

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.

D. L. WHEELER,
for Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 29 March, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. , 1977.

An Act to constitute a Rental Bond Board; to confer and impose on the Board certain powers, authorities, duties and functions; to require lessors of residential premises to deposit rental bonds with the Board; to provide for the payment out of rental bonds; to enable the investment of rental bonds and the investment and expenditure of interest on rental bonds; and to amend the Consumer Claims Tribunals Act, 1974.

BE

Landlord and Tenant (Rental Bonds).

BE it enacted by the Queen's Most Excellent Majesty, by
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
5 follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Landlord and Tenant
(Rental Bonds) Act, 1977". Short
title.

10 2. (1) This section and section 1 shall commence on
the date of assent to this Act. Commence-
ment.

(2) Except as provided in subsection (1), the several
provisions of this Act shall commence on such day or days
as may be appointed by the Governor in respect thereof and
15 as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :— Division
of Act.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—CONSTITUTION OF THE RENTAL BOND
BOARD—ss. 5–7.

20 PART III.—DEPOSIT OF RENTAL BONDS WITH THE
RENTAL BOND BOARD—ss. 8–11.

PART IV.—ENFORCEMENT PROVISIONS—ss. 12–17.

PART V.—ACCOUNTS AND INVESTMENT PROVISIONS
—ss. 18–25.

25 PART VI.—GENERAL—ss. 26–34.

PART

Landlord and Tenant (Rental Bonds).

PART VII.—AMENDMENT TO THE CONSUMER CLAIMS
TRIBUNALS ACT, 1974—s. 35.

SCHEDULE 1.

4. (1) In this Act, except in so far as the context or
5 subject-matter otherwise indicates or requires— Interpretation.

“authorised officer” means an inspector appointed under
the Permanent Building Societies Act, 1967, an
authorized officer within the meaning of the Land-
lord and Tenant (Amendment) Act, 1948, and a
10 person appointed by the Board to be an authorised
officer for the purposes of this Act;

“Board” means the Rental Bond Board constituted under
this Act;

15 “functions” includes responsibilities, powers, authorities
and duties;

“lease” means a lease or sub-lease of residential premises
and includes—

(a) a contract for the letting of residential
premises, whether the contract is express
or implied or is made orally, in writing or
20 by deed;

(b) a contract for the letting of residential
premises together with goods; and

(c) a tenancy of residential premises the
existence of which is presumed by operation
of section 22A of the Landlord and Tenant
25 Act, 1899,

but does not include such a lease, sub-lease,
contract or tenancy where the premises the subject
of the lease, sub-lease, contract or tenancy are partly
residential premises and partly premises that are not
30 residential premises;

“lessee”

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“lessee” means a person who is or was a lessee or tenant under a lease (being a lease as defined in this subsection) and includes his heirs, executors, administrators and assigns;

5 “lessor” means a person who is or was a lessor or landlord under a lease (being a lease as defined in this subsection) and includes his heirs, executors, administrators and assigns;

“member” means a member of the Board;

10 “money” includes a cheque;

15 “prescribed proceedings” means proceedings in a court (other than a prosecution) or before a tribunal in relation to any matter which, under the terms or conditions of a lease, could, but for this Act, have given rise to a claim against a rental bond deposited or paid in accordance with those terms or conditions;

“rental bond”, in relation to a lease, means an amount of money deposited with or paid to—

20 (a) the lessor under that lease;

(b) a person, other than the lessor under that lease, in accordance with the directions of that lessor or the terms or conditions of that lease; or

25 (c) a person, other than the lessor under that lease, acting on behalf of that lessor,

30 being money so deposited or paid in such a way that the effect is to secure, otherwise than by payment of rent in advance, that lessor against any failure by a lessee to comply with any terms or conditions (irrespective of whether those terms or conditions are related to payment of rent or not) applying to or in connection with that lease;

“residential

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“residential premises” means—

- (a) a dwelling-house or any part thereof;
- (b) premises, other than a dwelling-house, or any part thereof; or
- 5 (c) a caravan within the meaning of section 31A of the Landlord and Tenant (Amendment) Act, 1948, that is leased in a fixed position, used solely for the purposes of residence and, where land or appurtenances are leased with that dwelling-
10 house, those premises or that caravan (not being land or appurtenances used for commercial purposes or for the purposes of a business or an industry), includes that land or those appurtenances;

15 “tribunal” means a consumer claims tribunal constituted under the Consumer Claims Tribunals Act, 1974.

(2) An amount of money deposited with or paid to a person as referred to in paragraph (b) or (c) of the definition of “rental bond” in subsection (1) in respect of a lease shall be deemed, for the purposes of section 8, to
20 be deposited with or paid to the lessor under that lease.

PART II.

CONSTITUTION OF THE RENTAL BOND BOARD.

5. (1) There is hereby constituted a corporation under the corporate name of the “Rental Bond Board”.

Constitution
of the
Rental
Bond
Board.

25 (2) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Board shall be subject in all respects to the control and direction of the Minister.

6.

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6. (1) The Board shall consist of 4 members of whom—
- (a) one shall be the person for the time being holding, or acting in, the office of Registrar of Permanent Building Societies who shall be the Chairman of the Board; Provisions relating to constitution and procedure of Board.
- (b) one shall be the person for the time being holding, or acting in, the office of Rent Controller;
- (c) one shall be the person for the time being holding, or acting in, the office of Under Secretary of the Treasury; and
- (d) one shall be a person appointed by the Minister, being a person who, in the opinion of the Minister, has had experience in real estate matters.

(2) Subject to this Act, the member appointed pursuant to subsection (1) (d) shall hold office for such term, not exceeding 3 years, as is specified in the instrument of his appointment.

(3) A member appointed pursuant to subsection (1) (d) shall, if otherwise qualified, be eligible for re-appointment from time to time for such further term, not exceeding 3 years, as is specified in the instrument of his re-appointment.

(4) Schedule 1 has effect.

7. (1) Except as provided in subsection (2), such officers, officers and employees as may be necessary to enable the Board to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902. employees, etc.

(2) The Board may, with the approval of the Minister, appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Board any person, body or organisation considered capable of providing services, information or advice required by the Board in exercising and performing its functions.

(3)

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(3) For the purposes of exercising and performing its functions, the Board may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities,
5 or the services of any officers, employees or servants, of any Department of the Government or public authority.

PART III.

DEPOSIT OF RENTAL BONDS WITH THE
RENTAL BOND BOARD.

10 8. (1) Where, before the commencement of this section, a lessor under a lease has received a rental bond that, as at that commencement—

Deposit of
rental
bonds
with the
Board.

(a) has not been refunded or become refundable;

(b) has not become the property of that lessor; or

15 (c) is not subject to prescribed proceedings,

that lessor (by himself or his agent) shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act, deposit with the Board within one month after that commencement an amount of money equivalent to
20 the amount of that rental bond.

(2) Where, after the commencement of this section, a lessor receives a rental bond, that lessor shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act, deposit with the Board within
25 7 days (or, where some other period is prescribed for the purposes of this subsection, that period) after the date of receipt of that rental bond an amount of money equivalent to the amount of that rental bond.

(3)

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(3) Subsection (1) does not apply to a rental bond that—

- (a) is refunded or becomes refundable;
- (b) becomes the property of a lessor; or
- 5 (c) becomes subject to prescribed proceedings,
during the period referred to in subsection (1).

(4) The Board may, without affecting the obligation imposed on a lessor under subsection (1) or (2), refuse to accept any amount tendered for deposit under subsection (1)
10 or (2) that is not accompanied by a notification in or to the effect of the prescribed form duly completed.

(5) If a rental bond—

- (a) exempt or excluded from the operation of subsection (1); or
- 15 (b) exempt or excluded from the operation of subsection (2),

pursuant to section 26, subsequently ceases to be so exempt or excluded, this section shall, in respect of that rental bond, be deemed to be amended—

- 20 (c) where paragraph (a) applies—by omitting from subsection (1) the words “after that commencement” and by inserting instead the words “after that rental bond ceases to be exempt or excluded from the operation of this subsection”; or
- 25 (d) where paragraph (b) applies—by omitting from subsection (2) the words “after the date of receipt of that rental bond” and by inserting instead the words “after that rental bond ceases to be exempt or excluded from the operation of this subsection”.

(6)

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(6) The Minister, by instrument in writing, may—

- (a) generally or in any particular case or class of cases, extend the period prescribed by subsection (1); and
- 5 (b) in any particular case or class of cases, extend the period prescribed by or under subsection (2).

9. (1) Notwithstanding the terms of any agreement, no person as lessor of residential premises shall, in respect of a lease of those premises, demand or receive from another person anything, other than money, that would have the effect of securing the lessor against any failure by a lessee to comply with any terms or conditions applying to or in connection with that lease, whether that thing is to be received by or deposited with—

Rental
bonds
to be
in
money.

- 15 (a) the lessor;
- (b) another person in accordance with the directions of the lessor or the terms or conditions of the lease; or
- (c) another person acting on behalf of the lessor.

(2) Notwithstanding the terms of any agreement, a lessor of residential premises shall not, in respect of a lease of those premises, demand an amount of money that would, if deposited or paid, be a rental bond, or receive a rental bond, of an amount that exceeds the rental of those premises—

- 25 (a) in the case of a lease of unfurnished premises—in respect of the first 4 weeks of the lease;
- (b) in the case of a lease of furnished premises—in respect of the first 6 weeks of the lease; or
- (c) where some other period is prescribed for the purposes of paragraph (a) or (b), for that other period
- 30 in the case of a lease referred to in that paragraph.

(3)

Landlord and Tenant (Rental Bonds).

(3) A lessor shall be deemed to have demanded a rental bond if a term or condition of the lease requires that rental bond to be deposited with or paid to the lessor or another person in accordance with the directions of the lessor or acting on behalf of the lessor.

10. (1) Notwithstanding the terms of any agreement, no person (other than the Board) shall, in respect of any period after the date that an amount of money equivalent to the amount of a rental bond is deposited with the Board, be entitled to receive interest in respect of that rental bond. Provisions in leases relating to rental bonds.

(2) Subject to subsection (3), the terms and conditions of a lease, to the extent that those terms and conditions are rendered inoperative by the provisions of this Act, shall be deemed to be void.

15 (3) Where, but for this Act, a lessor or lessee would have a claim against a rental bond under the terms and conditions of a lease for an amount which cannot be recovered under any other provision of those terms and conditions—

20 (a) that lessor may recover from the lessee as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond; and

(b) that lessee may recover from the lessor as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond.

11. (1) A reference in this section to an amount of money, in relation to a lease, is a reference to an amount of money equivalent to the amount of money, or part of the amount of money, as the case may require, held on deposit by the Board in respect of that lease. Payment out of rental bonds.

(2)

Landlord and Tenant (Rental Bonds).

(2) An application to the Board to pay out an amount of money in respect of a lease shall be in or to the effect of the prescribed form and may—

- 5 (a) in the case of an application of a kind referred to in subsection (3)—be made at any time; or
- (b) in the case of an application of a kind referred to in subsection (4) or (5)—be made upon termination of the lease.

(3) Subject to subsection (11), where an applica-
10 tion under subsection (2)—

- (a) is made jointly by a lessor and a lessee under a lease;
- 15 (b) is made by a lessor under a lease who, in that application, directs the Board to pay out an amount of money to the lessee under that lease; or
- (c) is made by a lessee under a lease who, in that application, directs the Board to pay out an amount of money to the lessor under that lease,

the Board shall pay out an amount of money as directed in
20 that application.

