

Overview of Bill

The object of this Bill is to amend the *Residential Tenancies Act 2010* to specify some rights and duties of certain persons who enter into agreements under which a person is granted the right to occupy residential premises as a residence and who are presently outside the scope of the Act (and whose rights and obligations are generally governed by unregulated common law contracts) and to give those persons access to the Consumer, Trader and Tenancy Tribunal to resolve disputes. The occupants affected include the following:

- (a) those who live in boarding houses,
- (b) people with a disability who live in group homes or residential centres,
- (c) occupants of educational institutions and residential colleges,
- (d) occupants of hotels and motels, backpackers' hostels and serviced apartments,
- (e) those who live in refuges or crisis accommodation and other supported accommodation,
- (f) those who live in caravans in caravan parks and who are not protected by other legislation,
- (g) those who live in share houses who are not currently subject to the Act,
- (h) lodgers in private homes.

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 3 months after the date of assent to the proposed Act, unless commenced sooner by proclamation.

Schedule 1 Amendment of Residential Tenancies

Act 2010 No 42

Schedule 1 [7] provides that the Consumer, Trader and Tenancy Tribunal may, on application by the Director-General or another person, make an order declaring that a specified agreement is, or is not, an occupancy agreement to which the Act applies.

Schedule 1 [8] inserts a new Part into the *Residential Tenancies Act 2010* dealing with previously unprotected occupants. That Part contains the following provisions:

Clause 186A defines terms used in the proposed Part. A **grantor** is defined as the person who grants the right to occupy residential premises under an occupancy agreement. An **occupant** is defined as the person who has the right to occupy residential premises under an occupancy agreement.

Clause 186B specifies the agreements that are occupancy agreements. An **occupancy agreement** is an agreement under which a person grants to another person for value a right to occupy specified residential premises as a residence (whether or not with other people). However, an agreement that is a residential tenancy agreement to which the Act applies is not an occupancy agreement.

Clause 186C specifies when an occupancy agreement commences.

Clause 186D specifies the occupancy principles that apply in relation to an occupancy agreement for premises.

Clause 186E provides that the regulations may make provision in relation to occupancy agreements, including, for example, standard occupancy terms and that the regulations may provide for more than one form of standard occupancy agreement for use for different classes of residential premises, occupancy agreements and parties. The proposed section also requires that any regulation about standard occupancy terms must be consistent with the occupancy principles.

Clause 186F provides that an occupancy agreement must contain, and is taken to contain, terms to the effect of the occupancy principles and terms to the effect of the standard occupancy terms prescribed by the regulations and may contain other terms that are consistent with those standard occupancy terms and the occupancy principles.

Clause 186G provides that the grantor under an occupancy agreement must deposit the amount of any bond under the agreement with the Director-General. If the

Director-General accepts the bond, Divisions 1–3 of Part 8 of the Act apply in relation to the occupancy agreement with the appropriate modifications.

Schedule 1 [17] provides that the Consumer, Trader and Tenancy Tribunal must give effect to the occupancy principles in considering a matter, or making a decision under the Act, in relation to a dispute between the parties to an occupancy agreement or a dispute under such an agreement.

Schedule 1 [1] and [2] update the long title to include references to grantors, occupants and occupancy agreements.

Schedule 1 [9] and [11]–[16] extend certain provisions about landlords and tenants to include grantors and occupants.

Schedule 1 [4], [10] and [18] extend references to residential tenancy agreements to include occupancy agreements.

Schedule 1 [3] inserts definitions used in the new provisions.

Schedule 1 [5] and [6] limit the application of existing provisions about residential tenancy agreements.

Schedule 1 [19] provides for the making of applications to the Tribunal in relation to breaches of occupancy agreements or of the occupancy principles.

Schedule 1 [20] provides for the making of savings and transitional regulations consequent on the enactment of the proposed Act.