

TASMANIA

RESIDENTIAL TENANCY AMENDMENT BILL 2013

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

PART 2 – RESIDENTIAL TENANCY ACT 1997 AMENDED

3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 8 amended (General functions and powers of Commissioner)
6. Section 11 amended (Expiry)
7. Section 12 amended (Extension and renewal)
8. Section 16B inserted
 - 16B. Rental properties to be advertised and offered at fixed rental price
9. Section 17 amended (Money other than rent)
10. Section 20 amended (Increase in rent)
11. Section 23 amended (Unreasonable increase)
12. Section 31A inserted
 - 31A. Reference in this Division to repair may include reference to replacement
13. Section 32 amended (General repairs and maintenance)

14. Section 33 amended (Urgent repairs)
15. Section 36A substituted
 - 36A. Order for repairs
16. Part 3B inserted
 - PART 3B – Minimum standards for premises
 - 36I. Premises to be weatherproof and structurally sound
 - 36J. Cleanliness and good repair
 - 36K. Bathrooms, toilets and laundries to be provided
 - 36L. Cooking facilities
 - 36M. Electricity and heating
 - 36N. Window covering for privacy
 - 36O. Ventilation
 - 36P. Exemption from requirements of provision of this Part
17. Section 37 amended (Termination of agreement)
18. Section 38 amended (Notice of termination by tenant)
19. Section 39 amended (Effect of notice of termination)
20. Section 42 amended (Notice to vacate by owner)
21. Section 43 amended (Effect of notice to vacate)
22. Section 45 amended (Order for vacant possession)
23. Section 49B inserted
 - 49B. Tenancy ceases on death of tenant
24. Section 55A inserted
 - 55A. Certain photographs not to be displayed by owner
25. Section 57 amended (Locks and security devices)
26. Section 62 amended (Notification of name and address)
27. Sections 68B and 68C inserted
 - 68B. General transitional, &c., provisions consequent on *Residential Tenancy Amendment Act 2013*
 - 68C. Transitional, &c., provisions relating to new standards contained in *Residential Tenancy Amendment Act 2013*

PART 3 – LAND TITLES ACT 1980 AMENDED

28. Principal Act
29. Section 146 amended (Mortgagee, encumbrancee or lessor may obtain possession in certain cases)

PART 4 – CONCLUDING PROVISION

30. Repeal of Act

RESIDENTIAL TENANCY AMENDMENT BILL 2013

*(Brought in by the Minister for Corrections and Consumer
Protection, the Honourable Nicholas James McKim)*

A BILL FOR

**An Act to amend the *Residential Tenancy Act 1997* and to
consequentially amend the *Land Titles Act 1980***

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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Residential
Tenancy Amendment Act 2013*.

2. Commencement

The provisions of this Act commence on a day
or days to be proclaimed.

Residential Tenancy Amendment Act 2013
Act No. of

s. 3

Part 2 – Residential Tenancy Act 1997 Amended

PART 2 – RESIDENTIAL TENANCY ACT 1997
AMENDED

3. Principal Act

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

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as
follows:

- (a) by inserting the following definition after
the definition of *Director of Consumer
Affairs and Fair Trading* in subsection
(1):

Director of Housing means the
Director of Housing appointed
under the *Homes Act 1935*;

- (b) by inserting the following definition after
the definition of *dispute* in subsection
(1):

domestic partner, in relation to an
owner, means –

- (a) the spouse of the owner;
or
(b) a person who is in a
significant relationship,

*No. 82 of 1997

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 4

within the meaning of the
Relationships Act 2003,
with the owner;

- (c) by omitting the definition of *essential service* from subsection (1) and substituting the following definition:

essential service means any of the
following services:

- (a) water, sewerage,
electricity, or heating,
supplied to or within the
premises;
- (b) a cooking stove, or hot-
water service, installed
within the premises;
- (c) removal of grey water
from premises, including
ensuring the effective
functioning of any on-site
water-treatment facility,
but not including pipes,
plumbing or other water-
disposal or sewage-
disposal facilities owned
by a council –

and includes any tap washers, and
any fuses, light globes or light
tubes, but does not include fuses
that are within a meter box and
relate to the supply of electricity
to the premises or light globes or

Residential Tenancy Amendment Act 2013
Act No. of

s. 4

Part 2 – Residential Tenancy Act 1997 Amended

light tubes that are inaccessible
light globes or light tubes;

- (d) by inserting the following definition after the definition of *holding fee* in subsection (1):

inaccessible light globes or light tubes
means light globes or light tubes
that, when in place –

(a) are above the height
prescribed for the
purposes of this
definition; or

(b) are not reasonably
accessible;

- (e) by inserting the following definition after the definition of *security deposit* in subsection (1):

social housing means residential
premises –

(a) owned in whole or in part
by the Director of
Housing; or

(b) owned in whole or in part
by a person declared in a
notice under
subsection (3) to be a
person to whom this
paragraph applies;

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 5

(f) by inserting the following subsection after subsection (2):

(3) The Minister may, by notice, declare that a person specified in the notice is a person to whom paragraph (b) of the definition of *social housing* in subsection (1) applies.

5. Section 8 amended (General functions and powers of Commissioner)

Section 8 of the Principal Act is amended as follows:

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

(1) The following are the functions of the Commissioner:

- (a) to determine disputes arising in relation to the disbursement of security deposits;
- (b) to determine disputes in relation to any residential tenancy database;
- (c) to act in the mediation or conciliation of any disputes between the parties to residential

Residential Tenancy Amendment Act 2013
Act No. of

s. 6

Part 2 – Residential Tenancy Act 1997 Amended

agreements in relation to
boarding premises;

(d) to determine applications
made to the
Commissioner under
section 23 or section 36A;

(e) other functions conferred
on the Commissioner by
or under this Act.