(4) Where an application under subsection (2) is made by a lessor under a lease who, in that application, directs the Board to pay out an amount of money to himself, the Board shall, unless a notice has been given under sub-
25 section (5) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessee under that lease.

(5) Where an application under subsection (2) is made by a lessee under a lease who, in that application, directs
30 the Board to pay out an amount of money to himself, the Board shall, unless a notice has been given under subsection (4) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessor under that lease.

(6)

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(6) Subject to subsection (11), if an application referred to in subsection (4) or (5) is made in respect of part of an amount of money held on deposit by the Board in respect of a lease the Board shall—

- 5 (a) in the case of an application referred to in subsection (4)—pay out to the lessee the remainder of that amount; and
- (b) in the case of an application referred to in subsection (5)—pay out to the lessor the remainder
- 10 of that amount.

(7) If a lessee to whom notice has been given under subsection (4)—

- 15 (a) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service on him of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he has commenced prescribed proceedings in relation to an amount of money referred to in the
- 20 notice; or
- (b) does so notify the Board, but those proceedings are discontinued,

the Board shall, subject to subsection (11), pay out that amount to the lessor.

25 (8) If a lessor to whom notice has been given under subsection (5)—

- 30 (a) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service on him of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he has commenced prescribed proceedings in relation to an amount of money referred to in the notice; or

(b)

Landlord and Tenant (Rental Bonds).

(b) does so notify the Board, but those proceedings are discontinued,

the Board shall, subject to subsection (11), pay out that amount to the lessee.

5 (9) Where a lessor or lessee under a lease has, within the period prescribed by or under subsection (7) or (8), commenced prescribed proceedings in relation to the lease and judgment in those proceedings has been entered in or given by a court or a tribunal has made an
10 order in those proceedings for the payment of money—

(a) the Board shall, subject to subsection (12)—

(i) upon being served with or obtaining a certified copy of that judgment or order within the period of 14 days that next
15 succeeds entry or giving of the judgment or the making of the order or, where some other period is prescribed, within that other period; and

(ii) upon being satisfied by statutory declaration
20 so served that the judgment or order has not been satisfied and no steps to enforce the judgment or order have been taken under any other Act,

pay out an amount of money held by the Board on
25 deposit in respect of that lease, as if it were the person obliged to pay under that judgment or order; or

(b) subject to subsection (12), where the Board is satisfied that—

30 (i) the judgment has been entered or given, or the order made; and

(ii) that judgment or order has been satisfied (other than as provided in paragraph (a)),
the Board shall pay out that amount of money to
35 the person obliged to pay under that judgment or order.

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(10) For all purposes, money paid out by the Board under subsection (9) shall be deemed to be money paid by the person against whom the judgment was obtained or the order was made.

5 (11) Where, in respect of a lease, the Board would, but for this subsection, be required (otherwise than pursuant to subsection (9)) to pay out an amount of money and that amount of money is in excess of the amount of money held on deposit by the Board in respect of that lease, the Board—

- 10 (a) shall refuse to pay out the money;
 (b) shall treat applications for payment out of the money as having been withdrawn; and
 (c) shall inform the applicants accordingly.

15 (12) Notwithstanding subsection (9), where there is a right of appeal against a judgment or order referred to in that subsection, the Board may pay out money in respect of that judgment or order only if—

- 20 (a) the time for lodging the appeal has expired and the Board has not been notified that an appeal has been lodged; or
 (b) the Board has been notified before the expiration of that time that an appeal has been lodged and the Board is satisfied that the appeal has been withdrawn or dismissed.

25 (13) Where proceedings have not been commenced in relation to an amount of money held by the Board within the period prescribed by or under subsection (7) or (8), a lessor or a lessee may, at any time before a payment is made in accordance with an application made by him, withdraw that
30 application and, for the purposes of this section, that application shall thereupon be deemed never to have been made.

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(14) Where the Board is required to pay out an amount of money to a person under this section, the Board may, instead of paying out that money to that person, pay out or apply that money in accordance with that person's
5 directions.

(15) For the purposes of this Act, a court or tribunal is authorised to issue—

- 10 (a) a copy of any entry of a judgment or a copy of an order, in each case certified by the proper officer to be a true copy of the entry or order; and
- (b) where proceedings have been discontinued, a certificate to that effect signed by the proper officer.

(16) No claim other than a claim provided in this Act shall lie against the Board in respect of rental bonds
15 deposited with the Board.

(17) This section applies notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act.

(18) The Board may in any particular case extend
20 the period prescribed by or under subsection (9) (a) (i).

PART IV.

ENFORCEMENT PROVISIONS.

12. (1) A lessor, or his agent, receiving money deposited or paid as a rental bond shall, at the time of receiving that
25 money, give or cause to be given to the person making that deposit or payment a receipt for that money. Receipts to be given for rental bonds.

(2)

Landlord and Tenant (Rental Bonds).

(2) A receipt given under subsection (1) shall contain such particulars as are prescribed for the purposes of this subsection.

5 (3) A lessor, or his agent, shall keep or cause to be kept, in the manner (if any) and for such term (if any) as are prescribed, a copy of each receipt given under this section.

13. (1) An authorised officer may orally or in writing require a person—

Information
to be
furnished
on request.

10 (a) to furnish to the authorised officer such information as he requires;

(b) to answer any question put to him by the authorised officer; or

15 (c) to produce for inspection any books, documents or other records in his custody or control,

in relation to the leasing of residential premises.

(2) An authorised officer may make copies of or take extracts from books, documents or other records produced under subsection (1).

20 (3) A person shall not, in relation to a requirement under subsection (1)—

(a) refuse or fail to furnish the information or to answer the question or to produce the books, documents or other records; or

25 (b) give any information or make any answer which is false in any particular.

(4) Where information furnished, or an answer given, in response to a requirement under subsection (1) tends to incriminate the person giving the information or answer,
30 neither the terms of the requirement, nor the information or

answer

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answer may be used (whether or not that person objected to giving the information or answer) in any proceedings against that person except proceedings under subsection (3) (b) in relation to that information or answer.

- 5 (5) A person is not obliged to furnish any information or to answer any question or to produce any books, documents or other records under this section unless he has first been informed by the authorised officer making the requirement that he is required and is obliged, by virtue of this
10 section, to furnish the information or to answer the question or to produce the books, documents or other records.

14. (1) A person shall not enter into or make any contract or arrangement, whether orally or in writing, for the purpose of, or which has the effect of, in any way, and
15 whether directly or indirectly, defeating, evading or preventing the operation of this Act in any respect

- (2) Any contract or arrangement referred to in subsection (1) is void whether or not a person has been convicted under that subsection in respect of that contract or
20 arrangement.

15. A certificate purporting to be a certificate given by the Chairman of the Board or his delegate certifying that no rental bond has been deposited with, or that no rental bond was or is held on deposit by, the Board in relation to a tenancy
25 of premises specified in the certificate during a period specified in the certificate shall be received in evidence in a court and shall, until the contrary is proved, be accepted as evidence of the matters set out therein.

16. (1) Any person who contravenes, whether by act or omission, any provision of this Act is guilty of an offence against this Act.

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(2) Any person who is guilty of an offence against this Act shall, upon conviction, be liable to a penalty not exceeding \$500.

17. (1) Proceedings for offences against this Act or the regulations shall be disposed of in a summary manner before a court of petty sessions held before a stipendiary magistrate sitting alone. ^{Proceedings for offences.}

(2) Notwithstanding anything in any Act, proceedings for any offence punishable under this Act may be brought within 3 years after the commission of the offence.

PART V.

ACCOUNTS AND INVESTMENT PROVISIONS.

18. The Board shall establish a Rental Bond Account and a Rental Bond Interest Account. ^{Accounts.}

15 19. (1) There shall be paid into the Rental Bond Account all rental bonds deposited with the Board in accordance with section 8. ^{Rental Bond Account.}

(2) There shall be paid from the Rental Bond Account—

- 20 (a) rental bonds authorised to be paid out under section 11; and
- (b) any money that the Board is authorised to invest under subsection (3) for the purpose of that investment.

(3)

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(3) Subject to any specific or general direction given by the Minister, the Board may invest money from the Rental Bond Account—

- 5 (a) by way of deposit with or loan to the Rural Bank of New South Wales;
- (b) in shares in, or by way of deposit with or loan to, a permanent building society registered under the Permanent Building Societies Act, 1967;
- 10 (c) in securities authorised by law for the investment of trust funds; or
- (d) in any other manner prescribed for the purposes of this section.

20. (1) There shall be paid into the Rental Bond Interest Account all interest received on investments made by the Board under section 19 (3) and subsection (3). Rental
Bond
Interest
Account.

(2) Subject to any specific or general direction given by the Minister, there shall be paid from the Rental Bond Interest Account—

- 20 (a) the costs of, or the expenses incurred in, the administration of this Act;
- (b) any money that the Board is authorised to invest under subsection (3) for the purpose of that investment; and
- 25 (c) any other payments authorised by this Act to be made from that Account.

(3) The Board may invest money from the Rental Bond Interest Account—

- 30 (a) in the same manner as money from the Rental Bond Account may be invested under section 19 (3) (a), (b) and (c), except that the Board shall, subject to

Landlord and Tenant (Rental Bonds).

- to paragraph (c), only so invest money from the Rental Bond Interest Account if it is to be applied for or in connection with housing;
- 5 (b) by way of loan to terminating building societies registered under the Co-operation Act, 1923;
- (c) where the money is money set aside for use for the purposes referred to in subsection (2) (a), in the same manner as money from the Rental Bond Account may be invested under section 19 (3) (a),
- 10 (b) and (c); or
- (d) in any other manner prescribed for the purposes of this section.

21. The Board may provide from the Rental Bond Interest Account money for the establishment and administration of a Rental Advisory Service.

22. (1) For the temporary accommodation of the Board it may obtain advances by overdraft on current account in any bank or banks to such extent as may from time to time be approved by the Governor on the recommendation of the Treasurer.

(2) The Treasurer may advance such money to the Board, upon such terms and conditions as to repayment and interest, as may be agreed upon.

(3) Money advanced to the Board under this section for the purposes of the Rental Bond Account or the Rental Bond Interest Account shall be repaid from the Account in respect of which the money was advanced subject to any interest payments on those advances being paid from the Rental Bond Interest Account.

23.

Landlord and Tenant (Rental Bonds).

23. (1) The Board shall cause to be kept proper books of account in relation to all of its operations, and shall, as soon as practicable after 30th June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in the form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Board.

Accounts
to be kept
by the
Board.

(2) The Minister shall cause the statement of accounts to be laid before Parliament within 14 sitting days if Parliament is in session, and if not, then within 14 sitting days after the commencement of the next session.

24. (1) The accounts of the Board shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law in force relating to the audit of public accounts, and the Audit Act, 1902, shall apply to members of the Board and its officers, employees or other servants in the same manner as it applies to accounting officers of public Departments.

Audit of
accounts.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

- (i) due diligence and care have been shown in the collection and banking of money payable to the Board;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised; and
- (iii) any money or other property of the Board has been misappropriated or improperly or irregularly dealt with; and

(b)

Landlord and Tenant (Rental Bonds).

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of an audit under this section the Board shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

25. Any money received, invested or paid out by an agent of the Board shall be deemed to have been received, invested or paid out, as the case may be, by the Board, and money received by an agent of the Board shall be deemed to have been received by the Board on the day that it is received by the agent.

Agents
of the
Board.

PART VI.

GENERAL.

26. (1) The Governor may, by regulation made under this Act, exempt or exclude from the operation of all or any of the provisions of this Act—

Exclusion
from
operation
of Act.

(a) any person or class of persons;

(b) any statutory body or public authority or all statutory bodies or public authorities; or

(c) any rental bond or class of rental bond.

