

## Residential Tenancies Amendment (Public Housing) Bill 2004

### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The object of this Bill is to amend the *Residential Tenancies Act 1987* (the **Principal Act**) to make provision for the following:

(a) to enable the New South Wales Land and Housing Corporation (the **Corporation**) to declare that a public housing tenancy agreement is subject to a specified fixed term,

(b) to enable the Corporation to request a public housing tenant to give an undertaking not to engage in anti-social behaviour (referred to as an **acceptable behaviour agreement**),

(c) to provide for the termination of the tenant's public housing tenancy agreement if the tenant refuses to enter into, or seriously or persistently breaches, an acceptable behaviour agreement,

(d) to provide for the termination of a public housing tenancy agreement if the tenant severely or persistently threatens or abuses, or intimidates or harasses, any member of staff of the Department of Housing.

#### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

#### Schedule 1 Amendments

**Schedule 1 [1]** inserts definitions of certain expressions for the purposes of the proposed amendments to the Principal Act.

**Schedule 1 [2]** inserts proposed section 14A into the Principal Act. The proposed section enables the Corporation to declare, by notice given to a tenant under a public housing tenancy agreement, that the agreement is subject to a fixed term from a date specified in the notice.

**Schedule 1 [3]** inserts proposed section 35A into the Principal Act. The proposed section enables the Corporation to request a public housing tenant to enter into an acceptable behaviour agreement under which the tenant undertakes not to engage in specified anti-social behaviour. The operation of any such undertaking extends to the behaviour of other lawful occupiers of the premises to which the applicable public housing tenancy agreement relates.

If the tenant fails or refuses to enter into an acceptable behaviour agreement, the Corporation may give notice of the termination of the tenancy agreement (under proposed section 57A as inserted by **Schedule 1 [4]**) and the Consumer, Trader and Tenancy Tribunal (the **Tribunal**) may terminate that agreement (under proposed section 64 (2A) as inserted by **Schedule 1 [5]**).

If the tenant enters into an acceptable behaviour agreement, the Corporation may give notice, under proposed section 57A, of the termination of the tenancy agreement on the grounds that a serious or persistent breach of the acceptable behaviour agreement has occurred and the Tribunal, under proposed section 64 (2A), may terminate the tenancy agreement if the tenant fails to satisfy the Tribunal that this ground has not been established.

**Schedule 1 [6]** makes an amendment to section 64 (4) to require the Tribunal, in considering the circumstances of a case that involves a public housing tenancy agreement, to have regard to the history of any prior tenancy of the tenant under

any such agreement if that history is relevant.

**Schedule 1 [8]** inserts proposed section 68A into the Principal Act, which enables the Tribunal to terminate a public housing tenancy agreement if a tenant severely or persistently threatens or abuses, or intimidates or harasses, any member of staff of the Department of Housing. Such conduct may involve making repeated telephone calls that cause intimidation or harassment.

**Schedule 1 [7]** provides for an amendment that is consequential on the amendment made by **Schedule 1 [8]**.

**Schedule 1 [9]** enables the making of regulations of a savings and transitional nature as a consequence of the enactment of the proposed Act.