(b) by omitting from subsection (2)
“sections 48I and 48ZF” and substituting
“section 23, section 36A, section 48I and
section 48ZF”.

6. Section 11 amended (Expiry)

Section 11 of the Principal Act is amended as
follows:

(a) by omitting subsection (2) and
substituting the following subsection:

(2) If a residential tenancy agreement
for a fixed period in relation to
premises expires on a date and
before that date –

(a) no notice of termination
of the agreement is served
under section 38 on the
grounds specified in
section 38(1)(d); and

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 6

(b) no notice to vacate in relation to the premises is served under section 42 on the grounds specified in section 42(1)(d); and

(c) the residential tenancy agreement is not extended or renewed –

a new residential tenancy agreement for no fixed period is established on that date in relation to the premises.

(b) by inserting the following subsection after subsection (3):

(4) Despite subsection (1), if –

(a) but for this subsection, a residential tenancy agreement for a fixed period in relation to premises would, under subsection (1), expire on a date; and

(b) either –

(i) a notice of termination of the agreement is served under section 38 on the grounds specified in

Residential Tenancy Amendment Act 2013
Act No. of

s. 7

Part 2 – Residential Tenancy Act 1997 Amended

section 38(1)(d);
or

- (ii) a notice to vacate in relation to the premises is served under section 42 on the grounds specified in section 42(1)(d) –

the agreement expires on the day on which the notice takes effect under section 39 or section 43, respectively.

7. Section 12 amended (Extension and renewal)

Section 12(1) of the Principal Act is amended as follows:

- (a) by omitting “that has expired”;
- (b) by omitting “within 28 days after” and substituting “before”.

8. Section 16B inserted

Before section 17 of the Principal Act, the following section is inserted in Division 2:

16B. Rental properties to be advertised and offered at fixed rental price

- (1) The owner of residential premises –

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 8

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- (a) must not advertise the premises for rent, or offer the premises for rent, at a price that is not a fixed price; and
 - (b) must not invite a prospective tenant to make an offer to become a tenant of the premises at a price higher than a fixed price advertised or offered by the owner.

Penalty: Fine not exceeding 50 penalty units.

(2) For the purposes of this section –

- (a) rent specified in an advertisement, or offer, is not a fixed price for rent unless it is a definite single amount specified for the rent in the advertisement or offer; and
- (b) rent specified in an advertisement, or offer, is not a fixed price for rent if the advertisement or offer is to the effect that the rent is to be determined in the future between the parties as –
 - (i) any amount within a range of prices for the rent mentioned in the advertisement or offer; or

Residential Tenancy Amendment Act 2013
Act No. of

s. 9

Part 2 – Residential Tenancy Act 1997 Amended

- (ii) an amount that is to be above a minimum amount specified in the advertisement or offer.

9. Section 17 amended (Money other than rent)

Section 17 of the Principal Act is amended as follows:

- (a) by inserting the following penalty after paragraph (c) in subsection (3):

Penalty: Fine not exceeding 50 penalty units.

- (b) by inserting the following subsection after subsection (3):

(3A) A rent-collection agency must not require a person, who pays, or is to pay, to the agency rent in relation to residential premises, to pay a fee or charge in relation to the rent or receiving the rent.

Penalty: Fine not exceeding 50 penalty units.

- (c) by inserting the following definition before the definition of *water consumption charge* in subsection (4):

rent-collection agency means a person or body, other than an authorised deposit-taking institution, that receives, on behalf of an owner of

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 10

residential premises to which a residential tenancy agreement relates, rent paid or payable in relation to the premises by or on behalf of a tenant;

10. Section 20 amended (Increase in rent)

Section 20 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “An increase” and substituting “Except in the case of a residential tenancy agreement that relates to social housing, an increase”;
- (b) by omitting paragraph (b) from subsection (3) and substituting the following paragraph:
 - (b) if the residential tenancy agreement commenced, or was extended or renewed, less than 60 days before the day on which the notice was given – more than 12 months after that commencement, extension or renewal; or
- (c) by omitting from subsection (3)(c) “6 months” and substituting “12 months”;
- (d) by omitting from subsection (3)(d) “Court” and substituting “Commissioner”;

Residential Tenancy Amendment Act 2013
Act No. of

s. 11

Part 2 – Residential Tenancy Act 1997 Amended

- (e) by omitting from subsection (3)(d) “6 months” and substituting “12 months”;
- (f) by inserting the following subsection after subsection (3):
 - (3A) If a residential tenancy agreement relates to social housing, an increase in rent may only take effect from a day that is more than 60 days after the day on which the notice is given.

11. Section 23 amended (Unreasonable increase)

Section 23 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “the Court” and substituting “the Commissioner”;
- (b) by inserting the following subsections after subsection (1):
 - (1A) An application made under subsection (1) is to be accompanied by the prescribed fee.
 - (1B) An application may only be made under subsection (1) by a tenant within the period of 60 days after the tenant is notified of the increase under section 20.

