

TASMANIA

**RESIDENTIAL TENANCY AMENDMENT
(BOARDING PREMISES) BILL 2003**

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 5 amended (Application of Act)
6. Section 6 amended (Non-application of Act)
7. Section 8 amended (General functions and powers of Commissioner)
8. Section 14 amended (Information as to rights and obligations)
9. Section 19 amended (Payment period)
10. Section 21 amended (Receipt for rent paid)
11. Section 25 amended (Security deposits)
12. Section 32 amended (General repairs and maintenance)
13. Section 33 amended (Urgent repairs)
14. Section 34 amended (Emergency repairs)
15. Section 35 amended (Reimbursement of cost of repairs)
16. Section 36 amended (Disputing liability to reimburse)
17. Section 39 amended (Effect of notice of termination)

18. Section 40 amended (Form of notice of termination)
19. Part 4A inserted
 - PART 4A – Boarding Premises
 - 48A. Application of Part 4A
 - 48B. Cost of meals and other services
 - 48C. Access to toilet and ablution facilities
 - 48D. Shared rooms
 - 48E. Meal times
 - 48F. Maintenance of shared facilities
 - 48G. Statement of key terms
 - 48H. Content of house rules
 - 48I. Power of Commissioner to make orders
 - 48J. Appeal from orders of Commissioner
20. Section 56 amended (Right of entry)
21. Section 57 amended (Locks and security devices)
22. Section 62 amended (Notification of name and address)

RESIDENTIAL TENANCY AMENDMENT (BOARDING PREMISES) BILL 2003

*(Brought in by the Minister for Justice and Industrial
Relations, the Honourable Judith Louise Jackson)*

A BILL FOR

An Act to amend the *Residential Tenancy Act 1997*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

Short title

1. This Act may be cited as the *Residential Tenancy Amendment (Boarding Premises) Act 2003*.

Commencement

2. This Act commences on a day to be proclaimed.

Principal Act

3. In this Act, the *Residential Tenancy Act 1997** is referred to as the Principal Act.

*No. 82 of 1997

Section 3 amended (Interpretation)

4. Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “agent”:

“boarding premises” means a room and any other facilities provided with the room where –

- (a) the room is occupied as a principal place of residence; and
- (b) any of the bathroom, toilet or kitchen facilities are shared with other persons –

but does not include premises located in a building occupied predominately by –

- (c) tertiary students; or
- (d) students within the meaning of the *TAFE Tasmania Act 1997*;
- (b) by inserting “and includes boarding premises” after “residence” in the definition of “residential premises”;
- (c) by omitting “agreement.” from the definition of “tenant” and substituting “agreement;”;
- (d) by inserting the following definition after the definition of “tenant”:

“tertiary student” means a person undertaking a course at an

institution as defined by section 4 of the *Higher Education Funding Act 1988* of the Commonwealth.

Section 5 amended (Application of Act)

5. Section 5(1) of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (a):
 - (ab) any residential tenancy agreement for boarding premises entered into on or after the commencement of the *Residential Tenancy Amendment (Boarding Premises) Act 2003*; and
- (b) by omitting from paragraph (b)(ii) “extended.” and substituting “extended; and”;
- (c) by inserting the following paragraph after paragraph (b):
 - (c) any residential tenancy agreement for boarding premises entered into before the commencement of the *Residential Tenancy Amendment (Boarding Premises) Act 2003* –
 - (i) with effect from the first payment date that occurs 12 months after that commencement; or
 - (ii) if the agreement is renewed or extended within that 12 month period, with effect

from the day on which it is renewed or extended.

Section 6 amended (Non-application of Act)

6. Section 6(2) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “that is not boarding premises” after “motel”;
- (b) by omitting paragraph (c) and substituting the following paragraph:
 - (c) any boarding premises located in a building containing less than 3 boarding premises where –
 - (i) the owner occupies the same building as a principal place of residence; or
 - (ii) the tenant occupies the building as a principal place of residence and sub-lets the boarding premises;

Section 8 amended (General functions and powers of Commissioner)

7. Section 8 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “and, in the case of boarding premises, act in the mediation or conciliation of any disputes between the parties” after “deposits”;

- (b) by inserting in subsection (2) “under this Act and, in particular, his or her powers under section 48I” after “functions”.