(2) For the purposes of, but without prejudice to the generality of, subsection (1), a class of rental bond may be described by reference to a class of lease or a class of premises in respect of which rental bonds are deposited or paid.

(3)

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(3) For the purposes of, but without prejudice to the generality of, subsection (2), a class of lease may be described by reference to periods of continuous occupancy of premises under leases or by reference to terms or conditions of leases.

27. For the purposes of this Act and the regulations made under this Act, where the same lessee continuously occupies the same residential premises under a series of leases from the same lessor, those leases shall be deemed to be one lease.

28. (1) Notwithstanding the terms or conditions of any lease, rent paid in advance, or money purporting to be rent paid in advance, in respect of a lease—

- (a) shall not be appropriated by the lessor for any purpose other than the payment of rent; and
- (b) shall (unless it is returned immediately to the payer) be applied by the lessor in respect of a period for which rent has not already been paid, being the first such period after the date of payment.

(2) Notwithstanding the terms or conditions of any lease, where a lessee has paid an amount of rent in advance in accordance with the terms or conditions of a lease, the lessor, by himself or his agent, shall not require that lessee to pay further rent in advance otherwise than at or immediately before the expiration of the period for which the firstmentioned amount was paid.

(3) Subsection (2) does not prevent a lessee, of his own volition, paying rent in advance at any time.

Landlord and Tenant (Rental Bonds).

29. A person shall not, in any notification lodged with a rental bond deposited with the Board or in any application or direction to the Board to pay out a rental bond, wilfully make a false or misleading statement. False or misleading statements.

30. (1) The Board shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date. Annual report.

(2) The Minister shall lay the report, or cause it to be laid, before each House of Parliament as soon as practicable after the receipt by him of the report.

31. (1) Any notice, summons, writ or other proceeding to be served on the Board may be served— Service of notices, etc.

(a) by being left; or

(b) in the case of a notice, by posting it addressed to the Board, at its office.

(2) A letter giving a notice in writing to a lessor or lessee by post under section 11 shall be deemed to be properly addressed if it is addressed to that lessor or lessee at his last known address according to the records of the Board.

32. Every document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chairman of the Board or his delegate. Authentication of documents.

33. Any charge, fee or money due to the Board may be recovered as a debt or liquidated demand in a court of competent jurisdiction. Recovery of money.

34.

Landlord and Tenant (Rental Bonds).

34. (1) The Governor may make regulations, not Regulations.
inconsistent with this Act, for or with respect to any matter
that by this Act is required or permitted to be prescribed or
that is necessary or convenient to be prescribed for carrying
5 out or giving effect to this Act.

(2) Without prejudice to the generality of subsection
(1), wherever a provision of this Act requires a form to be
prescribed or a document to be in writing the Governor may
make regulations, not inconsistent with this Act, prescribing—

- 10 (a) a form to be used for that purpose;
- (b) where that form or document is required to be
lodged with or served on or sent to any person—
the manner of lodgment, service or sending; and
- 15 (c) particulars or information to be provided by a person
completing that form or document.

(3) Regulations may be made so as to apply differ-
ently in different circumstances according to such factors as
may be specified in the regulations.

(4) A regulation may impose a penalty not exceeding
20 \$300 for any contravention thereof, whether by act or
omission.

Landlord and Tenant (Rental Bonds).

PART VII.

AMENDMENT TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974.

35. The Consumer Claims Tribunals Act, 1974, is
5 amended—

- (a) by omitting section 4A (1);
(b) by omitting section 4A (3) and by inserting instead
the following subsection :—

Amend-
ment of Act
No. 16,
1974.

Sec. 4A.

(Act
applies to
certain
claims by
lessees.)

(3) This Act applies to and in respect of a
10 claim by a lessor or a lessee under a lease in
relation to a rental bond (being a lessor, lessee,
lease and rental bond as respectively defined in
the Landlord and Tenant (Rental Bonds) Act,
15 1977), including a claim in relation to any
matter which, under the terms or conditions of
that lease, could, but for that Act, have given
rise to a claim against a rental bond, as so
defined, deposited or paid in accordance with
those terms or conditions, in the same way as
20 it applies to and in respect of a consumer claim.

SCHEDULE 1.

Sec. 6 (4).

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD.

1. (1) A person who is of or above the age of 65 years
25 shall not be appointed as a member pursuant to section 6 (1)
(d).

Provisions
relating to
the member
appointed
pursuant
to section
6 (1) (d).

(2) The office of a member appointed pursuant to
section 6 (1) (d) shall not, for the purposes of any Act, be
deemed to be an office or place of profit under the Crown.

30 (3) The member appointed pursuant to section 6 (1)
(d) is entitled to be paid such remuneration (including
travelling and subsistence allowances) as the Minister may
from time to time determine in respect of him.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

5 (4) The Minister may appoint any person, qualified under section 6 (1) (d), to act in the office of the member appointed pursuant to section 6 (1) (d) while that member is absent from his office through illness or any other cause, and that person while so acting—

10 (a) shall have and may exercise and perform the functions of that member; and

(b) shall be deemed to be a member.

(5) A member appointed pursuant to section 6 (1) (d) is, for the purposes of subclause (4), deemed to be absent from his office if there is a vacancy in that office which has
15 not been filled in accordance with subclause (6).

(6) On the occurrence of a vacancy in the office of a member appointed pursuant to section 6 (1) (d) otherwise than by the expiration of the term for which he was appointed, the Minister may appoint a person to hold office as a member
20 for the balance of his predecessor's term of office, being a person qualified under section 6 (1) (d).

(7) A member appointed pursuant to section 6 (1) (d) shall be deemed to have vacated his office—

(a) if he dies;

25 (b) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

- 5 (c) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- 10 (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
- 15 (e) if he is absent from 4 consecutive ordinary meetings of the Board of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Board or, unless, before the expiration of 4 weeks after
- 20 the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (f) if he resigns his office by writing under his hand addressed to the Minister;
- (g) if he declines office;
- 25 (h) if he is removed from office by the Minister under subclause (8); or
- (i) upon his attaining the age of 65 years.

(8) The Minister may, for any cause which to him seems sufficient, remove a member appointed pursuant to section 6 (1) (d) from office.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

2. (1) A member holding office pursuant to section 6 Deputies.
5 (1) (a), (b) or (c) may appoint an officer of the Registry
of Permanent Building Societies, the office of the Rent
Controller or the Treasury, respectively, to act on his behalf
as his deputy, either generally or for any particular meeting
of the Board.

10 (2) An officer appointed pursuant to subclause (1)
by the member holding office pursuant to section 6 (1) (a)
shall, while acting as deputy, have and may exercise and
perform the functions of Chairman of the Board.

(3) An appointment under subclause (1) may be
15 revoked by the member, or by any member holding the same
office as the member, who made the appointment.

3. No person shall be concerned to inquire whether or Acting
not any occasion has arisen requiring or authorising a person members.
to act in the place of a member in accordance with clause
20 1 (4) or clause 2 (1) or as Chairman of the Board in
accordance with clause 2 (2), and all things done or omitted
by the person while so acting shall be as valid and effectual
and shall have the same consequences as if they had been
done or omitted by the member or the Chairman, as the
25 case may be.

4. (1) Subject to subclause (2), the Board shall hold Meetings.
meetings at such times as are determined by the Board.

(2) The Board shall hold at least one meeting each
quarter.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

(3) The procedure for the calling of, and for the
5 conduct of business at, meetings of the Board shall, subject
to any procedure that is specified in this Act or prescribed,
be as determined by the Board.

(4) The number of members which shall constitute
a quorum at any meeting of the Board shall be 3, one of
10 whom shall be the Chairman of the Board or his deputy.

(5) Any duly convened meeting of the Board at which
a quorum is present shall be competent to transact any
business of the Board.

(6) Questions arising at a meeting of the Board shall
15 be determined by a majority of votes of the members present
and voting.

(7) The Chairman of the Board shall preside at all
meetings of the Board.

(8) The Chairman of the Board has a deliberative
20 vote and, in the event of an equality of votes, also has a
casting vote.

(9) The Board shall cause minutes to be kept of
its proceedings at meetings.

5. (1) No matter or thing done, and no contract entered
25 into, by the Board, and no matter or thing done by a member
or by any other person acting under the direction or as
delegate of the Board shall, if the matter or thing was done,
or the contract was entered into, in good faith for the purposes
of executing this Act, subject the member or person personally
30 to any action, liability, claim or demand.

Protection
from
liability.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

- 5 (2) Nothing in subclause (1) exempts any member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Board, and which the member or other person authorised or joined in authorising wilfully knowing the payment to be unauthorised.
- 10 6. In proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—^{Presump-}_{tions.}
- (a) the constitution of the Board;
 - (b) any resolution of the Board;
 - 15 (c) the appointment of any member referred to in section 6 (1) (d) or of any person referred to in clause 1 (4) or clause 2 (1); or
 - (d) the presence of a quorum at any meeting of the Board.
- 20 7. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a member pursuant to section 6 (1) (d) and any member shall not, in his capacity as a member, be subject to the provisions of that Act during his term of office. ^{Public Service Act, 1902,}_{not to apply.}

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977
[32c]

Lambert and Brown (Rental Board)

SECTION 1

Provisions Relating to Composition and
Procedure of the Board

(1) Nothing in this Act shall prevent any member
or other person from being or becoming a member
of any other board or committee established by the
General in the exercise of its powers relating to the
Board, and which the member or other person authorized or joined in
authorizing, with full knowledge of the payment to be made, shall

10 be required (until evidence is given to the contrary) to
be required by or against the Board to pay such a sum

(a) the constitution of the Board

(b) any resolution of the Board

15 (c) the appointment of any member referred to in
section 6 (1) (b) or of any person referred to in
clause 1 (4) or clause 2 (1) or

(d) the presence of a person at any meeting of the
Board

20 The provisions of the Public Service Act, 1902, shall apply
not apply to or in respect of the appointment of a member
pursuant to section 6 (1) (b) and any member shall not, in whole
his capacity as a member, be subject to the provisions of this
Act during his term of office.

No. , 1977.

A BILL

To constitute a Rental Bond Board; to confer and impose on the Board certain powers, authorities, duties and functions; to require lessors of residential premises to deposit rental bonds with the Board; to provide for the payment out of rental bonds; to enable the investment of rental bonds and the investment and expenditure of interest on rental bonds; and to amend the Consumer Claims Tribunals Act, 1974.

[MR EINFELD—22 March, 1977.]

BE

Landlord and Tenant (Rental Bonds).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Landlord and Tenant (Rental Bonds) Act, 1977". Short title.

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-ment.

(2) Except as provided in subsection (1), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :— Division of Act.

PART I.—PRELIMINARY—ss. 1–4.

PART II.—CONSTITUTION OF THE RENTAL BOND BOARD—ss. 5–7.

20 **PART III.—DEPOSIT OF RENTAL BONDS WITH THE RENTAL BOND BOARD—ss. 8–11.**

PART IV.—ENFORCEMENT PROVISIONS—ss. 12–17.

PART V.—ACCOUNTS AND INVESTMENT PROVISIONS—ss. 18–25.

25 **PART VI.—GENERAL—ss. 26–34.**

PART

Landlord and Tenant (Rental Bonds).

PART VII.—AMENDMENT TO THE CONSUMER CLAIMS
TRIBUNALS ACT, 1974—s. 35.

SCHEDULE 1.