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 11

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- (1C) The Commissioner may, if he or she thinks fit, conduct a hearing in relation to an application for an order under this section.
- (c) by omitting from subsection (2) “the Court” and substituting “the Commissioner”;
- (d) by omitting from subsection (3) “the Court” and substituting “the Commissioner”;
- (e) by omitting from subsection (4) “An order” and substituting “Subject to subsection (7)(a) and any contrary order of a court, an order of the Commissioner under this section”;
- (f) by inserting the following subsections after subsection (4):
- (5) If the Commissioner has determined an application made under subsection (1) in respect of premises, a tenant or an owner in respect of the premises may apply to the Court to determine whether the increase in the rent, payable under the residential tenancy agreement in respect of the premises before the Commissioner determined the application, is unreasonable.
- (6) An application may only be made under subsection (5) by a tenant

Residential Tenancy Amendment Act 2013
Act No. of

s. 11

Part 2 – Residential Tenancy Act 1997 Amended

or owner in respect of premises within the period of 60 days after the tenant or owner is notified that the Commissioner has determined an application made under subsection (1) in respect of the premises.

(7) If an application is made under subsection (5) in respect of premises –

(a) any order made by the Commissioner under this section in relation to the premises is of no effect, unless the application is withdrawn; and

(b) the Court is to determine the application as if –

(i) the Commissioner had not determined an application made under subsection (1) in respect of the premises; and

(ii) a reference in subsection (2), (3) or (4) to the Commissioner

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 12

were a reference
to the Court.

12. Section 31A inserted

Before section 32 of the Principal Act, the following section is inserted in Division 4:

31A. Reference in this Division to repair may include reference to replacement

- (1) If an object that is an essential service and that is required to be repaired under this Division is unable to be repaired, the object is required under this Division to be replaced with an object that –
 - (a) serves the same primary function as the object required to be replaced; and
 - (b) serves that function to a reasonably similar degree or standard as the degree or standard of the object before it was required to be repaired –

and, accordingly, a reference in this Division to repair is to be taken in such circumstances to be a reference to replacement.

- (2) If an object that is an essential service and that is required to be repaired under this Division is able to be repaired, but it would be cheaper, easier or quicker to

Residential Tenancy Amendment Act 2013
Act No. of

s. 13

Part 2 – Residential Tenancy Act 1997 Amended

replace the object instead, the object may be replaced with an object that –

- (a) serves the same primary function as the object required to be replaced; and
- (b) serves that function to a reasonably similar degree or standard as the degree or standard of the object before it was required to be repaired –

and, accordingly, a reference in this Division to repair is to be taken in such circumstances to include a reference to replacement.

13. Section 32 amended (General repairs and maintenance)

Section 32 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “The owner” and substituting “Without limiting the application of Part 3B, the owner”;
- (b) by inserting the following paragraph after paragraph (a) in subsection (3):
 - (ab) if the repair is to a heating element of a cooking stove, within 14 days; or

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 14

14. Section 33 amended (Urgent repairs)

Section 33 of the Principal Act is amended by inserting after subsection (5) the following subsections:

- (6) In this section, an essential service is to be taken to be functional –
 - (a) where the service is a water service or a sewerage service, if at least the amount of water or sewage that would be supplied or removed, respectively, from the premises, if the service were fully functional, is capable of being safely so supplied or removed; and
 - (b) where the service is an electricity service, if –
 - (i) all power points, or wires between the walls of the premises or in the ceiling of the premises are safe and, except in relation to those power points or wires indicated in the condition report prepared at the beginning of the tenancy as not being functioning power points or functioning wires, supply electricity to the premises; and

Residential Tenancy Amendment Act 2013
Act No. of

s. 14

Part 2 – Residential Tenancy Act 1997 Amended

- (ii) where the service consists of an electricity-generating device – the device safely produces and supplies electricity to at least the level that such a device of the same capacity ought reasonably be expected to produce and supply; and
- (c) where the service is a heating service, if the service safely provides heat to the level that it was reasonably capable of providing when it was manufactured; and
- (d) where the service is a cooking stove, if at least half of the heating elements of the stove, and the oven, function safely; and
- (e) where the service is a hot-water service, if the service safely provides at least the same amount of hot water, and water at the same temperature, as the service provided when it was manufactured; and
- (f) where the service is a service that is within the meaning of paragraph (c) of the definition of *essential service* in section 3, if all water on the

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 15

premises required to be removed or treated is able to be safely removed, or safely treated, within the period that such a service would be able to remove or treat the water if the service were fully functioning.

- (7) An essential service ceases to function if the service is not, under subsection (6), taken to be functional.

15. Section 36A substituted

Section 36A of the Principal Act is repealed and the following section is substituted:

36A. Order for repairs

- (1) A tenant may apply to the Commissioner for an order that repairs under this Division that the owner is required under this Division to carry out, or to arrange for the carrying out of, are carried out.
- (2) An application is to be accompanied by the prescribed fee.
- (3) The Commissioner may, if he or she thinks fit, conduct a hearing in relation to an application for an order under this section.
- (4) The Commissioner may order an owner to ensure that reasonable repairs in relation to premises (including repairs of

Residential Tenancy Amendment Act 2013
Act No. of

s. 15

Part 2 – Residential Tenancy Act 1997 Amended

essential services) are carried out, if satisfied that –

- (a) the owner is required under this Division to carry out, or to arrange for the carrying out of, the repairs; and
 - (b) the repairs are reasonable; and
 - (c) the repairs are not required because of any fault of the tenant.
- (5) If the Commissioner has determined an application made under subsection (1), a tenant or an owner in respect of premises in relation to which the application is made may apply to the Court for an order that repairs under this Division that the owner is required under this Division to carry out, or to arrange for the carrying out of, are carried out.
- (6) An application may only be made under subsection (5) by a tenant within the period of 60 days after the tenant is notified of the determination of the Commissioner in respect of the matter to which the application relates.
- (7) If an application is made under subsection (5) in respect of premises –
 - (a) any order made by the Commissioner under this section in relation to the premises is of no

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 16

effect, unless the application is withdrawn; and

- (b) the Court is to determine the application as if the Commissioner had not made a determination under this section in relation to the matter to which the application relates and as if a reference in subsection (4) to the Commissioner were a reference to the Court.

