

CLAUSE NOTES

Residential Tenancy Amendment Bill 2018

Part 1 - Preliminary

Clause 1: Short title

This clause provides that, once passed, the Bill will be cited as the Residential Tenancy Amendment Act 2018.

Clause 2: Commencement

Provides that provisions of this Bill are to commence on a day to be proclaimed.

Part 2 – Residential Tenancy Act 1997 amended

Clause 3: Principal Act

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

Clause 4: Interpretation

The definitions of “dwelling house”, “eligible person”, and “housing support provider”, are inserted to address operability between the Act and the *Homes Act 1935*. These definitions have the same meaning as in the *Homes Act 1935*.

“rent assistance” also inserted to address operability between the Act and the *Homes Act*. The definition ensures this is not too restrictive.

The definitions of “NDIS participant” and “SDA” are inserted to give effect to clauses 6 and 8, and are required in response to the introduction of the National Disability Insurance Scheme.

The definition of “social housing”, “social housing provider” and subsection 3 amended to better align with the *Homes Act*. These amendments ensure the Director of Housing is able to enter into arrangements with a range of housing providers to accommodate the housing needs of people in need of social housing.

Clause 5: Non-application of the Act

This clause clarifies the Act’s application to leasing and subleasing arrangements entered into under the *Homes Act*.

This clause recognises the nature of leases entered into under the *Homes Act*, while ensuring that people in need of housing assistance who benefit from subleases, benefit from the full protections of the Act with respect to that sublease, regardless of who owns the premises.

Clause 6: Expiry

This clause addresses a gap in the legislation, to ensure protections provided to both the tenant and owner continue in situations where a notice to vacate has been issued in relation to a fixed term agreement, but vacant possession has not been achieved.

Clause 7: Money other than rent

This clause gives effect to ensure that National Disability Insurance Scheme (NDIS) participants in Specialist Disability Accommodation (SDA) are able to contribute to services such as linen and meals, without falling into the definition of “boarding premises”.

Clause 8: Increase in rent

This clause confirms the Director of Housing’s capacity to subsidise rent and bond following arrangements entered into under the *Homes Act 1935*, and clarifies that review of subsidised rent by the Director of Housing, is not an increase in rent under section 20 of the Act.

Clause 9: Security Deposits

This clause gives effect to agreements under the National Disability Insurance Scheme (NDIS) of shared Specialist Disability Accommodation (SDA), to ensure these agreements do not constitute “Boarding Premises” within the definition of the Act.

This clause also expands the categories of organisation that may receive a security deposit, allows for payment of a security deposit by instalments, and sets out the requirements for lodgement with the Rental Deposit Authority for those payments.

Part 3 – *Family Violence Act 2004* amended

Clause 11: Principal Act

In this Part the *Family Violence Act 2004* is referred to as the Principal Act.

Clause 12: Issue of replacement residential tenancy agreement

Enables a Court, when making a Family Violence Order, to terminate a residential tenancy agreement, without requirement to create a new agreement on varied terms and conditions. This enables a victim of family violence to terminate their agreement, rather than having to take on the lease alone.

Part 4 - Miscellaneous

Clause 13: Expiry of Act

This Act will be repealed on the three hundred and sixty fifth day from the day on which it commenced.