4. (1) In this Act, except in so far as the context or Interpretation.
5 subject-matter otherwise indicates or requires—

“authorised officer” means an inspector appointed under
the Permanent Building Societies Act, 1967, an
authorized officer within the meaning of the Land-
lord and Tenant (Amendment) Act, 1948, and a
10 person appointed by the Board to be an authorised
officer for the purposes of this Act;

“Board” means the Rental Bond Board constituted under
this Act;

15 “functions” includes responsibilities, powers, authorities
and duties;

“lease” means a lease or sub-lease of residential premises
and includes—

(a) a contract for the letting of residential
premises, whether the contract is express
or implied or is made orally, in writing or
20 by deed;

(b) a contract for the letting of residential
premises together with goods; and

(c) a tenancy of residential premises the
existence of which is presumed by operation
of section 22A of the Landlord and Tenant
25 Act, 1899,

but does not include such a lease, sub-lease,
contract or tenancy where the premises the subject
of the lease, sub-lease, contract or tenancy are partly
residential premises and partly premises that are not
30 residential premises;

“lessee”

Landlord and Tenant (Rental Bonds).

“lessee” means a person who is or was a lessee or tenant under a lease (being a lease as defined in this subsection) and includes his heirs, executors, administrators and assigns;

5 “lessor” means a person who is or was a lessor or landlord under a lease (being a lease as defined in this subsection) and includes his heirs, executors, administrators and assigns;

“member” means a member of the Board;

10 “money” includes a cheque;

“prescribed proceedings” means proceedings in a court (other than a prosecution) or before a tribunal in relation to any matter which, under the terms or conditions of a lease, could, but for this Act, have given rise to a claim against a rental bond deposited or paid in accordance with those terms or conditions;

“rental bond”, in relation to a lease, means an amount of money deposited with or paid to—

20 (a) the lessor under that lease;

(b) a person, other than the lessor under that lease, in accordance with the directions of that lessor or the terms or conditions of that lease; or

25 (c) a person, other than the lessor under that lease, acting on behalf of that lessor,

30 being money so deposited or paid in such a way that the effect is to secure, otherwise than by payment of rent in advance, that lessor against any failure by a lessee to comply with any terms or conditions (irrespective of whether those terms or conditions are related to payment of rent or not) applying to or in connection with that lease;

“residential

Landlord and Tenant (Rental Bonds).

“residential premises” means—

- (a) a dwelling-house or any part thereof;
- (b) premises, other than a dwelling-house, or any part thereof; or
- 5 (c) a caravan within the meaning of section 31A of the Landlord and Tenant (Amendment) Act, 1948, that is leased in a fixed position, used solely for the purposes of residence and, where land or appurtenances are leased with that dwelling-
10 house, those premises or that caravan (not being land or appurtenances used for commercial purposes or for the purposes of a business or an industry), includes that land or those appurtenances;

15 “tribunal” means a consumer claims tribunal constituted under the Consumer Claims Tribunals Act, 1974.

(2) An amount of money deposited with or paid to a person as referred to in paragraph (b) or (c) of the definition of “rental bond” in subsection (1) in respect of a lease shall be deemed, for the purposes of section 8, to
20 be deposited with or paid to the lessor under that lease.

PART II.

CONSTITUTION OF THE RENTAL BOND BOARD.

- 5. (1) There is hereby constituted a corporation under the corporate name of the “Rental Bond Board”. Constitution of the Rental Bond Board.
- 25 (2) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Board shall be subject in all respects to the control and direction of the Minister.

Landlord and Tenant (Rental Bonds).

6. (1) The Board shall consist of 4 members of whom—
- (a) one shall be the person for the time being holding, or acting in, the office of Registrar of Permanent Building Societies who shall be the Chairman of the Board;
- Provisions relating to constitution and procedure of Board.

5

- (b) one shall be the person for the time being holding, or acting in, the office of Rent Controller;

10

- (c) one shall be the person for the time being holding, or acting in, the office of Under Secretary of the Treasury; and

- (d) one shall be a person appointed by the Minister, being a person who, in the opinion of the Minister, has had experience in real estate matters.

(2) Subject to this Act, the member appointed pursuant to subsection (1) (d) shall hold office for such term, not exceeding 3 years, as is specified in the instrument of his appointment.

(3) A member appointed pursuant to subsection (1) (d) shall, if otherwise qualified, be eligible for re-appointment from time to time for such further term, not exceeding 3 years, as is specified in the instrument of his re-appointment.

(4) Schedule 1 has effect.

7. (1) Except as provided in subsection (2), such officers, employees, etc. as may be necessary to enable the Board to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902.

(2) The Board may, with the approval of the Minister, appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Board any person, body or organisation considered capable of providing services, information or advice required by the Board in exercising and performing its functions.

(3)

Landlord and Tenant (Rental Bonds).

(3) For the purposes of exercising and performing its functions, the Board may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or public authority.

PART III.

**DEPOSIT OF RENTAL BONDS WITH THE
RENTAL BOND BOARD.**

10 **8.** (1) Where, before the commencement of this section, a lessor under a lease has received a rental bond that, as at that commencement—

Deposit of
rental
bonds
with the
Board.

(a) has not been refunded or become refundable;

(b) has not become the property of that lessor; or

15 (c) is not subject to prescribed proceedings,

that lessor (by himself or his agent) shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act, deposit with the Board within one month after that commencement an amount of money equivalent to 20 the amount of that rental bond.

(2) Where, after the commencement of this section, a lessor receives a rental bond, that lessor shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act, deposit with the Board within 25 7 days (or, where some other period is prescribed for the purposes of this subsection, that period) after the date of receipt of that rental bond an amount of money equivalent to the amount of that rental bond.

(3)

Landlord and Tenant (Rental Bonds).

(3) Subsection (1) does not apply to a rental bond that—

(a) is refunded or becomes refundable;

(b) becomes the property of a lessor; or

5 (c) becomes subject to prescribed proceedings,
during the period referred to in subsection (1).

(4) The Board may, without affecting the obligation imposed on a lessor under subsection (1) or (2), refuse to accept any amount tendered for deposit under subsection (1)
10 or (2) that is not accompanied by a notification in or to the effect of the prescribed form duly completed.

(5) If a rental bond—

(a) exempt or excluded from the operation of subsection (1); or

15 (b) exempt or excluded from the operation of subsection (2),

pursuant to section 26, subsequently ceases to be so exempt or excluded, this section shall, in respect of that rental bond, be deemed to be amended—

20 (c) where paragraph (a) applies—by omitting from subsection (1) the words “after that commencement” and by inserting instead the words “after that rental bond ceases to be exempt or excluded from the operation of this subsection”; or

25 (d) where paragraph (b) applies—by omitting from subsection (2) the words “after the date of receipt of that rental bond” and by inserting instead the words “after that rental bond ceases to be exempt or excluded from the operation of this subsection”.

(6)

Landlord and Tenant (Rental Bonds).

(6) The Minister, by instrument in writing, may—

(a) generally or in any particular case or class of cases, extend the period prescribed by subsection (1); and

5 (b) in any particular case or class of cases, extend the period prescribed by or under subsection (2).

9. (1) Notwithstanding the terms of any agreement, no person as lessor of residential premises shall, in respect of a lease of those premises, demand or receive from another person anything, other than money, that would have the effect of securing the lessor against any failure by a lessee to comply with any terms or conditions applying to or in connection with that lease, whether that thing is to be received by or deposited with—

Rental
bonds
to be
in
money.

15 (a) the lessor;

(b) another person in accordance with the directions of the lessor or the terms or conditions of the lease; or

(c) another person acting on behalf of the lessor.

(2) Notwithstanding the terms of any agreement, a lessor of residential premises shall not, in respect of a lease of those premises, demand an amount of money that would, if deposited or paid, be a rental bond, or receive a rental bond, of an amount that exceeds the rental of those premises—

25 (a) in the case of a lease of unfurnished premises—in respect of the first 4 weeks of the lease;

(b) in the case of a lease of furnished premises—in respect of the first 6 weeks of the lease; or

30 (c) where some other period is prescribed for the purposes of paragraph (a) or (b), for that other period in the case of a lease referred to in that paragraph.

(3)

Landlord and Tenant (Rental Bonds).

(3) A lessor shall be deemed to have demanded a rental bond if a term or condition of the lease requires that rental bond to be deposited with or paid to the lessor or another person in accordance with the directions of the lessor or acting on behalf of the lessor.

10. (1) Notwithstanding the terms of any agreement, no person (other than the Board) shall, in respect of any period after the date that an amount of money equivalent to the amount of a rental bond is deposited with the Board, be entitled to receive interest in respect of that rental bond.

Provisions
in leases
relating
to rental
bonds.

(2) Subject to subsection (3), the terms and conditions of a lease, to the extent that those terms and conditions are rendered inoperative by the provisions of this Act, shall be deemed to be void.

15 (3) Where, but for this Act, a lessor or lessee would have a claim against a rental bond under the terms and conditions of a lease for an amount which cannot be recovered under any other provision of those terms and conditions—

20 (a) that lessor may recover from the lessee as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond; and

25 (b) that lessee may recover from the lessor as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond.

11. (1) A reference in this section to an amount of money, in relation to a lease, is a reference to an amount of money equivalent to the amount of money, or part of the amount of money, as the case may require, held on deposit by the Board in respect of that lease.

Payment
out of
rental
bonds.

(2)

Landlord and Tenant (Rental Bonds).

(2) An application to the Board to pay out an amount of money in respect of a lease shall be in or to the effect of the prescribed form and may—

- 5 (a) in the case of an application of a kind referred to in subsection (3)—be made at any time; or
- (b) in the case of an application of a kind referred to in subsection (4) or (5)—be made upon termination of the lease.

(3) Subject to subsection (11), where an applica-
10 tion under subsection (2)—

- (a) is made jointly by a lessor and a lessee under a lease;
- 15 (b) is made by a lessor under a lease who, in that application, directs the Board to pay out an amount of money to the lessee under that lease; or
- (c) is made by a lessee under a lease who, in that application, directs the Board to pay out an amount of money to the lessor under that lease,

the Board shall pay out an amount of money as directed in
20 that application.

(4) Where an application under subsection (2) is made by a lessor under a lease who, in that application, directs the Board to pay out an amount of money to himself, the Board shall, unless a notice has been given under sub-
25 section (5) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessee under that lease.

(5) Where an application under subsection (2) is made by a lessee under a lease who, in that application, directs
30 the Board to pay out an amount of money to himself, the Board shall, unless a notice has been given under subsection (4) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessor under that lease.

(6)

Landlord and Tenant (Rental Bonds).

(6) Subject to subsection (11), if an application referred to in subsection (4) or (5) is made in respect of part of an amount of money held on deposit by the Board in respect of a lease the Board shall—

- 5 (a) in the case of an application referred to in subsection (4)—pay out to the lessee the remainder of that amount; and
- (b) in the case of an application referred to in subsection (5)—pay out to the lessor the remainder
- 10 of that amount.

(7) If a lessee to whom notice has been given under subsection (4)—

- 15 (a) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service on him of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he has commenced prescribed proceedings in relation to an amount of money referred to in the
- 20 notice; or
- (b) does so notify the Board, but those proceedings are discontinued,

the Board shall, subject to subsection (11), pay out that amount to the lessor.

25 (8) If a lessor to whom notice has been given under subsection (5)—

- (a) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service on him of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he has commenced prescribed proceedings in relation to an amount of money referred to in the
- 30 notice; or

(b)

Landlord and Tenant (Rental Bonds).

(b) does so notify the Board, but those proceedings are discontinued,

the Board shall, subject to subsection (11), pay out that amount to the lessee.

