

Act No. 27

## LANDLORD AND TENANT (AMENDMENT) BILL 1987

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

This Bill is cognate with the Residential Tenancies Bill 1987.

The object of this Bill is to make amendments to the Landlord and Tenant Act 1899, the Landlord and Tenant (Amendment) Act 1948 and the Landlord and Tenant (Rental Bonds) Act 1977.

The Bill will—

- (a) amend the 1899 Act to exclude residential tenancy agreements to which the proposed Residential Tenancies Act 1987 will apply from the operation of the 1899 Act;
- (b) amend the 1948 Act to transfer the functions of Fair Rents Boards and the Rent Controller under that Act to the Residential Tenancies Tribunal;
- (c) amend the 1948 Act to transfer the functions of clerks of Fair Rents Boards under that Act to the Registrar of the Tribunal; and
- (d) amend the 1977 Act to change references in that Act to consumer claims tribunals to references to the Tribunal.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the provisions of the proposed Act will, with minor exceptions, commence on a day or days to be appointed by the Governor-in-Council.

Clauses 3-5 give effect to the Schedules of amendments.

*Landlord and Tenant (Amendment) 1987*

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SCHEDULE 1—AMENDMENT TO THE LANDLORD AND TENANT ACT 1899

Schedule 1 inserts proposed section 1B (Exclusion of residential tenancy agreements from operation of Act) into the 1899 Act. The proposed section provides that the Act does not apply to residential tenancy agreements, or to land subject to residential tenancy agreements, to which the proposed Residential Tenancies Act 1987 applies.

SCHEDULE 2—AMENDMENTS TO THE LANDLORD AND TENANT  
(AMENDMENT) ACT 1948

Schedule 2 (1) omits the provision setting out the arrangement of the Parts of the 1948 Act.

Schedule 2 (2) inserts a definition of “Registrar” and a definition of “Tribunal” into the 1948 Act. “Registrar” means the Registrar of the Tribunal. “Tribunal” means the Residential Tenancies Tribunal of New South Wales.

Schedule 2 (3) inserts proposed section 13A (Transfer of functions) into the 1948 Act. The proposed section provides that a function exercisable by a Fair Rents Board or the Rent Controller before the commencement of the proposed section is exercisable by the Tribunal and that a function exercisable before that commencement by a clerk of a Fair Rents Board is exercisable by the Registrar. This will be subject to any exceptions prescribed by regulations made under the 1948 Act. The proposed section also provides that the Tribunal or Registrar, in exercising a function, has all the functions of a Fair Rents Board, the Rent Controller or clerk, as the case requires.

Schedule 2 (4) and (5) omit provisions of the 1948 Act in consequence of the shift of functions from the Rent Controller and the Fair Rents Boards to the Tribunal.

Schedule 2 (6) omits provisions of the 1948 Act dealing with rent control of caravans. A declaration of caravan rents under those provisions has never been made.

Schedule 2 (7) omits a reference to the provisions omitted by Schedule 2 (4) and (5).

Schedule 2 (8) omits a provision of the 1948 Act enabling the Governor to establish Tenancy Courts. A proclamation establishing such Courts has never been made.

Schedule 2 (9) omits a provision of the 1948 Act containing a power to make regulations transferring the powers of the Rent Controller to Fair Rents Boards. A regulation transferring those powers has never been made.

SCHEDULE 3—AMENDMENTS TO THE LANDLORD AND TENANT (RENTAL  
BONDS) ACT 1977

Schedule 3 (1) (a) and (2) make amendments consequential on the shift of functions under the 1977 Act from consumer claims tribunals to the Tribunal.

Schedule 3 (1) (b) inserts into the 1977 Act a definition of “Tribunal”, to mean the Residential Tenancies Tribunal of New South Wales.

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