16. Part 3B inserted

Before section 37 of the Principal Act, the following Part is inserted:

PART 3B – MINIMUM STANDARDS FOR PREMISES

36I. Premises to be weatherproof and structurally sound

- (1) An owner must ensure that premises to which a residential tenancy agreement relates –
 - (a) are weatherproof; and
 - (b) are in a proper state of structural repair.

Penalty: Fine not exceeding 50 penalty units.

Residential Tenancy Amendment Act 2013
Act No. of

s. 16

Part 2 – Residential Tenancy Act 1997 Amended

- (2) For the purpose of subsection (1), premises are in a proper state of structural repair only if the roof, floors, ceilings, walls and stairs –
 - (a) are in good repair; and
 - (b) are not subject to significant dampness; and
 - (c) are not liable to collapse because they are rotted or otherwise defective.

36J. Cleanliness and good repair

- (1) An owner must not enter into a residential tenancy agreement in relation to premises unless the premises are clean.

Penalty: Fine not exceeding 50 penalty units.

- (2) An owner must not enter into, extend, or renew, a residential tenancy agreement in relation to premises unless the premises are in good repair.

Penalty: Fine not exceeding 50 penalty units.

- (3) An owner of premises to which a residential tenancy agreement relates must, as soon as practicable after he or she becomes aware that the premises have ceased to be in good repair, take all reasonable steps to return the premises to

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 16

good repair, except if the premises have ceased to be in good repair through the fault of a tenant.

Penalty: Fine not exceeding 50 penalty units.

36K. Bathrooms, toilets and laundries to be provided

- (1) An owner must not enter into, extend, or renew, a residential tenancy agreement in relation to premises unless –
 - (a) there is, in or on the premises, a flushable toilet that is –
 - (i) connected to a sewer, an on-site wastewater management system (including a septic system), or any other system, approved by the council for the municipal area in which the premises are situated, for treatment or disposal of waste; and
 - (ii) contained in a room that is intended to be used solely for the purposes of toilet use or as a bathroom; and

Residential Tenancy Amendment Act 2013
Act No. of

s. 16

Part 2 – Residential Tenancy Act 1997 Amended

(b) the room that contains the toilet contains –

(i) a vent or opening window; or

(ii) a functioning device that enables the room to be mechanically ventilated.

Penalty: Fine not exceeding 50 penalty units.

(2) An owner must not enter into, extend, or renew, a residential tenancy agreement in relation to premises unless –

(a) there is situated on the premises a bathroom (which may contain a toilet) that is in a separate room; and

(b) the bathroom is designed to permit a person to use it in private; and

(c) the bathroom contains a bath or a shower (and may contain both); and

(d) the bathroom contains a washbasin; and

(e) any washbasin, bath or shower in the bathroom is connected to a water system enabling a continuous supply of a reasonable

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 16

amount of hot and cold water to be provided to the washbasin, bath or shower.

Penalty: Fine not exceeding 50 penalty units.

36L. Cooking facilities

An owner must not enter into, extend, or renew, a residential tenancy agreement in relation to premises unless there is situated in the premises an area, intended to be used for cooking, that includes –

- (a) a functioning kitchen sink that is connected to a water system enabling a continuous supply of hot and cold water to be provided to the sink; and
- (b) a functioning stovetop with –
 - (i) at least 2 hotplates, if the premises has 2 or fewer bedrooms; or
 - (ii) at least 4 hotplates, if the premises has 3 or more bedrooms; and
- (c) a functioning oven, which may be a conventional oven, convection oven or microwave oven or a combination of any such ovens; and

Residential Tenancy Amendment Act 2013
Act No. of

s. 16

Part 2 – Residential Tenancy Act 1997 Amended

- (d) any other object, for the purposes of use in a kitchen, that is prescribed.

Penalty: Fine not exceeding 50 penalty units.

36M. Electricity and heating

- (1) An owner must not enter into, extend, or renew, a residential tenancy agreement in relation to premises unless the premises are connected to –
 - (a) a mains electricity supply (whether or not an electricity provider is supplying electricity to the premises on the day the agreement is entered into, extended or renewed); or
 - (b) a functioning device that is –
 - (i) capable of producing and supplying to the premises a supply of electricity that is sufficient to provide for the electricity needs of the number of persons that the premises is designed to accommodate; and
 - (ii) connected to the electrical wiring system in the premises.

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 16

Penalty: Fine not exceeding 50 penalty units.

- (2) An owner must not enter into, extend, or renew, a residential tenancy agreement in relation to premises unless –
- (a) all power points, or wires between the walls of the premises or in the ceiling of the premises are safe and, except for the power points or wires indicated in the condition report prepared at the beginning of the tenancy as not being functioning power points or functioning wires, supply electricity to the premises; and
 - (b) every room used, or intended for use, by a tenant, other than a room that is intended only for storage or for use as a garage, has adequate natural or artificial lighting.

Penalty: Fine not exceeding 50 penalty units.

- (3) An owner must not enter into, extend, or renew, a residential tenancy agreement in relation to premises unless there is, in a room that may be used as the main living area in the premises, a heating device consisting of –
- (a) an electric heater, or a gas heater, that is a fixture; or

Residential Tenancy Amendment Act 2013
Act No. of

s. 16

Part 2 – Residential Tenancy Act 1997 Amended

- (b) a heat pump; or
- (c) a wood heater (not being an open fire place); or
- (d) an open fire place, if there is in force in relation to the open fire place an approval under subsection (4); or
- (e) another heating device that is prescribed.