5 (9) Where a lessor or lessee under a lease has, within the period prescribed by or under subsection (7) or (8), commenced prescribed proceedings in relation to the lease and judgment in those proceedings has been entered in or given by a court or a court or tribunal has made an
10 order in those proceedings for the payment of money—

(a) the Board shall, subject to subsection (12)—

15 (i) upon being served with or obtaining a certified copy of that judgment or order within the period of 14 days that next succeeds entry or giving of the judgment or the making of the order or, where some other period is prescribed, within that other period; and

20 (ii) upon being satisfied by statutory declaration so served that the judgment or order has not been satisfied and no steps to enforce the judgment or order have been taken under any other Act,

25 pay out an amount of money held by the Board on deposit in respect of that lease, as if it were the person obliged to pay under that judgment or order; or

(b) subject to subsection (12), where the Board is satisfied that—

30 (i) the judgment has been entered or given, or the order made; and

(ii) that judgment or order has been satisfied (other than as provided in paragraph (a)),
the Board shall pay out that amount of money to
35 the person obliged to pay under that judgment or order.

Landlord and Tenant (Rental Bonds).

(10) For all purposes, money paid out by the Board under subsection (9) shall be deemed to be money paid by the person against whom the judgment was obtained or the order was made.

5 (11) Where, in respect of a lease, the Board would, but for this subsection, be required (otherwise than pursuant to subsection (9)) to pay out an amount of money and that amount of money is in excess of the amount of money held on deposit by the Board in respect of that lease, the Board—

- 10 (a) shall refuse to pay out the money;
 (b) shall treat applications for payment out of the money as having been withdrawn; and
 (c) shall inform the applicants accordingly.

15 (12) Notwithstanding subsection (9), where there is a right of appeal against a judgment or order referred to in that subsection, the Board may pay out money in respect of that judgment or order only if—

- 20 (a) the time for lodging the appeal has expired and the Board has not been notified that an appeal has been lodged; or
 (b) the Board has been notified before the expiration of that time that an appeal has been lodged and the Board is satisfied that the appeal has been withdrawn or dismissed.

25 (13) Where proceedings have not been commenced in relation to an amount of money held by the Board within the period prescribed by or under subsection (7) or (8), a lessor or a lessee may, at any time before a payment is made in accordance with an application made by him, withdraw that
30 application and, for the purposes of this section, that application shall thereupon be deemed never to have been made.

Landlord and Tenant (Rental Bonds).

(14) Where the Board is required to pay out an amount of money to a person under this section, the Board may, instead of paying out that money to that person, pay out or apply that money in accordance with that person's
5 directions.

(15) For the purposes of this Act, a court or tribunal is authorised to issue—

- (a) a copy of any entry of a judgment or a copy of an order, in each case certified by the proper officer to be a true copy of the entry or order; and
10
(b) where proceedings have been discontinued, a certificate to that effect signed by the proper officer.

(16) No claim other than a claim provided in this Act shall lie against the Board in respect of rental bonds
15 deposited with the Board.

(17) This section applies notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act.

(18) The Board may in any particular case extend
20 the period prescribed by or under subsection (9) (a) (i).

PART IV.

ENFORCEMENT PROVISIONS.

12. (1) A lessor, or his agent, receiving money deposited or paid as a rental bond shall, at the time of receiving that money, give or cause to be given to the person making that deposit or payment a receipt for that money.
25

Receipts
to be
given for
rental
bonds.

(2)

Landlord and Tenant (Rental Bonds).

(2) A receipt given under subsection (1) shall contain such particulars as are prescribed for the purposes of this subsection.

(3) A lessor, or his agent, shall keep or cause to be kept, in the manner (if any) and for such term (if any) as are prescribed, a copy of each receipt given under this section.

13. (1) An authorised officer may orally or in writing require a person—

Information
to be
furnished
on request.

- 10 (a) to furnish to the authorised officer such information as he requires;
- (b) to answer any question put to him by the authorised officer; or
- 15 (c) to produce for inspection any books, documents or other records in his custody or control,

in relation to the leasing of residential premises.

(2) An authorised officer may make copies of or take extracts from books, documents or other records produced under subsection (1).

20 (3) A person shall not, in relation to a requirement under subsection (1)—

- (a) refuse or fail to furnish the information or to answer the question or to produce the books, documents or other records; or
- 25 (b) give any information or make any answer which is false in any particular.

(4) Where information furnished, or an answer given, in response to a requirement under subsection (1) tends to incriminate the person giving the information or answer, 30 neither the terms of the requirement, nor the information or

answer

Landlord and Tenant (Rental Bonds).

answer may be used (whether or not that person objected to giving the information or answer) in any proceedings against that person except proceedings under subsection (3) (b) in relation to that information or answer.

- 5 (5) A person is not obliged to furnish any information or to answer any question or to produce any books, documents or other records under this section unless he has first been informed by the authorised officer making the requirement that he is required and is obliged, by virtue of this
10 section, to furnish the information or to answer the question or to produce the books, documents or other records.

14. (1) A person shall not enter into or make any contract or arrangement, whether orally or in writing, for the purpose of, or which has the effect of, in any way, and
15 whether directly or indirectly, defeating, evading or preventing the operation of this Act in any respect

- (2) Any contract or arrangement referred to in subsection (1) is void whether or not a person has been convicted under that subsection in respect of that contract or
20 arrangement.

15. A certificate purporting to be a certificate given by the Chairman of the Board or his delegate certifying that no rental bond has been deposited with, or that no rental bond was or is held on deposit by, the Board in relation to a tenancy
25 of premises specified in the certificate during a period specified in the certificate shall be received in evidence in a court and shall, until the contrary is proved, be accepted as evidence of the matters set out therein.

16. (1) Any person who contravenes, whether by act or omission, any provision of this Act is guilty of an offence against this Act.

Landlord and Tenant (Rental Bonds).

(2) Any person who is guilty of an offence against this Act shall, upon conviction, be liable to a penalty not exceeding \$500.

17. (1) Proceedings for offences against this Act or the regulations shall be disposed of in a summary manner before a court of petty sessions held before a stipendiary magistrate sitting alone. ^{Proceedings for offences.}

(2) Notwithstanding anything in any Act, proceedings for any offence punishable under this Act may be brought within 3 years after the commission of the offence.

PART V.

ACCOUNTS AND INVESTMENT PROVISIONS.

18. The Board shall establish a Rental Bond Account and a Rental Bond Interest Account. ^{Accounts.}

15 19. (1) There shall be paid into the Rental Bond Account all rental bonds deposited with the Board in accordance with section 8. ^{Rental Bond Account.}

(2) There shall be paid from the Rental Bond Account—

- 20 (a) rental bonds authorised to be paid out under section 11; and
- (b) any money that the Board is authorised to invest under subsection (3) for the purpose of that investment.

(3)

Landlord and Tenant (Rental Bonds).

(3) Subject to any specific or general direction given by the Minister, the Board may invest money from the Rental Bond Account—

- 5 (a) by way of deposit with or loan to the Rural Bank of New South Wales;
- (b) in shares in, or by way of deposit with or loan to, a permanent building society registered under the Permanent Building Societies Act, 1967;
- 10 (c) in securities authorised by law for the investment of trust funds; or
- (d) in any other manner prescribed for the purposes of this section.

20. (1) There shall be paid into the Rental Bond Interest Account all interest received on investments made by the Board under section 19 (3) and subsection (3). Rental
Bond
Interest
Account.

(2) Subject to any specific or general direction given by the Minister, there shall be paid from the Rental Bond Interest Account—

- 20 (a) the costs of, or the expenses incurred in, the administration of this Act;
- (b) any money that the Board is authorised to invest under subsection (3) for the purpose of that investment; and
- 25 (c) any other payments authorised by this Act to be made from that Account.

(3) The Board may invest money from the Rental Bond Interest Account—

- 30 (a) in the same manner as money from the Rental Bond Account may be invested under section 19 (3) (a), (b) and (c), except that the Board shall, subject

to

Landlord and Tenant (Rental Bonds).

to paragraph (c), only so invest money from the Rental Bond Interest Account if it is to be applied for or in connection with housing;

- 5 (b) by way of loan to terminating building societies registered under the Co-operation Act, 1923;
- (c) where the money is money set aside for use for the purposes referred to in subsection (2) (a), in the same manner as money from the Rental Bond Account may be invested under section 19 (3) (a), 10 (b) and (c); or
- (d) in any other manner prescribed for the purposes of this section.

21. The Board may provide from the Rental Bond Interest Account money for the establishment and 15 administration of a Rental Advisory Service.

22. (1) For the temporary accommodation of the Board it may obtain advances by overdraft on current account in any bank or banks to such extent as may from time to time be approved by the Governor on the recommendation of the 20 Treasurer.

(2) The Treasurer may advance such money to the Board, upon such terms and conditions as to repayment and interest, as may be agreed upon.

(3) Money advanced to the Board under this section 25 for the purposes of the Rental Bond Account or the Rental Bond Interest Account shall be repaid from the Account in respect of which the money was advanced subject to any interest payments on those advances being paid from the Rental Bond Interest Account.

23.

Landlord and Tenant (Rental Bonds).

23. (1) The Board shall cause to be kept proper books of account in relation to all of its operations, and shall, as soon as practicable after 30th June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in the form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Board.

Accounts
to be kept
by the
Board.

(2) The Minister shall cause the statement of accounts to be laid before Parliament within 14 sitting days if Parliament is in session, and if not, then within 14 sitting days after the commencement of the next session.

24. (1) The accounts of the Board shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law in force relating to the audit of public accounts, and the Audit Act, 1902, shall apply to members of the Board and its officers, employees or other servants in the same manner as it applies to accounting officers of public Departments.

Audit of
accounts.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

(i) due diligence and care have been shown in the collection and banking of money payable to the Board;

(ii) the expenditure incurred has been duly authorised, vouched and supervised; and

(iii) any money or other property of the Board has been misappropriated or improperly or irregularly dealt with; and

(b)

Landlord and Tenant (Rental Bonds).

- (b) as to any other matters which in his judgment call for special notice or which are prescribed.
- (3) Towards defraying the costs and expenses of an audit under this section the Board shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

25. Any money received, invested or paid out by an agent of the Board shall be deemed to have been received, invested or paid out, as the case may be, by the Board, and money received by an agent of the Board shall be deemed to have been received by the Board on the day that it is received by the agent.

PART VI.

GENERAL.

26. (1) The Governor may, by regulation made under this Act, exempt or exclude from the operation of all or any of the provisions of this Act—
- (a) any person or class of persons;
- (b) any statutory body or public authority or all statutory bodies or public authorities; or
- (c) any rental bond or class of rental bond.

(2) For the purposes of, but without prejudice to the generality of, subsection (1), a class of rental bond may be described by reference to a class of lease or a class of premises in respect of which rental bonds are deposited or paid.

(3)

Landlord and Tenant (Rental Bonds).

(3) For the purposes of, but without prejudice to the generality of, subsection (2), a class of lease may be described by reference to periods of continuous occupancy of premises under leases or by reference to terms or conditions
5 of leases.

27. For the purposes of this Act and the regulations made under this Act, where the same lessee continuously occupies the same residential premises under a series of leases from the same lessor, those leases shall be deemed to
10 be one lease.

28. (1) Notwithstanding the terms or conditions of any lease, rent paid in advance, or money purporting to be rent paid in advance, in respect of a lease—

15 (a) shall not be appropriated by the lessor for any purpose other than the payment of rent; and

(b) shall (unless it is returned immediately to the payer) be applied by the lessor in respect of a period for which rent has not already been paid, being the first such period after the date of
20 payment.

(2) Notwithstanding the terms or conditions of any lease, where a lessee has paid an amount of rent in advance in accordance with the terms or conditions of a lease, the lessor, by himself or his agent, shall not require that lessee
25 to pay further rent in advance otherwise than at or immediately before the expiration of the period for which the firstmentioned amount was paid.

