

Second print



New South Wales

# Residential Tenancies Amendment Bill 1998

## Contents

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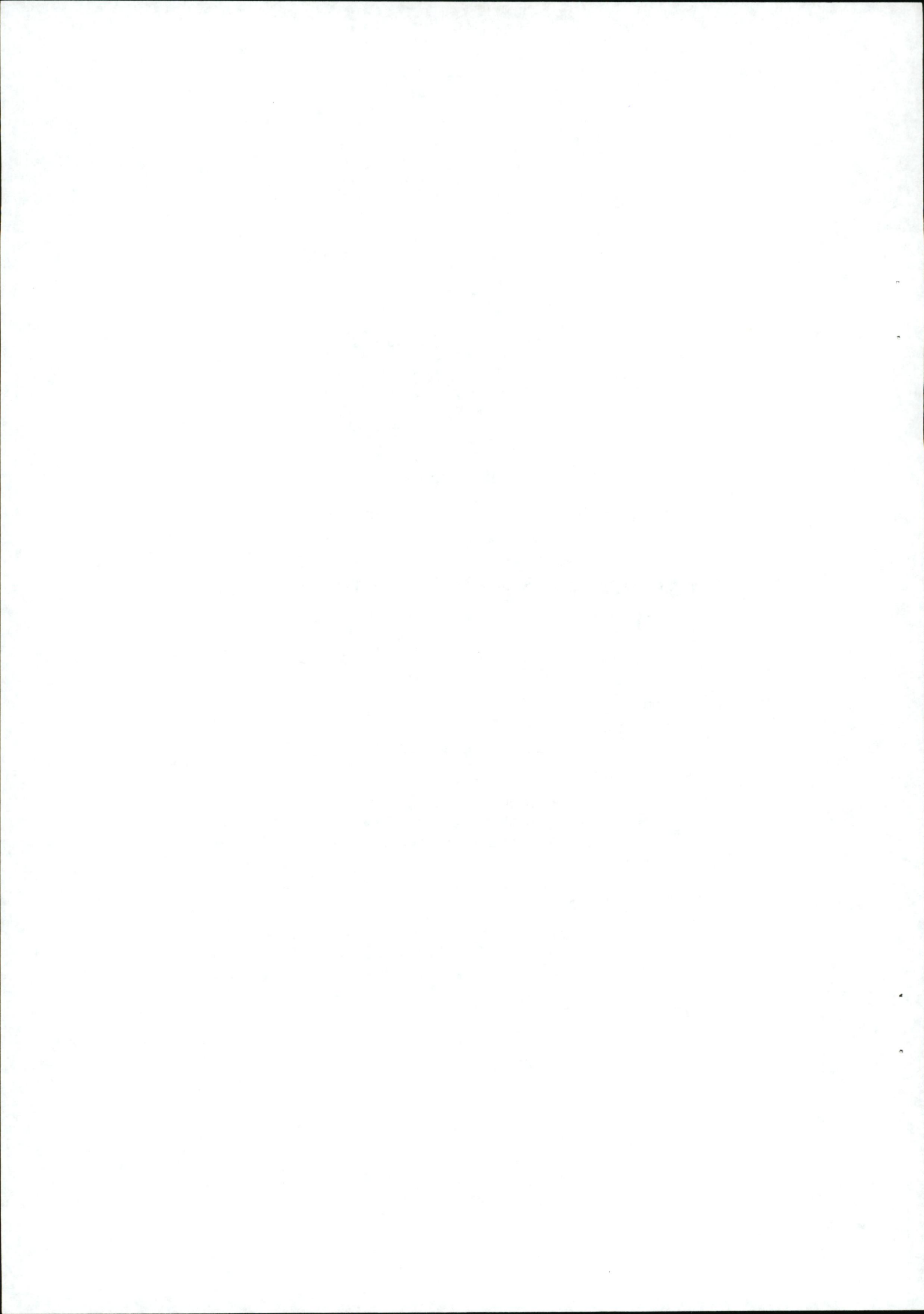
	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Residential Tenancies Act 1987 No 26	2
4 Consequential amendment of Fines Act 1996 No 99	2

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### Schedules

1 Amendment of Residential Tenancies Act 1987	3
2 Consequential amendment of Fines Act 1996	7

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Clerk of the Legislative Assembly.  
Legislative Assembly*



New South Wales

## **Residential Tenancies Amendment Bill 1998**

Act No      , 1998

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An Act to amend the *Residential Tenancies Act 1987* in relation to charges payable by tenants, the termination of residential tenancy agreements, and penalty notices; and to make a consequential amendment to the *Fines Act 1996*.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Residential Tenancies Amendment Act 1998*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation. 5

**3 Amendment of Residential Tenancies Act 1987 No 26**

The *Residential Tenancies Act 1987* is amended as set out in Schedule 1.

