenant in connection with the relocation.
- (4) In fixing the amount of compensation to which a tenant is entitled otherwise than in connection with the relocation of a dwelling to a new residential site, the Tribunal must have regard to the following matters:
- (a) the reasonable costs of removing the dwelling from the old residential site (including the costs of disconnecting any services),
  - (b) the reasonable costs of transporting the dwelling to its new location or disposing of the dwelling,
  - (c) the reasonable costs of transporting the possessions of the dwelling's residents to their new place of residence (whether at the dwelling's new location or some other location),

- (d) the reasonable costs of repairing any damage to the dwelling arising from its relocation,
  - (e) the value of any financial or other assistance that the landlord has given to the tenant in connection with the relocation.
- (5) Compensation is not payable under subclause (3) (d) or (4) (d) for an amount in excess of the value of the dwelling.
- (6) Compensation is not payable under subclause (4) (b) or (c) for a distance of travel of more than 300 kilometres.
- (7) Section 85 (3) does not apply to compensation to which a person is entitled under this clause.

**[5] Schedule 4 Savings, transitional and other provisions consequent on enactment of amending legislation**

Insert at the end of clause 1 (1):

*Residential Tenancies Amendment Act 1996*

**[6] Schedule 4, Part 3**

Insert at the end of the Schedule:

**Part 3 Provisions consequent on enactment of Residential Tenancies Amendment Act 1996**

**3 Definition**

In this Part, amending Act means the *Residential Tenancies Amendment Act 1996*.

**4 Application of section 79A to existing circumstances**

Section 79A applies to goods left on residential premises by a tenant under a residential tenancy agreement terminated before the commencement of the amending Act in the same way as it applies to goods left on residential premises by a tenant under a residential tenancy agreement terminated after that commencement.

**5 Application of amendments to Schedule 3 to existing circumstances**

Schedule 3, as amended by the amending Act, applies to compensation arising from a notice or order referred to in clause 9, 10, 11, 12 or 13 of Schedule 3, being a notice given or made before the commencement of the amending Act, in the same way as it applies to compensation arising from such a notice or order given or made after that commencement.

[Minister's second reading speech made in—  
Legislative Assembly on 18 September 1996  
Legislative Council on 16 October 1996]