

TASMANIA

RESIDENTIAL TENANCY AMENDMENT BILL 2010

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**RESIDENTIAL TENANCY AMENDMENT BILL
2010**

*(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*

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:

1. Short title

This Act may be cited as the *Residential
Tenancy Amendment Act 2010*.

2. Commencement

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

3. Principal Act

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

*No. 82 of 1997

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4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by inserting after the definition of “rent” the following definition:

“residential manager” means a person who enters into a residential management agreement with the owner of residential premises under section 16A;

5. Section 5 amended (Application of Act)

Section 5 of the Principal Act is amended by inserting after subsection (2) the following subsection:

(3) This Act applies to an approved rental dwelling within the meaning of the *National Rental Affordability Scheme Regulations 2008* of the Commonwealth.

6. Section 6 amended (Non-application of Act)

Section 6(2)(d) of the Principal Act is amended by omitting “an educational institution,” and substituting “a”.

7. Part 3, Division 1A inserted

After section 16 of the Principal Act, the following Division is inserted in Part 3:

Division 1A – Residential management agreements

16A. Residential management agreement

- (1) A residential management agreement exists where the owner of residential premises agrees in writing with a person that the person will perform the functions of that owner under this Act.
- (2) Subject to subsection (4), where a residential management agreement is in force –
 - (a) the residential manager is taken to be the owner of the premises for the purposes of this Act; and
 - (b) this Act does not apply to the owner of the premises in his or her capacity as owner.
- (3) Where a residential manager grants a right of occupancy of residential premises to a person, the person is a tenant for the purposes of this Act.
- (4) Where a residential manager dies, becomes insolvent or is unable to be located or, in the case of a company, is wound up, whilst a residential management agreement is in force, the residential manager is no longer taken to be the owner of the premises for the purposes of this Act.

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8. Section 27 substituted

Section 27 of the Principal Act is repealed and the following section is substituted:

27. Claim form for disbursement of security deposit

A claim form for the disbursement of a security deposit is to be in a form approved by the Director of Consumer Affairs and Fair Trading.

9. Section 29B amended (Claim by tenant)

Section 29B(2) of the Principal Act is amended by omitting “a copy” and substituting “notice of receipt”.

10. Section 29D amended (Claim by deposit contributor)

Section 29D(2) of the Principal Act is amended by omitting “a copy” and substituting “notice of receipt”.

11. Section 29DA inserted

After section 29D of the Principal Act, the following section is inserted in Division 3:

29DA. Referral by Authority to Commissioner

The Authority may refer to the Commissioner any claim lodged under section 29B, 29C or 29D.

12. Section 49 amended (Subletting)

Section 49 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

- (1) The tenant is not to sublet residential premises –
 - (a) without the consent of the owner of the premises; and
 - (b) unless the tenant is also an occupier of the premises.

(1A) An agreement to sublet residential premises in contravention of subsection (1) is invalid.

13. Section 68A inserted

After section 68 of the Principal Act, the following section is inserted in Part 5:

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68A. Transitional and savings provisions consequent on *Residential Tenancy Amendment Act 2010*

The amendments made by the *Residential Tenancy Amendment Act 2010* do not apply in respect of a residential tenancy agreement that was in force immediately before the day on which that Act commenced until 12 months after that day.

14. Repeal of Act

This Act is repealed on the ninetieth day from the day on which it commences.