Penalty: Fine not exceeding 50 penalty units.

- (4) The Commissioner, by notice to an owner of one or more premises, may approve, on the conditions specified in the notice, an open fire place for the purposes of subsection (3)(d) for use in such of the premises as are specified in the notice.
- (5) The Commissioner, by notice in the *Gazette*, may approve, on the conditions specified in the notice, an open fire place for the purposes of subsection (3)(d) for use in the premises, or a class of premises, specified in the notice.
- (6) A notice under this section is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

36N. Window covering for privacy

- (1) An owner must not enter into, extend, or renew, a residential tenancy agreement in relation to premises unless curtains or blinds cover each window in any room, in the premises, that the owner knows is likely to be used as a bedroom or a living area.

Penalty: Fine not exceeding 50 penalty units.

- (2) Subsection (1) does not apply in relation to social housing.

36O. Ventilation

- (1) An owner must not enter into, extend, or renew, a residential tenancy agreement in relation to premises unless adequate ventilation is provided to each room in the premises in accordance with this section.

Penalty: Fine not exceeding 50 penalty units.

- (2) For the purposes of subsection (1), adequate ventilation is provided to a room if –
- (a) there are one or more openings, in the room, that open to an area of the premises that is not both covered by a ceiling and

Residential Tenancy Amendment Act 2013
Act No. of

s. 16

Part 2 – Residential Tenancy Act 1997 Amended

- surrounded by walls (including any walls with doors or windows); and
 - (b) the total area of all such openings constitutes not less than 5 per cent of the floor area of the room.
- (3) For the purposes of subsection (1), adequate ventilation is provided to a room (the *first room*) if –
- (a) one or more openings, in the room, open to an adjoining room; and
 - (b) the first room or the adjoining room to which the openings open is not a sanitary compartment; and
 - (c) the total area, of all the openings in the first room that open to an adjoining room, constitutes not less than 5 per cent of the floor area of the first room; and
 - (d) there are one or more openings in the adjoining room (not being the same openings as the openings in the first room); and
 - (e) the total area, of all the openings in the adjoining room (not being the same openings as the openings in the first room), constitutes not less than 5 per

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 16

cent of the floor area of the adjoining room.

- (4) For the purposes of subsection (1), adequate ventilation is provided to a room that is a sanitary compartment, bathroom or laundry if the room is ventilated by a functioning mechanism (including but not limited to an exhaust fan) that –
- (a) takes air from the room directly to an area of the premises that is not both covered by a ceiling and surrounded by walls (including any walls with doors or windows); or
 - (b) takes air from the room directly to a roof space that –
 - (i) is adequately ventilated by open eaves or roof vents, or both; or
 - (ii) is covered by roof tiles to which sarking, or another material that would prevent air escaping between gaps in the tiles, has not been applied.
- (5) An owner must not enter into, extend, or renew, a residential tenancy agreement in relation to premises that contain a sliding window that provides adequate ventilation for the purposes of

Residential Tenancy Amendment Act 2013
Act No. of

s. 16

Part 2 – Residential Tenancy Act 1997 Amended

subsection (1), unless the window is able to be locked into a position that creates a gap, between an edge of the sliding window and an edge of the window frame, that –

- (a) is not less than 15 cms wide; and
- (b) does not enable a person to enter the room in which the window is situated.

Penalty: Fine not exceeding 50 penalty units.

(6) In this section –

opening means –

- (a) an open space in a door, wall or ceiling; or
- (b) a space that is created, or may be created, by the opening of a window or a door or other structure in a door, wall or ceiling;

sanitary compartment means a room designed to contain a toilet and not designed to contain a bath or shower.

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 17

36P. Exemption from requirements of provision of this Part

- (1) The Director, by notice to an owner of premises, may specify that, for the period specified in the notice, premises, or a class of premises, specified in the notice are exempted from the application of any, or all, provisions of this Part that are specified in the notice.
- (2) If premises are specified, or are within a class of premises specified, in a notice under subsection (1), to be exempted from the application of a provision of this Part, the provision does not apply in relation to the premises for the period specified in the notice.

17. Section 37 amended (Termination of agreement)

Section 37(1) of the Principal Act is amended by inserting after paragraph (da) the following paragraphs:

- (db) the making of a closure order in relation to the premises under section 87 of the *Public Health Act 1997*; or
- (dc) the death of the tenant, if there is no other surviving tenant in relation to the premises; or

Residential Tenancy Amendment Act 2013
Act No. of

s. 18

Part 2 – Residential Tenancy Act 1997 Amended

18. Section 38 amended (Notice of termination by tenant)

Section 38(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) “terminate it.” and substituting “terminate it;”;
- (b) by inserting the following paragraph after paragraph (c):
 - (d) the residential tenancy agreement is due to expire not more than 60 days after the date on which the notice is served on the owner.

19. Section 39 amended (Effect of notice of termination)

Section 39 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “A notice” and substituting “Subject to subsections (3) and (4), a notice”;
- (b) by inserting the following paragraph after paragraph (a) in subsection (1):
 - (ab) in the case of a residential tenancy agreement for a fixed period, at least 14 days after the notice is served but not before the date of the expiry of the agreement; or

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 19

(c) by inserting the following subsections after subsection (2):

(3) If –

- (a) a residential tenancy agreement in respect of premises is not for a fixed period; and
- (b) the premises are not boarding premises; and
- (c) a date, specified in a notice of termination in respect of the agreement, is a date that is not 14 days or more after the notice is served on the owner –

the notice of termination is not invalid but only takes effect on the day after the end of 14 days after the day on which the notice is served.