(3) Subsection (2) does not prevent a lessee, of his own volition, paying rent in advance at any time.

Landlord and Tenant (Rental Bonds).

- 29.** A person shall not, in any notification lodged with a rental bond deposited with the Board or in any application or direction to the Board to pay out a rental bond, wilfully make a false or misleading statement. False or misleading statements.
- 30.** (1) The Board shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date. Annual report.
- (2) The Minister shall lay the report, or cause it to be laid, before each House of Parliament as soon as practicable after the receipt by him of the report.
- 31.** (1) Any notice, summons, writ or other proceeding to be served on the Board may be served— Service of notices, etc.
- (a) by being left; or
- (b) in the case of a notice, by posting it addressed to the Board,
- at its office.
- (2) A letter giving a notice in writing to a lessor or lessee by post under section 11 shall be deemed to be properly addressed if it is addressed to that lessor or lessee at his last known address according to the records of the Board.
- 32.** Every document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chairman of the Board or his delegate. Authentication of documents.
- 33.** Any charge, fee or money due to the Board may be recovered as a debt or liquidated demand in a court of competent jurisdiction. Recovery of money.

Landlord and Tenant (Rental Bonds).

34. (1) The Governor may make regulations, not Regulations.
inconsistent with this Act, for or with respect to any matter
that by this Act is required or permitted to be prescribed or
that is necessary or convenient to be prescribed for carrying
5 out or giving effect to this Act.

(2) Without prejudice to the generality of subsection
(1), wherever a provision of this Act requires a form to be
prescribed or a document to be in writing the Governor may
make regulations, not inconsistent with this Act, prescribing—

- 10 (a) a form to be used for that purpose;
- (b) where that form or document is required to be
lodged with or served on or sent to any person—
the manner of lodgment, service or sending; and
- 15 (c) particulars or information to be provided by a person
completing that form or document.

(3) Regulations may be made so as to apply differ-
ently in different circumstances according to such factors as
may be specified in the regulations.

(4) A regulation may impose a penalty not exceeding
20 \$300 for any contravention thereof, whether by act or
omission.

PART

Landlord and Tenant (Rental Bonds).

PART VII.

AMENDMENT TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974.

35. The Consumer Claims Tribunals Act, 1974, is
5 amended—

- (a) by omitting section 4A (1);
- (b) by omitting section 4A (3) and by inserting instead
the following subsection :—

10 (3) This Act applies to and in respect of a
claim by a lessor or a lessee under a lease in
relation to a rental bond (being a lessor, lessee,
lease and rental bond as respectively defined in
15 the Landlord and Tenant (Rental Bonds) Act,
1977), including a claim in relation to any
matter which, under the terms or conditions of
that lease, could, but for that Act, have given
rise to a claim against a rental bond, as so
20 defined, deposited or paid in accordance with
those terms or conditions, in the same way as
it applies to and in respect of a consumer claim.

Amend-
ment of Act
No. 16,
1974.
Sec. 4A.
(Act
applies to
certain
claims by
lessees.)

SCHEDULE 1.

Sec. 6 (4).

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD.

1. (1) A person who is of or above the age of 65 years
25 shall not be appointed as a member pursuant to section 6 (1)
(d).
- (2) The office of a member appointed pursuant to
section 6 (1) (d) shall not, for the purposes of any Act, be
deemed to be an office or place of profit under the Crown.
- 30 (3) The member appointed pursuant to section 6 (1)
(d) is entitled to be paid such remuneration (including
travelling and subsistence allowances) as the Minister may
from time to time determine in respect of him.

Provisions
relating to
the member
appointed
pursuant
to section
6 (1) (d).

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

(4) The Minister may appoint any person, qualified
5 under section 6 (1) (d), to act in the office of the member
appointed pursuant to section 6 (1) (d) while that member
is absent from his office through illness or any other cause,
and that person while so acting—

(a) shall have and may exercise and perform the
10 functions of that member; and

(b) shall be deemed to be a member.

(5) A member appointed pursuant to section 6 (1)
(d) is, for the purposes of subclause (4), deemed to be absent
from his office if there is a vacancy in that office which has
15 not been filled in accordance with subclause (6).

(6) On the occurrence of a vacancy in the office of a
member appointed pursuant to section 6 (1) (d) otherwise
than by the expiration of the term for which he was appointed,
the Minister may appoint a person to hold office as a member
20 for the balance of his predecessor's term of office, being a
person qualified under section 6 (1) (d).

(7) A member appointed pursuant to section 6 (1)
(d) shall be deemed to have vacated his office—

(a) if he dies;

25 (b) if he becomes a temporary patient, a continued
treatment patient, a protected person or an incap-
able person within the meaning of the Mental Health
Act, 1958, or a person under detention under Part
VII of that Act;

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

- 5 (c) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- 10 (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
- 15 (e) if he is absent from 4 consecutive ordinary meetings of the Board of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Board or, unless, before the expiration of 4 weeks after
- 20 the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (f) if he resigns his office by writing under his hand addressed to the Minister;
- (g) if he declines office;
- 25 (h) if he is removed from office by the Minister under subclause (8); or
- (i) upon his attaining the age of 65 years.

(8) The Minister may, for any cause which to him seems sufficient, remove a member appointed pursuant to section 6 (1) (d) from office.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

2. (1) A member holding office pursuant to section 6 Deputies.
5 (1) (a), (b) or (c) may appoint an officer of the Registry
of Permanent Building Societies, the office of the Rent
Controller or the Treasury, respectively, to act on his behalf
as his deputy, either generally or for any particular meeting
of the Board.

10 (2) An officer appointed pursuant to subclause (1)
by the member holding office pursuant to section 6 (1) (a)
shall, while acting as deputy, have and may exercise and
perform the functions of Chairman of the Board.

(3) An appointment under subclause (1) may be
15 revoked by the member, or by any member holding the same
office as the member, who made the appointment.

3. No person shall be concerned to inquire whether or Acting
not any occasion has arisen requiring or authorising a person members.
to act in the place of a member in accordance with clause
20 1 (4) or clause 2 (1) or as Chairman of the Board in
accordance with clause 2 (2), and all things done or omitted
by the person while so acting shall be as valid and effectual
and shall have the same consequences as if they had been
done or omitted by the member or the Chairman, as the
25 case may be.

4. (1) Subject to subclause (2), the Board shall hold Meetings.
meetings at such times as are determined by the Board.

(2) The Board shall hold at least one meeting each
quarter.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

(3) The procedure for the calling of, and for the
5 conduct of business at, meetings of the Board shall, subject
to any procedure that is specified in this Act or prescribed,
be as determined by the Board.

(4) The number of members which shall constitute
a quorum at any meeting of the Board shall be 3, one of
10 whom shall be the Chairman of the Board or his deputy.

(5) Any duly convened meeting of the Board at which
a quorum is present shall be competent to transact any
business of the Board.

(6) Questions arising at a meeting of the Board shall
15 be determined by a majority of votes of the members present
and voting.

(7) The Chairman of the Board shall preside at all
meetings of the Board.

(8) The Chairman of the Board has a deliberative
20 vote and, in the event of an equality of votes, also has a
casting vote.

(9) The Board shall cause minutes to be kept of
its proceedings at meetings.

5. (1) No matter or thing done, and no contract entered
25 into, by the Board, and no matter or thing done by a member
or by any other person acting under the direction or as
delegate of the Board shall, if the matter or thing was done,
or the contract was entered into, in good faith for the purposes
of executing this Act, subject the member or person personally
30 to any action, liability, claim or demand.

Protection
from
liability.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

- 5 (2) Nothing in subclause (1) exempts any member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Board, and which the member or other person authorised or joined in authorising wilfully knowing the payment to be unauthorised.
- 10 6. In proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—^{Presump-}tions.
- (a) the constitution of the Board;
 - (b) any resolution of the Board;
 - 15 (c) the appointment of any member referred to in section 6 (1) (d) or of any person referred to in clause 1 (4) or clause 2 (1); or
 - (d) the presence of a quorum at any meeting of the Board.
- 20 7. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a member pursuant to section 6 (1) (d) and any member shall not, in his capacity as a member, be subject to the provisions of that Act during his term of office.

Landlord and Tenant (Rentals) Act

Section 10

Provisions relating to constitution and procedure of the Board

(2) Nothing in subsection (1) exempts any member or other person from liability to be discharged with the amount of any payment which is disallowed by the Auditor-General in the account of or relating to the Board, and which the member or other person authorised or joined in authorising or actually having the payment to be made.

10. In proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member referred to in section 6 (1) (b) or of any person referred to in clause 1 (4) or clause 2 (1) or
- (d) the presence of a quorum at any meeting of the Board.

11. The provisions of the Trusts, Services Act 1902, shall not apply to or in respect of the appointment of a member pursuant to section 6 (1) (b) and any member shall not, in not to his capacity as a member, be subject to the provisions of that Act during his term of office.

PROOF

LANDLORD AND TENANT (RENTAL BONDS) BILL, 1977

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to constitute a Rental Bond Board;
- (b) to require lessors of residential premises to deposit rental bonds with the Board;
- (c) to provide for the payment out of rental bonds; and
- (d) to enable the investment of rental bonds and the investment and expenditure of interest on rental bonds.

The Bill contains the following provisions :—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Division of proposed Act.

Clause 4. Interpretation. One of the definitions is that of “rental bond” which generally means money deposited or paid to a lessor or to another person at his direction or acting on his behalf so as to secure that lessor against any failure by a lessee to comply with any terms or conditions of the lease (irrespective of whether those terms or conditions are related to payment of rent or not).

Clause 5 constitutes a Rental Bond Board (hereinafter referred to as “the Board”), subject to the control and direction of the Minister.

Clause 6 provides that the Board shall consist of 4 members, including 3 ex-officio members and one member appointed by the Minister for a term of 3 years.

Clause 7 provides for the appointment of officers and employees and the use of other services and Government Departments by the Board.

Clause 8 (1) requires, except in certain circumstances, a lessor of residential premises to deposit with the Board within one month after the commencement of the proposed section any rental bond held by him as at that commencement.

Clause 8 (2) requires a lessor of residential premises to deposit with the Board within 7 days (or some other prescribed period) of receipt any rental bond received by him after the commencement of the proposed section.

Clause 8 (3)–(6) contains provisions relating to the deposit of rental bonds.

Clause 9 provides that a lessor shall not demand or receive a rental bond that consists of anything other than money and that the maximum amount of a rental bond that a lessor of residential premises may demand or receive shall be an amount equivalent to—

- (a) 4 weeks rental in the case of unfurnished premises;
- (b) 6 weeks rental in the case of furnished premises; or
- (c) where some other period is prescribed—the rental for that period.

Clause 10 provides that no person other than the Rental Bond Board shall be entitled to be paid interest in respect of rental bonds deposited with the Board and makes certain provisions in respect of lease terms and conditions that are rendered inoperative by the provisions of the proposed Act.

Clause 11 enables the Board to pay out rental bonds upon application made by the lessor and lessee, jointly or separately

Where a joint application is made or where one party applies and directs the Board to pay out the rental bond to the other party, the Board can pay out in accordance with the application before or after termination of the lease.

In any other case an application to the Board to pay out a rental bond cannot be made until termination of the lease. Where a party applies to the Board for payment out of the rental bond to himself the Board must give the other party notice in writing (unless notice has already been given as a result of an application by that party). If the party to whom notice is given does not inform the Board that he has commenced proceedings disputing the claim in a court or a consumer claims tribunal within 10 days of the service or posting of the notice the Board will pay out the rental bond to the applicant.

