

# CLAUSE NOTES

## Residential Tenancy Amendment Bill 2010

<b>PART 1</b>	<b>PRELIMINARY</b>
<b>Clause 1</b>	<b>Short Title</b>
	The Act is referred to as the <i>Residential Tenancy Amendment Act 2010</i>
<b>Clause 2</b>	<b>Commencement</b>
	The Act commences upon Royal Assent.
<b>Clause 3</b>	<b>Principal Act</b>
	The <i>Residential Tenancy Act 1997</i> is referred to as the Principal Act.
<b>Clause 4</b>	<b>Section 3 amended (Interpretation)</b>
	Inserts the definition of “residential manager” – “a person who enters into a residential management agreement with the owner of residential premises” under the new section 16A.
<b>Clause 5</b>	<b>Section 5 amended (Non-Application of the Act)</b>
	Provides that the Act applies to a rental dwelling as defined by the <i>National Rental Affordability Scheme Regulations 2008</i> .
<b>Clause 6</b>	<b>Section 6 amended (Non-application of Act)</b>
	Removes the current exemption provided to an ‘educational institution’. In effect, ensures that the Act applies to University of Tasmania’s rental accommodation.
	The exemption for educational institutions, other than

for NRAS properties, will be made by regulation rather than in the body of the Act.

**Clause 7**                    **Part 3, Division 1A inserted**

Inserts a new Division 1A which provides for “residential management agreements”.

***Div 1 A – Residential management agreements***

Section 16A - details when a residential management agreement exists.

Where such an agreement is established the residential manager is “taken to be the owner” for the purposes of the Act. The Act then does not apply to actual owner of the property. In effect, the obligations placed on the owner by the Act are ‘transferred’ to the residential manager.

Where a residential manager dies or becomes insolvent, or is wound up (while the residential management agreement is in force) the residential manager ceases to be the owner for the purposes of the Act. The actual owner is then subject to the obligations under the Act, with the tenant provided with protection under the Act at all times.

**Clause 8**                    **Section 27 substituted**

Provides that a claim form for the payment of a rental bond is to be in a form approved by the Director of Consumer Affairs and Fair Trading.

**Clause 9**                    **Section 29B amended (Claim by tenant)**

Provides that, where there is a claim by a tenant against the rental bond, notice of receipt of the claim must be provided to the other parties, rather than a

copy of the claim form itself.

**Clause 10      Section 29D amended (Claim by deposit contributor)**

Provides that, where there is a claim by a deposit contributor against a rental; bond, notice of receipt of the claim must be provided to the other parties, rather than a copy of the claim form.

**Clause 11      Section 29DA inserted**

Inserts a new section 29DA after 29D of the Act.

Provides that the Rental Deposit Authority may refer a claim lodged under sections:

- 29B - a claim by a tenant;
- 29C - claim by the owner; or
- 29D – claim by the deposit contributor

to the Rental Tenancy Commissioner.

**Clause 12      Section 49 amended (Subletting)**

Omits sub-section 49(1) and substitutes a new s49(1).

The substituted section 49(1) provides that a tenant is not to sub-let residential premises without the owner's consent and only where the tenant also occupies the premises.

Further provides that an agreement to sublet residential premises in contravention of section 49(1) is invalid.

**Clause 13      Section 68A inserted**

Inserts a new section 68A (transitional and savings

provision) which provides that the amendments made by this Act do not apply in respect of residential tenancy agreements currently in force until 12 months time after commencement of this Act.

**Clause 14**

**Repeal of Act**

Provides that this Act is repealed on the 90<sup>th</sup> day from which it commences. However, the amendments made by this Act to the Principal Act remain in force.