

**LANDLORD AND TENANT (RENTAL BONDS)
AMENDMENT BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Housing (Rental Bonds) Amendment Bill 1987 is cognate with this Bill.

The object of this Bill is to amend the Landlord and Tenant (Rental Bonds) Act 1977 so as—

- (a) to empower the Rental Bond Board to take part in joint ventures for the provision of residential accommodation;
- (b) to authorise the Board to invest in a unit trust which invests its funds in residential accommodation (such as the proposed Rental Housing Trust);
- (c) to empower the Board to give guarantees and indemnities and to make good losses in connection with such a joint venture and other schemes for the provision of residential accommodation (such as the proposed Rental Housing Trust);
- (d) to authorise the Board to expend money from the Rental Bond Interest Account and the Rental Bond Account (kept under the Principal Act) for the purposes of paragraphs (a)–(c);
- (e) to simplify the procedure for the repayment of rental bonds by relaxing requirements for the service on the Board of certified copies of judgments and orders for repayment;
- (f) to make it clear that the Board can refuse to repay an amount of rental bond which exceeds that deposited with it even if repayment is on the basis of a judgment or order;
- (g) to enable the Board to repay a rental bond in accordance with a judgment or order even though a right of appeal exists which has not been exercised;
- (h) to deem a director or manager of a corporation to be guilty of a contravention of the Principal Act if he or she knowingly authorised or permitted a contravention by the corporation;

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- (i) to increase the number of members of the Board from 4 to 5 and to provide that 2 out of the 5 members are to be appointed by the Minister (rather than 1 out of 4 as at present);
- (j) to make experience in tenancy matters an alternative to experience in real estate matters as a qualification for the members of the Board appointed by the Minister; and
- (k) to make other minor or consequential changes.

The amendments will, among other matters, enable the Rental Bond Board to participate in the proposed Rental Housing Trust scheme for the provision of residential rental accommodation.

Clause 1 specifies the short title of the proposed Act.

Clause 2 is a formal provision that gives effect to the Schedule of amendments.

Schedule 1 (1) inserts a provision which makes it clear that the Board is a statutory body representing the Crown.

Schedule 1 (2) (a) and (c) increase the number of members of the Board from 4 to 5.

Schedule 1 (2) (b) provides for the additional member to be appointed by the Minister and makes experience in tenancy matters an alternative to experience in real estate matters as a qualification for the 2 members appointed by the Minister.

Schedule 1 (3) inserts proposed Part IIA (proposed sections 7A–7E) into the Principal Act:

- (a) Proposed section 7A authorises the Board, with the Minister's approval and the Treasurer's concurrence, to enter into joint ventures for the development of land in connection with the provision of residential accommodation.
- (b) Proposed section 7B authorises the Board, for the purposes of such a joint venture, to deal in shares in and form companies, to provide finance and to do incidental things.
- (c) Proposed section 7C authorises the Board to invest in units in a residential accommodation unit trust, such as the proposed Rental Housing Trust.
- (d) Proposed section 7D authorises the Board with the Minister's approval to give guarantees and to make good any losses of and indemnify other parties in connection with schemes for the provision of residential accommodation.
- (e) Proposed section 7E authorises use of the funds of the Rental Board Interest Account to meet expenditure under the proposed Part and, in the case of the provision of financial accommodation, authorises the use of the Rental Bond Account.

Schedule 1 (4) (a) is a consequential amendment.

Schedule 1 (4) (b) and (c) streamline the procedure for the repayment of a rental bond on the basis of a judgment or order. It will no longer be necessary to serve a copy of the judgment or order on the Board within a fixed period after obtaining it. The copy will not have to be a certified copy and will not have to be supported by a statutory declaration to the effect that it has not been satisfied.

Schedule 1 (4) (d) is a consequential amendment.

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Schedule 1 (4) (e) deletes a provision which would require the Board to pay an amount under a judgment or order for the repayment of rental bond even though the amount exceeds the amount deposited with the Board.

Schedule 1 (4) (f) alters the provision which prevented the Board repaying a rental bond on the basis of a judgment or order if an appeal could be lodged. The Board will now be able to repay even if a right of appeal exists so long as an appeal has not been lodged. If an appeal has been lodged, repayment must not be made until the appeal is withdrawn or dismissed.

Schedule 1 (5) inserts a provision which deems a director or person concerned in the management of a corporation to have contravened any provision of the Principal Act which the corporation contravenes if he or she knowingly authorised or permitted the contravention (proposed section 16A).

Schedule 1 (6) effects a minor amendment to a Part heading.

Schedule 1 (7) and (8) are consequential amendments.