If proceedings are commenced, the Board will pay out the rental bond in accordance with the order of the court or tribunal, subject to appeals.

Where a party applies for payment out of part only of a rental bond, the Board will pay out the remaining part to the other party.

Provisions are made for preventing double payments and for the barring of claims against the Board other than claims provided in the proposed Act.

Clause 12 requires persons receiving rental bonds to give receipts and keep copies thereof.

Clause 13 enables authorised officers to require the furnishing of information, the answering of questions and the production of documents, etc., in relation to the leasing of residential premises.

Clause 14 prohibits the entering into or making of contracts or arrangements for the purpose of evading the proposed Act.

Clause 15 enables proof of the fact that a rental bond has not been deposited with the Board to be given by way of certificate of the Chairman of the Board.

Clause 16 provides a penalty not exceeding \$500 for contravention of the provisions of the proposed Act.

Clause 17 provides that proceedings for offences against the proposed Act shall be disposed of summarily before a stipendiary magistrate and may be brought within 3 years of the commission of the offence.

Clause 18 requires the Board to establish a Rental Bond Account and a Rental Bond Interest Account.

Clause 19 provides for the payment into, and payment out from, the Rental Bond Account of rental bonds deposited with the Board and for the investment of the money in that Account. Subject to direction of the Minister, the Board may invest this money with the Rural Bank, permanent building societies, authorised securities for the investment of trust funds or in any other manner prescribed.

Clause 20 provides that interest received by the Board on money invested is to be paid into the Rental Bond Interest Account. Subject to direction of the Minister, there shall be paid from this Account the costs of administration of the proposed Act and any other payments authorised by the proposed Act. Money from the account may be invested with the Rural Bank, permanent building societies and authorised securities for the investment of trust funds, in each case to be applied for or in connection with housing, or with terminating building societies, or in any other manner prescribed.

Clause 21 allows the Board to provide from the Rental Bond Interest Account money for the establishment and administration of a Rental Advisory Service.

Clause 22 empowers the Board to borrow by way of bank overdraft and to obtain advances from the Treasurer.

Clause 23 requires the Board to keep proper books of account and requires the Minister to table the Board's statement of accounts before Parliament.

Clause 24 requires the Auditor-General to audit the Board's accounts and applies the provisions of the Audit Act, 1902, to the members and officers of the Board.

Clause 25 makes certain provisions relating to the receipt and payment out of money by agents of the Board.

Clause 26 allows the Governor, by regulation, to exempt or exclude persons or classes of persons, statutory bodies or public authorities or rental bonds or classes of rental bonds from the operation of all or any of the provisions of the Act.

Clause 27 provides that, for the purposes of the proposed Act and the regulations under the proposed Act, a series of leases shall, in certain circumstances, be deemed to be one lease.

Clause 28 provides that rent paid in advance shall only be appropriated for that purpose, and that a lessee shall not be required to pay rent in advance, otherwise than at or immediately before the expiration of a period for which rent has already been paid.

Clause 29 makes it an offence to wilfully make false or misleading statements in applications, etc., lodged with the Board.

Clause 30 requires an annual report of the Board to be laid before Parliament.

Clause 31 provides for the service of notices, etc.

Clause 32 enables the Chairman of the Board to authenticate documents.

Clause 33 provides for the recovery of debts due to the Board.

Clause 34 authorises the making of regulations.

Clause 35 amends the Consumer Claims Tribunals Act, 1974, to allow both lessors and lessees (including corporations) to make claims to a consumer claims tribunal in relation to certain rental bonds (subject to a monetary limit as to jurisdiction in that Act).

Schedule 1 contains provisions relation to the constitution and procedure of the Board.

It is enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

1. This Act may be cited as the Landlord and Tenant (Rental Bonds) Act 1977.

No. , 1977.

A BILL

To constitute a Rental Bond Board; to confer and impose on the Board certain powers, authorities, duties and functions; to require lessors of residential premises to deposit rental bonds with the Board; to provide for the payment out of rental bonds; to enable the investment of rental bonds and the investment and expenditure of interest on rental bonds; and to amend the Consumer Claims Tribunals Act, 1974.

[MR EINFELD—22 March, 1977.]

Landlord and Tenant (Rental Bonds).

BE it enacted by the Queen's Most Excellent Majesty, by
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
5 follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "Landlord and Tenant
(Rental Bonds) Act, 1977". Short
title.

10 2. (1) This section and section 1 shall commence on
the date of assent to this Act. Commence-
ment.

(2) Except as provided in subsection (1), the several
provisions of this Act shall commence on such day or days
as may be appointed by the Governor in respect thereof and
15 as may be notified by proclamation published in the Gazette.

3. This Act is divided as follows :— Division
of Act.

PART I.—PRELIMINARY—ss. 1-4.

PART II.—CONSTITUTION OF THE RENTAL BOND
BOARD—ss. 5-7.

20 PART III.—DEPOSIT OF RENTAL BONDS WITH THE
RENTAL BOND BOARD—ss. 8-11.

PART IV.—ENFORCEMENT PROVISIONS—ss. 12-17.

PART V.—ACCOUNTS AND INVESTMENT PROVISIONS
—ss. 18-25.

25 PART VI.—GENERAL—ss. 26-34.

PART

Landlord and Tenant (Rental Bonds).

PART VII.—AMENDMENT TO THE CONSUMER CLAIMS
TRIBUNALS ACT, 1974—s. 35.

SCHEDULE 1.

4. (1) In this Act, except in so far as the context or Interpretation.
5 subject-matter otherwise indicates or requires—

“authorised officer” means an inspector appointed under
the Permanent Building Societies Act, 1967, an
authorized officer within the meaning of the Land-
lord and Tenant (Amendment) Act, 1948, and a
10 person appointed by the Board to be an authorised
officer for the purposes of this Act;

“Board” means the Rental Bond Board constituted under
this Act;

15 “functions” includes responsibilities, powers, authorities
and duties;

“lease” means a lease or sub-lease of residential premises
and includes—

(a) a contract for the letting of residential
premises, whether the contract is express
or implied or is made orally, in writing or
20 by deed;

(b) a contract for the letting of residential
premises together with goods; and

(c) a tenancy of residential premises the
25 existence of which is presumed by operation
of section 22A of the Landlord and Tenant
Act, 1899,

30 but does not include such a lease, sub-lease,
contract or tenancy where the premises the subject
of the lease, sub-lease, contract or tenancy are partly
residential premises and partly premises that are not
residential premises;

“lessee”

Landlord and Tenant (Rental Bonds).

"lessee" means a person who is or was a lessee or tenant under a lease (being a lease as defined in this subsection) and includes his heirs, executors, administrators and assigns;

5 "lessor" means a person who is or was a lessor or landlord under a lease (being a lease as defined in this subsection) and includes his heirs, executors, administrators and assigns;

"member" means a member of the Board;

10 "money" includes a cheque;

"prescribed proceedings" means proceedings in a court (other than a prosecution) or before a tribunal in relation to any matter which, under the terms or conditions of a lease, could, but for this Act, have given rise to a claim against a rental bond deposited or paid in accordance with those terms or conditions;

"rental bond", in relation to a lease, means an amount of money deposited with or paid to—

20 (a) the lessor under that lease;

(b) a person, other than the lessor under that lease, in accordance with the directions of that lessor or the terms or conditions of that lease; or

25 (c) a person, other than the lessor under that lease, acting on behalf of that lessor,

being money so deposited or paid in such a way that the effect is to secure, otherwise than by payment of rent in advance, that lessor against any failure by a lessee to comply with any terms or conditions (irrespective of whether those terms or conditions are related to payment of rent or not) applying to or in connection with that lease;

"residential

Landlord and Tenant (Rental Bonds).

“residential premises” means—

- (a) a dwelling-house or any part thereof;
- (b) premises, other than a dwelling-house, or any part thereof; or
- 5 (c) a caravan within the meaning of section 31A of the Landlord and Tenant (Amendment) Act, 1948, that is leased in a fixed position, used solely for the purposes of residence and, where land or appurtenances are leased with that dwelling-
10 house, those premises or that caravan (not being land or appurtenances used for commercial purposes or for the purposes of a business or an industry), includes that land or those appurtenances;

15 “tribunal” means a consumer claims tribunal constituted under the Consumer Claims Tribunals Act, 1974.

(2) An amount of money deposited with or paid to a person as referred to in paragraph (b) or (c) of the definition of “rental bond” in subsection (1) in respect of a lease shall be deemed, for the purposes of section 8, to
20 be deposited with or paid to the lessor under that lease.

PART II.

CONSTITUTION OF THE RENTAL BOND BOARD.

5. (1) There is hereby constituted a corporation under the corporate name of the “Rental Bond Board”.

25 (2) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Board shall be subject in all respects to the control and direction of the Minister.

6.

Constitution
of the
Rental
Bond
Board.

Landlord and Tenant (Rental Bonds).

6. (1) The Board shall consist of 4 members of whom—
- (a) one shall be the person for the time being holding, or acting in, the office of Registrar of Permanent Building Societies who shall be the Chairman of the Board;
- (b) one shall be the person for the time being holding, or acting in, the office of Rent Controller;
- (c) one shall be the person for the time being holding, or acting in, the office of Under Secretary of the Treasury; and
- (d) one shall be a person appointed by the Minister, being a person who, in the opinion of the Minister, has had experience in real estate matters.

Provisions relating to constitution and procedure of Board.

(2) Subject to this Act, the member appointed pursuant to subsection (1) (d) shall hold office for such term, not exceeding 3 years, as is specified in the instrument of his appointment.

(3) A member appointed pursuant to subsection (1) (d) shall, if otherwise qualified, be eligible for re-appointment from time to time for such further term, not exceeding 3 years, as is specified in the instrument of his re-appointment.

(4) Schedule 1 has effect.

7. (1) Except as provided in subsection (2), such officers, officers and employees as may be necessary to enable the Board to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902.

Officers, employees, etc.

(2) The Board may, with the approval of the Minister, appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Board any person, body or organisation considered capable of providing services, information or advice required by the Board in exercising and performing its functions.

(3)

Landlord and Tenant (Rental Bonds).

- (3) For the purposes of exercising and performing its functions, the Board may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or public authority.

PART III.

**DEPOSIT OF RENTAL BONDS WITH THE
RENTAL BOND BOARD.**

8. (1) Where, before the commencement of this section, a lessor under a lease has received a rental bond that, as at that commencement—
- (a) has not been refunded or become refundable;
- (b) has not become the property of that lessor; or
- (c) is not subject to prescribed proceedings,
- that lessor (by himself or his agent) shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act, deposit with the Board within one month after that commencement an amount of money equivalent to the amount of that rental bond.

- (2) Where, after the commencement of this section, a lessor receives a rental bond, that lessor shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act, deposit with the Board within 7 days (or, where some other period is prescribed for the purposes of this subsection, that period) after the date of receipt of that rental bond an amount of money equivalent to the amount of that rental bond.

(3)

Landlord and Tenant (Rental Bonds).

(3) Subsection (1) does not apply to a rental bond that—

- (a) is refunded or becomes refundable;
- (b) becomes the property of a lessor; or
- 5 (c) becomes subject to prescribed proceedings, during the period referred to in subsection (1).

(4) The Board may, without affecting the obligation imposed on a lessor under subsection (1) or (2), refuse to accept any amount tendered for deposit under subsection (1) or (2) that is not accompanied by a notification in or to the effect of the prescribed form duly completed.