(4) If –

- (a) a residential tenancy agreement in respect of premises is for a fixed period; and
- (b) the premises are not boarding premises; and

Residential Tenancy Amendment Act 2013
Act No. of

s. 20

Part 2 – Residential Tenancy Act 1997 Amended

(c) a date, specified in a notice of termination in respect of the premises, is a date that is –

(i) not 14 days or more after the notice is served on the owner; and

(ii) not before the date on which the agreement expires –

the notice of termination is not invalid but only takes effect on the day after the end of 14 days after the day on which the notice is served.

20. Section 42 amended (Notice to vacate by owner)

Section 42 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “, including but not limited to social housing,” after “of residential premises”;
- (b) by omitting paragraphs (b) and (c) from subsection (1) and substituting the following paragraph:

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 20

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- (b) where the residential tenancy agreement is not for a fixed period, that –
 - (i) the premises are to be sold or transferred to another person; or
 - (ii) the premises are to be used for a purpose other than as residential premises for rental; or
 - (iii) significant renovations are to be performed in respect of the premises; or
 - (iv) the premises are to be used as a residence by a member of the family of the owner;
 - (c) by omitting from subsection (1)(d) “28 days” and substituting “60 days”;
 - (d) by inserting the following paragraphs after paragraph (d) in subsection (1):
 - (da) that, where the residential tenancy agreement relates to social housing –
 - (i) the income of the tenant, for a continuous 12-month period, beginning not more than 18 months before the notice is given,

Residential Tenancy Amendment Act 2013
Act No. of

s. 20

Part 2 – Residential Tenancy Act 1997 Amended

is more than \$66 000 or,
if a greater amount is
prescribed by a regulation
for the purpose of this
subparagraph, is more
than the amount
prescribed; or

(ii) the value of the assets of
the tenant, in the 30 days
before the notice is given,
is more than the relevant
value as determined in
accordance with
subsection (1B), less any
debts or liabilities of the
tenant;

(db) that, where the residential
tenancy agreement relates to
social housing –

(i) the premises contain 4 or
more bedrooms, the
tenants do not reasonably
require all of the
bedrooms in the premises
and alternative premises
have been offered to the
tenant by the owner; or

(ii) the premises have a
special facility, or
modification, suitable for
a person with a disability
or special requirements,

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 20

the tenant does not require
such a facility or
modification and
alternative premises have
been offered to the tenant
by the owner;

- (dc) that, where the residential tenancy agreement relates to social housing, the tenant has, without the approval of the Director of Housing, for a continuous period of more than 8 weeks not occupied the premises;
- (e) by inserting the following subsections after subsection (1):
 - (1A) For the purposes of subsection (1)(b), significant renovations are to be performed in respect of premises if –
 - (a) the premises would be unfit for occupation while the renovations are taking place; or
 - (b) were the premises to remain occupied by a tenant during the renovations, there would be a risk to the health or safety of any tenant, any visitors or any person

Residential Tenancy Amendment Act 2013
Act No. of

s. 20

Part 2 – Residential Tenancy Act 1997 Amended

carrying out the
renovations.

(1B) For the purposes of subsection (1)(da)(ii), the value of the assets of a tenant is more than the relevant value if the combined value of any or all of the following is more than \$35 000, or, if a greater amount is prescribed by an order under subsection (1D), is more than the amount prescribed:

- (a) any real or personal property (other than household goods or any motor vehicles) owned by the tenant;
- (b) any estates, or interests in, any real or personal property (other than household goods or any motor vehicles) of the tenant;
- (c) any rights of the tenant, or any amounts owed to the tenant (other than in relation to household goods or any motor vehicles).

(1C) The regulations may prescribe for the purposes of

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 20

subsection (1)(db)(i) the
circumstances in which tenants
do not reasonably require all of
the bedrooms in premises.

(1D) The Commissioner, by order,
may prescribe an amount of not
more than \$70 000 for the
purposes of subsection (1B)(c).

(f) by inserting the following subsections
after subsection (3):

(4) In subsection (1)(b)(iv) and
subsection (5), a reference to an
owner in relation to a member of
the family of the owner does not
include a reference to a person
who is an owner by virtue of
paragraph (c) of the
definition of *owner* in
section 3(1).

(5) In this section –

member of the family of an
owner means –

(a) the owner's
domestic partner,
son, daughter or
parent; or

(b) a parent of the
owner's domestic
partner; or

Residential Tenancy Amendment Act 2013
Act No. of

s. 21

Part 2 – Residential Tenancy Act 1997 Amended

- (c) another person who normally lives with the owner and is wholly or substantially dependent on the owner.

21. Section 43 amended (Effect of notice to vacate)

Section 43 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “A notice” and substituting “Subject to this section, a notice”;
- (b) by omitting from subsection (1)(a) “section 42(1)(a), (b) or (g)” and substituting “section 42(1)(a), (dc) or (g)”;
- (c) by omitting paragraph (b) from subsection (1) and substituting the following paragraphs:
 - (b) at least 28 days after the notice is served, if the notice is for the reason referred to in section 42(1)(db); or
 - (ba) at least 42 days after the notice is served, if the notice is for the reason referred to in section 42(1)(b); or

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 21

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- (d) by omitting from subsection (1)(c) “14 days” and substituting “42 days”;
 - (e) by omitting from subsection (1)(c) “agreement.” and substituting “agreement; or”;
 - (f) by inserting the following paragraphs after paragraph (c) in subsection (1):
 - (d) at least 60 days after the notice is served, if the notice is for the reason referred to in section 42(1)(e) or (f); or
 - (e) at least 90 days after the notice is served, if the notice is for the reason referred to in section 42(1)(da).
 - (g) by inserting the following subsections after subsection (3):
 - (3A) A notice to vacate on the ground that the premises are to be sold or transferred is of no effect unless there is served with the notice proof of an agreement to sell the premises or to transfer the premises to another person.
 - (3B) If a notice to vacate for a reason specified in a paragraph in subsection (1) (other than subsection (1)(d)) specifies a date on which the notice is to take effect that is a date that occurs

Residential Tenancy Amendment Act 2013
Act No. of

s. 22

Part 2 – Residential Tenancy Act 1997 Amended

before the last day of the period of days specified in the paragraph, the notice to vacate is not invalid but only takes effect on the day after the last day of the period.