Section 14 amended (Information as to rights and obligations)

8. Section 14 of the Principal Act is amended as follows:

- (a) by omitting “If a residential tenancy agreement is wholly or partly oral, the owner of the residential premises to which it relates” and substituting “An owner of residential premises”;
- (b) by omitting “provide” and substituting “direct”.

Section 19 amended (Payment period)

9. Section 19 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

- (2)** A payment period must not exceed –
 - (a) 2 weeks in the case of boarding premises; or
 - (b) 4 weeks in any other case.

Section 21 amended (Receipt for rent paid)

10. Section 21 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “paid.” and substituting “paid; and”;

(1) If an essential service ceases to function –

(a) the tenant is to notify the owner as soon as practicable of the need for urgent repair; and

(b) the owner is to carry out the necessary repairs, or otherwise cause the essential service to be restored, as soon as practicable after that notification.

(b) by inserting the following subsection after subsection (4):

(5) Subsections (2), (3) and (4) do not apply to boarding premises.

Section 34 amended (Emergency repairs)

14. Section 34 of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsection:

(1) If damage occurs to residential premises –

(a) the tenant is to notify the owner as soon as practicable of the need to repair the damage; and

(b) the owner is to discharge his or her obligations under section 32(1) as soon as practicable.

(b) by inserting the following subsection after subsection (4):

(5) Subsections (2), (3) and (4) do not apply to boarding premises.

Section 35 amended (Reimbursement of cost of repairs)

15. Section 35 of the Principal Act is amended by inserting after subsection (2) the following subsection:

(3) This section does not apply to boarding premises.

Section 36 amended (Disputing liability to reimburse)

16. Section 36 of the Principal Act is amended by inserting after subsection (4) the following subsection:

(5) This section does not apply to boarding premises.

Section 39 amended (Effect of notice of termination)

17. Section 39 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

(1) A notice of termination takes effect on a date specified in the notice that is a date –

- (a) in the case of boarding premises, at least 2 days after the notice is served; or
- (b) in any other case, at least 14 days after the notice is served.

Section 40 amended (Form of notice of termination)

18. Section 40 of the Principal Act is amended as follows:

- (a) by omitting “A” and substituting “(1) In the case of premises other than boarding premises, a”;
- (b) by inserting after subsection (1) the following subsection:

(2) In the case of boarding premises, a notice of termination is to state –

- (a) that the tenant intends to vacate the premises; and
- (b) the date on which the tenant intends to vacate, which is to be at least 2 days after the date of the notice.

Part 4A inserted

19. After section 48 of the Principal Act, the following Part is inserted:

PART 4A – BOARDING PREMISES**Application of Part 4A**

48A. This Part applies only to boarding premises.

Cost of meals and other services

48B. (1) A residential tenancy agreement in respect of boarding premises is to specify, separately from

the rent, the cost of meals and any other services provided in association with accommodation.

(2) A receipt given by the owner for a payment of rent is to specify separately any amounts paid for meals or any other services provided in association with the accommodation.

Access to toilet and ablution facilities

48C. (1) A tenant at boarding premises is entitled to –

- (a) access at all times to a toilet and hand-washing facilities; and
- (b) reasonable use of either a bathroom or a shower at least once each day.

(2) Access to a toilet, bathroom or shower under this section is to be private.

Shared rooms

48D. An owner must not permit boarding premises to be occupied by more than one person unless they are joint tenants under the residential tenancy agreement or one of them is a carer for the other person.

Meal times

48E. If meals are provided in connection with the provision of accommodation, the meals are to be provided within the following periods:

- (a) in the case of breakfast, from 6 am to 9 am;
- (b) in the case of lunch, from 12 midday to 2 pm;
- (c) in the case of dinner, from 5 pm to 8 pm.

Maintenance of shared facilities

48F. An owner of boarding premises is responsible for the maintenance in proper working condition of any bathrooms, toilets and other facilities which are shared by tenants.

