

New South Wales

Residential Tenancies Amendment (Olympic Games) Bill 1999

Explanatory note

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

This Bill is cognate with the *Residential Tenancies Amendment (Domestic Violence) Bill 1999*.

Overview of Bill

The object of this Bill is to amend the *Residential Tenancies Act 1987* in relation to rents for residential premises during and around the time the Sydney Olympic Games are held.

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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 that the proposed Act will commence 2 months after assent, unless commenced sooner by proclamation.

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] creates an exemption from the general rule that the *Residential Tenancies Act 1987* applies to residential tenancy agreements entered into after the commencement of the Act. The proposed Act makes special provisions applying to residential tenancy agreements in force during and around the period of the Sydney Olympic Games.

Schedule 1 [2], [3] and [4] make amendments with respect to the application of the Act to holiday premises. The amendments make the nature of the letting the determinant of the jurisdiction of the Act,

rather than the nature of the premises themselves, with the intention of broadening the circumstances in which residential tenants are afforded protection. As a result of the amendments, the Act will apply to any premises ordinarily used for holiday purposes if they are so used for more than 2 months.

Schedule 1 [5] gives effect to the Schedule containing proposed special provisions applying for the period of the Sydney Olympic Games, and provides for the making of regulations of a savings and transitional nature consequent on the proposed Schedule ceasing to have effect.

Schedule 1 [6] inserts a power to make regulations of a savings and transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [7] inserts a new Schedule 5 containing special provisions for a specified period. Those provisions are described below.

Schedule 5 Special provisions applying for period of Sydney Olympic Games

Part 1 Preliminary

Clause 1 inserts definitions used in the proposed Schedule of *premises ordinarily the subject of a residential tenancy agreement, previous residential tenancy agreement, Rent Report* and *Sydney Statistical Division*.

Clause 2 applies the proposed Schedule to new and existing residential tenancy agreements that are in force in the Sydney Statistical Division, and describes the duration of the operation of the proposed Schedule.

Clause 3 exempts those residential tenancy agreements from the operation of certain provisions of the Act that deal with rent increases and termination of residential tenancy agreements.

Part 2 Setting of rents

Clause 4 requires that rents payable under residential tenancy agreements to which the proposed Schedule applies are to be determined in accordance with Part 2 of the Schedule.

Clause 5 sets out a formula for the maximum rent payable in respect of residential premises ordinarily the subject of a residential tenancy agreement.

Clause 6 sets out factors that a landlord must take into account in determining rent in respect of residential premises not ordinarily the subject of a residential tenancy agreement, including various valuations, costs and improvements, the condition of the premises and other matters.

Clause 7 gives the Residential Tenancies Tribunal a power to determine that rent is excessive, sets out factors it should take into account in making such a determination, and lays the onus of proving the rent is not excessive on the landlord.

Clause 8 gives the Tribunal power to make orders with respect to applications relating to excessive rents.

Part 3 Rent increases

Clause 9 restricts the frequency of rent increases under relevant residential tenancy agreements to once every 12 months.

Clause 10 sets out a formula for the maximum rent increase allowable under such residential tenancy agreements.

Clause 11 gives the Tribunal the power in certain circumstances to approve a rent increase in excess of that allowed under proposed clause 10.

Clause 12 empowers the Tribunal to make orders regarding rent increases.

Part 4 Termination

Clause 13 outlines how a notice of termination of a residential tenancy agreement is to be given.

Clause 14 requires at least a 60-day notice period under a notice of termination given by a landlord to a tenant when the landlord has entered into a contract of sale of the premises that requires the landlord to give vacant possession.

Clause 15 specifies other grounds involving major changes to the premises for which at least 90 days' notice is required to be given by the landlord.

Clause 16 provides for the giving of notice of termination by a landlord to a tenant when the landlord or a relative of the landlord wishes to use the residential premises as a principal residence. The term *relative* is defined in the clause.

Clause 17 specifies the notice requirements for termination of a residential tenancy agreement by a landlord on ground of breach of agreement (other than arrears in rent).

Clause 18 specifies the notice requirements for termination of a residential tenancy agreement by a landlord on ground of breach of agreement (involving arrears in rent).

Clause 19 specifies the notice requirements for termination of a residential tenancy agreement by a tenant at the completion of a fixed term residential tenancy agreement.

Part 5 Miscellaneous

Clause 20 creates offences in relation to contravention or failure to comply with the proposed provisions setting out formulae and factors to be taken into account in setting rent.

Clause 21 excludes section 9 (2) (b) of the *Landlord and Tenant (Rental Bonds) Act 1977* from applying to furnished premises with a weekly rental of \$1000 or more, and allows for the making of regulations that

alter the relevant monetary figure. This provision means the restriction on the amount of a rental bond that can be imposed under section 9 (2) of that Act will not apply to premises rented for relatively high amounts.