**4 Consequential amendment of Fines Act 1996 No 99** 10

The *Fines Act 1996* is amended as set out in Schedule 2.

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**Schedule 1    Amendment of Residential Tenancies Act 1987**

(Section 3)

- [1]    Section 69 Tribunal may terminate residential tenancy agreement where landlord would otherwise suffer undue hardship** 5
- Omit section 69 (1). Insert instead:
- (1)    The Tribunal may, on application by a landlord under a residential tenancy agreement, make an order terminating the agreement if it is satisfied that the landlord would, in the special circumstances of the case, suffer undue hardship if the agreement were not terminated. 10
- [2]    Section 69 (3)**
- Insert after section 69 (2) 15
- (3)    The tenant must take all reasonable steps to mitigate the loss and is not entitled to compensation for any loss that could have been avoided by taking those steps.
- [3]    Section 69A**
- Insert after section 69: 20
- 69A Tribunal may terminate residential tenancy agreement where tenant would otherwise suffer undue hardship**
- (1)    The Tribunal may, on application by a tenant under a residential tenancy agreement, make an order terminating the agreement if it is satisfied that the tenant would, in the special circumstances of the case, suffer undue hardship if the agreement were not terminated. 25
- (2)    If the Tribunal makes an order terminating a residential tenancy agreement under this section, the Tribunal:
- (a)    is also to make an order for the repossession by the landlord of the residential premises specifying the day on which the order takes effect, and 30

- (b) may make such other orders as it thinks fit (including an order that the tenant pay to the landlord compensation for the landlord's loss of the tenancy).
- (3) The landlord must take all reasonable steps to mitigate the loss and is not entitled to compensation for any loss that could have been avoided by taking those steps. 5

**[4] Section 125A**

Insert after section 125:

- 125A Penalty notices** 10
- (1) An authorised officer may serve a penalty notice on a person if:
    - (a) it appears to the authorised officer that the person has committed an offence against this Act or the regulations, and 15
    - (b) the regulations prescribe the offence as being one for which a penalty notice may be issued.
  - (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the time and to the person specified in the notice, the penalty prescribed by the regulations for the offence if dealt with under this section. 20
  - (3) A penalty notice may be served personally or by post.
  - (4) If the amount of the penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence. 25
  - (5) Payment under this section is not an admission of liability for the purposes of, and does not affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence. 30
  - (6) The regulations may:
    - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and 35

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- (b) prescribe the amount of penalty for an offence if dealt with under this section, and
- (c) prescribe different amounts of penalty for different offences or classes of offences.
- (7) The amount of penalty prescribed under this section for an offence may not exceed the maximum amount of penalty that could be imposed for the offence by a court. 5
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences. 10
- (9) In this section, *authorised officer* means the Director-General of the Department of Fair Trading, or a person authorised in writing by the Director-General as an authorised officer for the purposes of this section. 15
- [5] Schedule 4 Savings, transitional and other provisions consequent an enactment of amending legislation**
- Insert at the end of clause 1 (1):
- Residential Tenancies Amendment Act 1998*
- [6] Schedule 4, Part 4** 20
- Insert after Part 3:
- Part 4 Provisions consequent on the enactment of Residential Tenancies Amendment Act 1998**
- 6 Application of certain amendments**
- (1) An amendment made by the *Residential Tenancies Amendment Act 1998*, does not apply in respect of a residential tenancy agreement entered into before the commencement of that amendment. 25

Residential Tenancies Amendment Bill 1998

Schedule 1      Amendment of Residential Tenancies Act 1987

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- (2) Despite subclause (1), the amendment made to section 69 in the *Residential Tenancies Amendment Act 1998*, extends to a residential tenancy agreement entered into before the amendment commences.
  
- (3) Despite subclause (1), section 69A, as inserted by the *Residential Tenancies Amendment Act 1998*, extends to a residential tenancy agreement entered into before the section commences. 5



Residential Tenancies Amendment Bill 1998

Consequential amendment of Fines Act 1996

Schedule 2

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**Schedule 2 Consequential amendment of Fines Act 1996**

(Section 4)

**Schedule 1 Statutory provisions under which penalty notices issued**

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Insert in alphabetical order:

*Residential Tenancies Act 1987, section 125A*