Statement of key terms

48G. (1) Before entering into a residential tenancy agreement, whether in writing or not, the owner must provide the tenant with a written statement as to the principal terms of the agreement.

(2) The statement is to be signed by both the owner and the tenant on entering into the agreement.

(3) The statement –

- (a) is to be accompanied by a copy of any house rules, as mentioned in section 48H, that apply to the tenant; or
- (b) is to specify a place within the premises where the tenant may inspect the house rules at any time.

(4) The owner must keep a copy of the statement for at least 6 months after the termination of the agreement.

(5) For the purposes of this section, the principal terms of a residential tenancy agreement include –

- (a) the names of the owner and the tenant; and
- (b) the location of the boarding premises; and
- (c) any facilities provided for the use of the tenant; and
- (d) the date on which the agreement is made; and
- (e) if the agreement is for a fixed term, the date of expiry of the agreement; and
- (f) the amount of rent and the period for which it is to be paid; and
- (g) a statement of any services to be provided in connection with the agreement and the cost, times and frequency of each of those services.

Content of house rules

48H. (1) If a residential tenancy agreement requires the tenant to observe any house rules, the rules are to apply equally to all tenants and are to state –

- (a) if meals are to be provided, the times when they are available; and

- (b) where facilities are provided for shared use, any restrictions or costs associated with access to, or use of, those facilities; and
- (c) any rules relating to access to bathroom and shower facilities; and
- (d) any restrictions on access by visitors; and
- (e) any restrictions on the use of parking facilities or the storage of goods; and
- (f) where services are provided in connection with accommodation, the times when the services are available; and
- (g) if smoking is restricted, the places where smoking is permitted; and
- (h) any restrictions on the consumption of alcohol; and
- (i) a method of changing the house rules; and
- (j) a method of taking into account the views of tenants in the development of house rules.

(2) If a house rule is inconsistent with a provision of this Act, the house rule is invalid to the extent of the inconsistency.

(3) The house rules are to be displayed in a prominent place to which all tenants have access or are to be available on demand to any tenant.

Power of Commissioner to make orders

48I. (1) The Commissioner may make an order requiring that, in the case of boarding premises, a party to a residential tenancy agreement is to comply with a provision of this Act or of the agreement and may also make any other order provided for under this Act, except an order under section 41 or 45.

(2) An order made under subsection (1) may be enforced in the same manner as an order made by a magistrate under the *Magistrates Court (Civil Division) Act 1992*.

Appeal from orders of Commissioner

48J. (1) A person who is aggrieved by an order made by the Commissioner made under section 48I may appeal to a magistrate within 7 days after receiving notice of that order.

(2) The appeal is to be by way of rehearing and the magistrate may –

- (a) confirm the order of the Commissioner and direct that the order is to take effect from a specified date; or
- (b) set aside the order of the Commissioner; or
- (c) set aside the order of the Commissioner and substitute another order that the Commissioner could have made.

(3) The appeal is to be heard in accordance with the *Magistrates Court (Small Claims Division)*

Act 1989 and, subject to this section, is to be instituted, heard and determined as prescribed.

Section 56 amended (Right of entry)

20. Section 56(3) of the Principal Act is amended by omitting paragraph (f) and substituting the following paragraph:

- (f) to carry out routine inspections –
 - (i) once a month, in the case of boarding premises; or
 - (ii) once every 3 months, in any other case.

Section 57 amended (Locks and security devices)

21. Section 57 of the Principal Act is amended by inserting after subsection (1) the following subsection:

(1A) In the case of boarding premises, each room is to be fitted with a lock and any other device that is necessary to secure the boarding premises.

Section 62 amended (Notification of name and address)

22. Section 62(1) of the Principal Act is amended by omitting paragraphs (a) and (b) and substituting the following paragraphs:

- (a) the full name and residential or business address of the owner or any agent of the owner; and

s. 22

No.

*Residential Tenancy Amendment
(Boarding Premises)*

2003

- (b) in the case of boarding premises, a telephone number or other means of contacting the owner at any time.