

Residential Tenancies Amendment (Domestic Violence) Bill 1999

Explanatory note

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

The *Residential Tenancies Amendment (Olympic Games) Bill 1999* is cognate with this Bill.

Overview of Bill

The object of this Bill is to amend the *Residential Tenancies Act 1987* in relation to domestic violence committed in residential premises.

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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 the date of assent.

Clause 3 is a formal provision giving effect to the amendments to the *Residential Tenancies Act 1987* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] inserts definitions of *apprehended violence order*, *domestic violence* and *person in a domestic relationship with the tenant*.

Schedule 1 [2] makes it a term of a residential tenancy agreement that a tenant must not commit an act of domestic violence in residential premises.

Schedule 1 [3] permits a co-tenant under a residential tenancy agreement to apply to the Residential Tribunal for the assignment of his or her co-tenancy to another person where an act of domestic violence has been or is likely to be committed by one co-tenant against another, and permits the Tribunal to assign a co-tenancy.

Schedule 1 [4] allows a person who has had an act of domestic violence committed against them by a tenant of premises under a residential tenancy agreement to apply to the Tribunal to be recognised instead as the tenant of the residential premises. The section also makes the existence and nature of a apprehended violence order against the current tenant an issue that the Tribunal must have regard to in deciding such an application.

The proposed provision applies to both a person in a domestic relationship with the tenant and a co-tenant in a domestic relationship with the other or another co-tenant.

Schedule 1 [5] allows a co-tenant to apply to the Tribunal for an order for possession where another co-tenant has caused or is likely to intentionally or recklessly cause injury to the applicant or to persons lawfully on the premises, or has caused serious damage to the premises themselves.

Schedule 1 [6] gives similar rights to a tenant with respect to behaviour by a landlord that

causes or is likely to cause injury to the tenant or another person or damage to the tenant's goods or another person's goods.

Schedule 1 [7] specifies certain grounds on which termination of a residential tenancy agreement can be effected by the Tribunal on the basis of undue hardship to the tenant. These grounds include domestic violence between the tenant and an occupant. It is also extended to include verbal abuse, or threats, or harassment, or intimidation by the landlord, and in these particular circumstances the amended provision allows the Tribunal to make an order for compensation to the tenant covering reasonable costs for finding and relocating to new premises.

Schedule 1 [8] allows the Tribunal to make an interim order restraining domestic violence if an application is made to terminate a residential tenancy agreement under proposed section 68A or 68B.

Schedule 1 [9] prohibits the Tribunal from conciliating matters involving domestic violence. The Tribunal ordinarily has a duty to attempt to conciliate matters before it makes an order (see section 49 of the *Residential Tribunal Act 1998*).

Schedule 1 [10] inserts a power to make regulations of a saving and transitional nature consequent on the enactment of the proposed Act.