(3C) If a notice to vacate for a reason specified in subsection (1)(d) specifies a date on which the notice is to take effect that is a date –

- (a) before the end of the period of 42 days after the notice is served; and
- (b) not before the date of expiry of the residential tenancy agreement in respect of the premises –

the notice to vacate is not invalid but only takes effect on the day after the end of the period of 42 days after the notice is served.

22. Section 45 amended (Order for vacant possession)

Section 45 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (c) in subsection (3):

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 22

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- (ca) where the premises are social housing and the reason for serving the notice is a reason referred to in section 42(1)(da), (db) or (dc), vacating the premises would not result in unreasonable financial disadvantage, or unreasonable social disadvantage, to the tenant; and
 - (b) by inserting the following subsections after subsection (3):
 - (3A) The Commissioner may issue guidelines setting out the circumstances in which vacating premises is to be taken to result in unreasonable financial disadvantage, or unreasonable social disadvantage, to a tenant.
 - (3B) Guidelines, if any, issued under subsection (3A) may be taken into account in considering whether, for the purposes of this section, vacating premises would result in unreasonable financial disadvantage, or unreasonable social disadvantage, to the tenant.
 - (c) by inserting in subsection (5)(a) “(even if the statement of the date on which the notice takes effect is incorrect because of the operation of section 43(3B) or (3C))” after “section 44”.

Residential Tenancy Amendment Act 2013
Act No. of

s. 23

Part 2 – Residential Tenancy Act 1997 Amended

23. Section 49B inserted

After section 49A of the Principal Act, the following section is inserted in Part 5:

49B. Tenancy ceases on death of tenant

Despite any other law to the contrary, on the death of a tenant, the tenancy does not vest in the heirs or successors of the tenant.

24. Section 55A inserted

After section 55 of the Principal Act, the following section is inserted in Part 5:

55A. Certain photographs not to be displayed by owner

An owner of residential premises must not, without the written consent of a tenant, display to the public a photograph of the premises that displays any object in the premises that may identify the tenant or another person or that belongs to the tenant.

Penalty: Fine not exceeding 50 penalty units.

25. Section 57 amended (Locks and security devices)

Section 57 of the Principal Act is amended as follows:

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 25

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- (a) by inserting in subsection (1) “, other than boarding premises,” after “residential premises”;
 - (b) by inserting the following penalty after paragraph (b) in subsection (1):

Penalty: Fine not exceeding 50 penalty units.

- (c) by omitting subsection (1A) and substituting the following subsection:

(1A) The owner of boarding premises is to ensure that during the period of the residential tenancy agreement –

- (a) the room, occupied as a principal place of residence, to which all or part of the agreement relates is fitted with a lock and any other device that is necessary to secure the room; and
- (b) the bathroom and toilet facilities in the boarding premises are fitted with a device enabling an occupant of the facility to exclude other persons while using the facility or a part of the facility intended for use by one person at a time; and

Residential Tenancy Amendment Act 2013
Act No. of

s. 25

Part 2 – Residential Tenancy Act 1997 Amended

(c) any entrance to the premises in which the boarding premises are situated is fitted with a lock and any other device that is necessary to secure the boarding premises; and

(d) the locks and other devices necessary to secure the boarding premises are maintained during the period of the residential tenancy agreement.

Penalty: Fine not exceeding 50 penalty units.

(d) by inserting the following penalty after paragraph (b) in subsection (2):

Penalty: Fine not exceeding 50 penalty units.

(e) by inserting the following subsections after subsection (2):

(2A) Subsection (2) does not apply to a person in relation to the addition, alteration or removal of a lock in circumstances to which subsection (2B) applies.

(2B) A tenant may, without the authority of an order of the Court

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 26

or the consent of the owner of the residential premises, add, alter or remove any lock or other security device if –

(a) an FVO, within the meaning of the *Family Violence Act 2004* (a family violence order), is in force under that Act; and

(b) the order was made for the purpose of protecting the tenant.

(f) by inserting the following penalty after subsection (5):

Penalty: Fine not exceeding 50 penalty units.

26. Section 62 amended (Notification of name and address)

Section 62 of the Principal Act is amended as follows:

(a) by inserting the following penalty after paragraph (b) in subsection (1):

Penalty: Fine not exceeding 50 penalty units.

(b) by inserting the following penalty after paragraph (b) in subsection (2):

Residential Tenancy Amendment Act 2013
Act No. of

s. 27

Part 2 – Residential Tenancy Act 1997 Amended

Penalty: Fine not exceeding 50 penalty units.

- (c) by inserting the following penalty after subsection (3):

Penalty: Fine not exceeding 50 penalty units.

- (d) by inserting the following penalty after subsection (4):

Penalty: Fine not exceeding 50 penalty units.

