

TASMANIA

**CROWN LANDS (SHACK SITES)
AMENDMENT BILL 2004**

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**CROWN LANDS (SHACK SITES)
AMENDMENT BILL 2004**

*(Brought in by the Minister for Environment and
Planning, the Honourable Judith Louise Jackson)*

A BILL FOR

**An Act to amend the *Crown Lands (Shack Sites) 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 *Crown Lands (Shack Sites) Amendment Act 2004*.

Commencement

2. This Act commences on the day on which this Act
receives the Royal Assent.

Principal Act

3. In this Act, the *Crown Lands (Shack Sites) Act 1997** is referred to as the Principal Act.

Section 7 amended (Determination to sell or lease suspends operation of certain laws, &c., in relation to shack site)

4. Section 7 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

(1) When the Secretary makes a determination in relation to a shack site under section 4(1)(a) or (c), the *Land Use Planning and Approvals Act 1993*, Part 3 of the *Local Government (Building and Miscellaneous Provisions) Act 1993* and the State Coastal Policy cease to apply to that shack site and to any related infrastructure land, as identified in the notice under section 4(3), until –

- (a) for a section 4(1)(a) determination, whichever of the following first occurs:
 - (i) the replacement lease for the shack site is issued;
 - (ii) a folio of the Register for the shack site is created;
 - (iii) the conversion period expires; or
- (b) for a section 4(1)(c) determination, whichever of the following first occurs:
 - (i) a folio of the Register for the shack site is created;

*No. 87 of 1997

- (ii) the conversion period expires.

Section 17 amended (Rental for replacement lease)

5. Section 17(1) of the Principal Act is amended by omitting “The rental” and substituting “Subject to section 17A, the rental”.

Section 17A inserted

6. After section 17 of the Principal Act, the following section is inserted in Division 1:

Leasing hardship

17A. (1) The Minister may determine that the rental for the replacement lease should, for all or part of its term (or remaining term), be such lower rental as the Minister considers reasonable in the circumstances if the Minister is satisfied that paying (or continuing to pay) the rental required under section 17 for that term or that part of that term would cause hardship to the lessee.

(2) If the Minister makes a determination under subsection (1), the rental for the replacement lease is to be adjusted accordingly.

(3) The Minister may review a determination under subsection (1) at any time.

(4) For the purposes of making and reviewing determinations under subsection (1), the Minister may –

- (a) require any persons claiming or continuing to claim hardship to give the Minister such financial statements and

other information relevant to their real estate leasing capacity as the Minister reasonably considers necessary; and

- (b) issue, and apply, such hardship eligibility criteria and leasing payment criteria as the Minister thinks fit.

(5) The Minister may revoke or amend a determination under subsection (1) if, after reviewing the determination, he or she is satisfied that the financial circumstances of the relevant lessee have altered to such an extent that the lessee is no longer eligible to claim hardship.

(6) If the Minister revokes or amends a determination under subsection (1), the rental for the replacement lease is to be readjusted accordingly.

(7) The Minister may delegate to the Secretary any of the Minister's powers under this section other than –

- (a) the power to issue hardship eligibility criteria and leasing payment criteria under subsection (4)(b); and
- (b) this power of delegation.

(8) A person who is aggrieved by a hardship determination made in respect of that person under this section may apply to the Magistrates Court (Administrative Appeals Division) for a review of that determination.

(9) For the purposes of subsection (8) –

“hardship determination” means –

- (a) the making of a determination under subsection (1); and
- (b) a refusal to make such a determination; and
- (c) the revocation or amendment of such a determination.

Section 28 amended (Purchasing hardship)

7. Section 28 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “, not exceeding 10 years,”;
- (b) by omitting subsection (2) and substituting the following subsections:

(2) For the purposes of making determinations under subsection (1), the Minister may –

- (a) require any lessees or licensees who claim hardship to give the Minister such financial statements and other information relevant to their real estate purchasing capacity as the Minister reasonably considers necessary; and
- (b) issue, and apply, such hardship eligibility criteria and extended payment criteria as the Minister thinks fit.

(3) The Minister may delegate to the Secretary any of the Minister's powers under this section other than –

- (a) the power to issue hardship eligibility criteria and extended payment criteria under subsection (2)(b); and
- (b) this power of delegation.