

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Justice and Community Safety)

**Residential Tenancies (Consequential
Provisions) Bill 1998**

A BILL

FOR

**An Act to amend certain Acts and to make certain
transitional arrangements, consequent on the
enactment of the *Residential Tenancies Act 1997***

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

1. Short title

5 This Act may be cited as the *Residential Tenancies (Consequential Provisions) Act 1998*.

2. Commencement

This Act commences on the day on which section 3 of the *Residential Tenancies Act 1997* commences.

88012 (1995/008) (T12/1998)

PART II—TRANSITIONAL PROVISIONS

3. Interpretation

In this Part—

5 “commencement date” means the date on which section 3 of the new Act commences;

“new Act” means the *Residential Tenancies Act 1997*;

“old Act” means the *Landlord and Tenant Act 1949*.

4. Bond monies

10 (1) Money held in a trust account in accordance with section 62AJA of the old Act immediately before the commencement date shall be taken to have been paid to the credit of the trust account under Part III of the new Act.

15 (2) Money referred to in subsection (1) that was, immediately before the commencement date, money to which subsection 62AK (2) of the old Act applied, shall be taken to be money to which subsection 27 (2) of the new Act applies.

(3) Interest standing to the credit of the trust account under Part IIAA of the old Act immediately before the commencement date shall be taken to be interest to which section 28 of the new Act applies.

20 (4) Nothing in this section shall be taken to affect money held in a trust account in accordance with section 62AJA of the old Act immediately before the commencement date if that money was paid in as a bond in relation to a lease or premises to which the new Act does not apply.

5. Condition reports

25 (1) Where, before the commencement date, a lessor had given a person 3 copies of a report in accordance with subsection 62AF (1) of the old Act, the lessor shall be taken to have given the person the copies in accordance with subsection 29 (1) of the new Act.

30 (2) Where, before the commencement date, a person had returned 2 copies of a report to a lessor in accordance with subsection 62AF (3) of the old Act, the person shall be taken to have returned the copies to the lessor in accordance with subsection 29 (3) of the new Act.

(3) Nothing in this section shall be taken to apply to a report referred to in section 62AF of the old Act made in relation to—

35 (a) premises to which the new Act does not apply; or

(b) premises that are the subject of a lease to which the new Act does not apply.

6. Requests for payment of bond money

(1) Where—

(a) before the commencement date—

- 5 (i) a person applied under section 62AM of the old Act for payment of money;
- (ii) no money had been paid out in relation to the application; and
- (iii) a dispute relating to the application had not been referred to a mediator under section 62AQ of the old Act; and
- 10 (b) the application is not for payment of money paid as bond in relation to a lease or to premises to which the new Act does not apply;

the application shall be taken to have been made under section 32 of the new Act.

15 **(2) Where—**

- (a) an application is to be taken to have been made under section 32 of the new Act by virtue of subsection (1);
- (b) the application is not a joint application; and
- 20 (c) before the commencement date the Director gave notice in relation to the application under section 62AN of the old Act;

the Territory is not required to give notice of the application in accordance with section 33 of the new Act.

7. Notices to quit

Where—

25 **(a) before the commencement date—**

- (i) a lessor issued a notice to quit in accordance with the old Act; and
- (ii) the notice had not expired;
- 30 (b) the lease or premises in relation to which the notice was issued is not a lease or are not premises to which the new Act does not apply; and
- (c) the tenant does not quit the premises in accordance with the notice;

35 the lessor may apply to the Tribunal for a termination and possession order under section 47 of the new Act as if the notice to quit had been a termination notice in the prescribed form based on a ground for termination under the prescribed terms.

PART III—REPEALS

8. Repeal of Acts

The following Acts are repealed:

Landlord and Tenant Act 1949

Landlord and Tenant Act 1952

Landlord and Tenant Act 1957

Landlord and Tenant Act 1972

Landlord and Tenant Act 1973

Landlord and Tenant Act (No. 2) 1973

Landlord and Tenant Act (No. 3) 1973

Landlord and Tenant (Amendment) Act 1976

Landlord and Tenant (Amendment) Act 1984

Landlord and Tenant (Amendment) Act 1991

Landlord and Tenant (Amendment) Act 1993

Landlord and Tenant (Amendment) Act 1997.

9. Repeal of Regulations

The following Regulations are repealed:

Landlord and Tenant Regulations, being Regulations 1991 No. 18

Landlord and Tenant Regulations (Amendment), being Subordinate Law No. 39, 1993.

PART IV—AMENDMENTS OF OTHER ACTS

10. Amendments of other Acts

The Acts specified in the Schedule are amended as set out in the Schedule.

SCHEDULE

Section 10

AMENDMENTS OF OTHER ACTS

***Forfeiture of Leases Act 1901 of the State of New South Wales
in its application in the Territory***

5 **Section 4—**

Add at the end the following subsection:

“(2) Notwithstanding subsection (1), this Act does not apply to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* to which that Act applies.”.

10 ***Housing Assistance Act 1987***

Subsection 15 (3)—

Omit from subsection (3) “at least”.

Land Titles Act 1925

New section 123A—

15 After section 123 insert the following section in Part XI:

“123A. This Part not to apply to residential tenancy agreements

“Notwithstanding section 123, this Part does not apply to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* to which that Act applies.”.

20 ***Landlord and Tenant Act 1899 of the State of New South Wales
in its application in the Territory***

New section 2A—

After section 2, insert the following section before Part I:

“2A. Application of Act

25 “This Act does not apply to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* to which that Act applies.”.

SCHEDULE—continued

Recovery of Lands Act 1929

Section 2—

Add at the end the following subsection:

5 “(2) This Act does not apply to a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* to which that Act applies.”.

Uncollected Goods Act 1996

Paragraph 13 (c)—

10 Add at the end “, other than unleased land on which there are premises in respect of which the Commissioner for Housing is the lessor under a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* to which that Act applies”.

New section 27A—

Before section 28 insert the following section in Part IV:

“27A. Application of Part

15 “This Part does not apply to premises in respect of which the Commissioner for Housing is the lessor under a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* to which that Act applies.”.