27. Sections 68B and 68C inserted

After section 68A of the Principal Act, the following sections are inserted in Part 5:

68B. General transitional, &c., provisions consequent on *Residential Tenancy Amendment Act 2013*

- (1) An amendment to this Act made by the amending Act applies in relation to all premises, and all residential tenancy agreements, except as otherwise provided for in this section or section 68C.
- (2) If a residential tenancy agreement is entered into, or extended or renewed, before the amendments to section 11 made by the amending Act commence, those amendments –

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 27

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- (a) do not apply in relation to the agreement until 12 months after the amendments commence; and
 - (b) despite paragraph (a), do not apply in relation to an expiry of the agreement that occurs before 14 months after the amendments commence.
 - (3) If a residential tenancy agreement is entered into, or extended or renewed, before the amendment to section 12 made by the amending Act commences, the amendment –
 - (a) does not apply in relation to the residential tenancy agreement until 12 months after the amendment commences; and
 - (b) despite paragraph (a), does not apply in relation to an expiry of the agreement that occurs before 14 months after the amendment commences.
 - (4) Section 16B does not apply to an advertisement by or on behalf of an owner that is lodged for publication with another person before the section commences.
 - (5) Section 17(3A) does not apply in relation to a residential tenancy agreement entered into, or extended or renewed,

Residential Tenancy Amendment Act 2013
Act No. of

s. 27

Part 2 – Residential Tenancy Act 1997 Amended

before that section commences, until 12 months after the section commences.

- (6) If a residential tenancy agreement is entered into, or extended or renewed, before the amendments to sections 20 and 23 made by the amending Act commence, those amendments do not apply in relation to the agreement until 12 months after the amendments commence.
- (7) If a residential tenancy agreement is entered into, or extended or renewed, before the amendments to sections 38 and 39 made by the amending Act commence, those amendments –
 - (a) do not apply in relation to the agreement until 12 months after the amendments commence; and
 - (b) do not apply in relation to the expiry of the agreement if the expiry occurs within 14 months after the amendments commence.
- (8) If a residential tenancy agreement is entered into, or extended or renewed, before the amendments to sections 42, 43 and 45 made by the amending Act commence, the amendments –
 - (a) do not apply in relation to the agreement until 12 months after the amendments commence; and

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 27

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- (b) do not apply in relation to a notice to vacate issued before 12 months after the amendments commence.
- (9) Section 49B does not apply in relation to the death of a tenant before that section commences.
- (10) If a residential tenancy agreement is entered into, or extended or renewed, before the amendments to section 57 made by the amending Act commence, those amendments (other than the amendment that inserts section 57(2A) and (2B)) do not apply in relation to the premises to which the agreement relates until 12 months after the amendments commence.
- (11) In this section –

amending Act means the *Residential Tenancy Amendment Act 2013*.

68C. Transitional, &c., provisions relating to new standards contained in *Residential Tenancy Amendment Act 2013*

- (1) If a residential tenancy agreement in relation to premises is entered into, or extended or renewed, before section 36I commences, that section does not apply in relation to the premises, for so long as the agreement remains in effect, until 3 years after the section commences.

Residential Tenancy Amendment Act 2013
Act No. of

s. 27

Part 2 – Residential Tenancy Act 1997 Amended

- (2) If a residential tenancy agreement in relation to premises is entered into, or extended or renewed, after section 36I commences but before 12 months after that section commences, that section does not apply in relation to the premises, for so long as the agreement remains in effect, until 12 months after the section commences.
- (3) Section 36J(1) does not apply in relation to a residential tenancy agreement if the agreement is entered into within 30 days after that provision commences.
- (4) If a residential tenancy agreement is entered into, or extended or renewed, before, or within 12 months after, section 36J(2) commences, section 36J(2) does not apply in relation to that entering into, extension or renewal.
- (5) If a residential tenancy agreement in relation to premises is entered into, or extended or renewed, before section 36J(3) commences, section 36J(3) does not apply in relation to the premises until 3 years after the section commences.
- (6) If a residential tenancy agreement in relation to premises is entered into, or extended or renewed, after section 36J(3) commences but before 12 months after that provision commences, that provision

Residential Tenancy Amendment Act 2013
Act No. of

Part 2 – Residential Tenancy Act 1997 Amended

s. 27

does not apply in relation to the premises until 12 months after the provision commences.

- (7) If a residential tenancy agreement is entered into, or extended or renewed, before section 36K, 36L, 36M, 36N or 36O commences, that section only applies in relation to a renewal or extension of the tenancy agreement that occurs after 3 years after the section commences.
- (8) If a residential tenancy agreement is entered into, or extended or renewed, within 12 months after section 36K, 36L, 36M, 36N or 36O commences, that section –
 - (a) does not apply to the entry into, or the extension or renewal of, the agreement; and
 - (b) only applies in relation to a renewal or extension of the agreement that occurs after 3 years after the section commences.
- (9) In this section –

amending Act means the *Residential Tenancy Amendment Act 2013*.

Residential Tenancy Amendment Act 2013
Act No. of

s. 28

Part 3 – Land Titles Act 1980 Amended

PART 3 – LAND TITLES ACT 1980 AMENDED

28. Principal Act

In this Part, the *Land Titles Act 1980** is referred to as the Principal Act.

29. Section 146 amended (Mortgagee, encumbrancee or lessor may obtain possession in certain cases)

Section 146(6A) of the Principal Act is amended by omitting “28 days’ written notice” and substituting “60 days’ written notice”.

*No. 19 of 1980

Residential Tenancy Amendment Act 2013
Act No. of

Part 4 – Concluding Provision

s. 30

PART 4 – CONCLUDING PROVISION

30. Repeal of Act

This Act is repealed on the three hundredth and sixty fifth day from the day on which all of the provisions of this Act commence.