(5) If a rental bond—

- (a) exempt or excluded from the operation of subsection (1); or
- 15 (b) exempt or excluded from the operation of subsection (2), pursuant to section 26, subsequently ceases to be so exempt or excluded, this section shall, in respect of that rental bond, be deemed to be amended—
- 20 (c) where paragraph (a) applies—by omitting from subsection (1) the words “after that commencement” and by inserting instead the words “after that rental bond ceases to be exempt or excluded from the operation of this subsection”; or
- 25 (d) where paragraph (b) applies—by omitting from subsection (2) the words “after the date of receipt of that rental bond” and by inserting instead the words “after that rental bond ceases to be exempt or excluded from the operation of this subsection”.

Landlord and Tenant (Rental Bonds).

(6) The Minister, by instrument in writing, may—

(a) generally or in any particular case or class of cases, extend the period prescribed by subsection (1); and

5 (b) in any particular case or class of cases, extend the period prescribed by or under subsection (2).

9. (1) Notwithstanding the terms of any agreement, no person as lessor of residential premises shall, in respect of a lease of those premises, demand or receive from another person anything, other than money, that would have the effect of securing the lessor against any failure by a lessee to comply with any terms or conditions applying to or in connection with that lease, whether that thing is to be received by or deposited with—

Rental
bonds
to be
in
money.

15 (a) the lessor;

(b) another person in accordance with the directions of the lessor or the terms or conditions of the lease; or

(c) another person acting on behalf of the lessor.

(2) Notwithstanding the terms of any agreement, a lessor of residential premises shall not, in respect of a lease of those premises, demand an amount of money that would, if deposited or paid, be a rental bond, or receive a rental bond, of an amount that exceeds the rental of those premises—

25 (a) in the case of a lease of unfurnished premises—in respect of the first 4 weeks of the lease;

(b) in the case of a lease of furnished premises—in respect of the first 6 weeks of the lease; or

30 (c) where some other period is prescribed for the purposes of paragraph (a) or (b), for that other period in the case of a lease referred to in that paragraph.

(3)

Landlord and Tenant (Rental Bonds).

(3) A lessor shall be deemed to have demanded a rental bond if a term or condition of the lease requires that rental bond to be deposited with or paid to the lessor or another person in accordance with the directions of the lessor or acting on behalf of the lessor.

10. (1) Notwithstanding the terms of any agreement, no person (other than the Board) shall, in respect of any period after the date that an amount of money equivalent to the amount of a rental bond is deposited with the Board, be entitled to receive interest in respect of that rental bond.

Provisions in leases relating to rental bonds.

(2) Subject to subsection (3), the terms and conditions of a lease, to the extent that those terms and conditions are rendered inoperative by the provisions of this Act, shall be deemed to be void.

15 (3) Where, but for this Act, a lessor or lessee would have a claim against a rental bond under the terms and conditions of a lease for an amount which cannot be recovered under any other provision of those terms and conditions—

- 20 (a) that lessor may recover from the lessee as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond; and
- 25 (b) that lessee may recover from the lessor as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond.

11. (1) A reference in this section to an amount of money, in relation to a lease, is a reference to an amount of money equivalent to the amount of money, or part of the amount of money, as the case may require, held on deposit by the Board in respect of that lease.

Payment out of rental bonds.

(2)

Landlord and Tenant (Rental Bonds).

(2) An application to the Board to pay out an amount of money in respect of a lease shall be in or to the effect of the prescribed form and may—

- 5 (a) in the case of an application of a kind referred to in subsection (3)—be made at any time; or
- (b) in the case of an application of a kind referred to in subsection (4) or (5)—be made upon termination of the lease.

(3) Subject to subsection (11), where an applica-
10 tion under subsection (2)—

- (a) is made jointly by a lessor and a lessee under a lease;
- 15 (b) is made by a lessor under a lease who, in that application, directs the Board to pay out an amount of money to the lessee under that lease; or
- (c) is made by a lessee under a lease who, in that application, directs the Board to pay out an amount of money to the lessor under that lease,

the Board shall pay out an amount of money as directed in
20 that application.

(4) Where an application under subsection (2) is made by a lessor under a lease who, in that application, directs the Board to pay out an amount of money to himself, the Board shall, unless a notice has been given under sub-
25 section (5) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessee under that lease.

(5) Where an application under subsection (2) is made by a lessee under a lease who, in that application, directs
30 the Board to pay out an amount of money to himself, the Board shall, unless a notice has been given under subsection (4) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessor under that lease.

(6)

Landlord and Tenant (Rental Bonds).

(6) Subject to subsection (11), if an application referred to in subsection (4) or (5) is made in respect of part of an amount of money held on deposit by the Board in respect of a lease the Board shall—

- 5 (a) in the case of an application referred to in subsection (4)—pay out to the lessee the remainder of that amount; and
- (b) in the case of an application referred to in subsection (5)—pay out to the lessor the remainder
- 10 of that amount.

(7) If a lessee to whom notice has been given under subsection (4)—

- 15 (a) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service on him of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he has commenced prescribed proceedings in relation to an amount of money referred to in the
- 20 notice; or
- (b) does so notify the Board, but those proceedings are discontinued,

the Board shall, subject to subsection (11), pay out that amount to the lessor.

25 (8) If a lessor to whom notice has been given under subsection (5)—

- 30 (a) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service on him of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he has commenced prescribed proceedings in relation to an amount of money referred to in the notice; or

(b)

Landlord and Tenant (Rental Bonds).

(b) does so notify the Board, but those proceedings are discontinued,

the Board shall, subject to subsection (11), pay out that amount to the lessee.

5 (9) Where a lessor or lessee under a lease has, within the period prescribed by or under subsection (7) or (8), commenced prescribed proceedings in relation to the lease and judgment in those proceedings has been entered in or given by a court or a court or tribunal has made an
10 order in those proceedings for the payment of money—

(a) the Board shall, subject to subsection (12)—

(i) upon being served with or obtaining a certified copy of that judgment or order within the period of 14 days that next
15 succeeds entry or giving of the judgment or the making of the order or, where some other period is prescribed, within that other period; and

(ii) upon being satisfied by statutory declaration
20 so served that the judgment or order has not been satisfied and no steps to enforce the judgment or order have been taken under any other Act,

25 pay out an amount of money held by the Board on deposit in respect of that lease, as if it were the person obliged to pay under that judgment or order; or

(b) subject to subsection (12), where the Board is satisfied that—

30 (i) the judgment has been entered or given, or the order made; and

(ii) that judgment or order has been satisfied (other than as provided in paragraph (a)),
35 the Board shall pay out that amount of money to the person obliged to pay under that judgment or order.

Landlord and Tenant (Rental Bonds).

(10) For all purposes, money paid out by the Board under subsection (9) shall be deemed to be money paid by the person against whom the judgment was obtained or the order was made.

5 (11) Where, in respect of a lease, the Board would, but for this subsection, be required (otherwise than pursuant to subsection (9)) to pay out an amount of money and that amount of money is in excess of the amount of money held on deposit by the Board in respect of that lease, the Board—

- 10 (a) shall refuse to pay out the money;
- (b) shall treat applications for payment out of the money as having been withdrawn; and
- (c) shall inform the applicants accordingly.

15 (12) Notwithstanding subsection (9), where there is a right of appeal against a judgment or order referred to in that subsection, the Board may pay out money in respect of that judgment or order only if—

- 20 (a) the time for lodging the appeal has expired and the Board has not been notified that an appeal has been lodged; or
- (b) the Board has been notified before the expiration of that time that an appeal has been lodged and the Board is satisfied that the appeal has been withdrawn or dismissed.

25 (13) Where proceedings have not been commenced in relation to an amount of money held by the Board within the period prescribed by or under subsection (7) or (8), a lessor or a lessee may, at any time before a payment is made in accordance with an application made by him, withdraw that

30 application and, for the purposes of this section, that application shall thereupon be deemed never to have been made.

Landlord and Tenant (Rental Bonds).

(14) Where the Board is required to pay out an amount of money to a person under this section, the Board may, instead of paying out that money to that person, pay out or apply that money in accordance with that person's
5 directions.

(15) For the purposes of this Act, a court or tribunal is authorised to issue—

- (a) a copy of any entry of a judgment or a copy of an order, in each case certified by the proper officer to be a true copy of the entry or order; and
10
- (b) where proceedings have been discontinued, a certificate to that effect signed by the proper officer.

(16) No claim other than a claim provided in this Act shall lie against the Board in respect of rental bonds
15 deposited with the Board.

(17) This section applies notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act.

(18) The Board may in any particular case extend
20 the period prescribed by or under subsection (9) (a) (i).

PART IV.

ENFORCEMENT PROVISIONS.

12. (1) A lessor, or his agent, receiving money deposited or paid as a rental bond shall, at the time of receiving that money, give or cause to be given to the person making that
25 deposit or payment a receipt for that money.

Receipts
to be
given for
rental
bonds.

Landlord and Tenant (Rental Bonds).

(2) A receipt given under subsection (1) shall contain such particulars as are prescribed for the purposes of this subsection.

(3) A lessor, or his agent, shall keep or cause to be kept, in the manner (if any) and for such term (if any) as are prescribed, a copy of each receipt given under this section.

13. (1) An authorised officer may orally or in writing require a person—

Information
to be
furnished
on request.

- 10 (a) to furnish to the authorised officer such information as he requires;
 - (b) to answer any question put to him by the authorised officer; or
 - 15 (c) to produce for inspection any books, documents or other records in his custody or control,
- in relation to the leasing of residential premises.

(2) An authorised officer may make copies of or take extracts from books, documents or other records produced under subsection (1).

20 (3) A person shall not, in relation to a requirement under subsection (1)—

- (a) refuse or fail to furnish the information or to answer the question or to produce the books, documents or other records; or
- 25** (b) give any information or make any answer which is false in any particular.

(4) Where information furnished, or an answer given, in response to a requirement under subsection (1) tends to incriminate the person giving the information or answer,

30 neither the terms of the requirement, nor the information or

answer

Landlord and Tenant (Rental Bonds).

answer may be used (whether or not that person objected to giving the information or answer) in any proceedings against that person except proceedings under subsection (3) (b) in relation to that information or answer.

- 5 (5) A person is not obliged to furnish any information or to answer any question or to produce any books, documents or other records under this section unless he has first been informed by the authorised officer making the requirement that he is required and is obliged, by virtue of this
10 section, to furnish the information or to answer the question or to produce the books, documents or other records.

14. (1) A person shall not enter into or make any contract or arrangement, whether orally or in writing, for the purpose of, or which has the effect of, in any way, and
15 whether directly or indirectly, defeating, evading or preventing the operation of this Act in any respect

- (2) Any contract or arrangement referred to in subsection (1) is void whether or not a person has been convicted under that subsection in respect of that contract or
20 arrangement.

15. A certificate purporting to be a certificate given by the Chairman of the Board or his delegate certifying that no rental bond has been deposited with, or that no rental bond was or is held on deposit by, the Board in relation to a tenancy
25 of premises specified in the certificate during a period specified in the certificate shall be received in evidence in a court and shall, until the contrary is proved, be accepted as evidence of the matters set out therein.

16. (1) Any person who contravenes, whether by act or omission, any provision of this Act is guilty of an offence against this Act.

Landlord and Tenant (Rental Bonds).

(2) Any person who is guilty of an offence against this Act shall, upon conviction, be liable to a penalty not exceeding \$500.

17. (1) Proceedings for offences against this Act or the
5 regulations shall be disposed of in a summary manner before
a court of petty sessions held before a stipendiary magistrate
sitting alone. Proceedings for offences.

(2) Notwithstanding anything in any Act, proceedings
for any offence punishable under this Act may be brought
10 within 3 years after the commission of the offence.

PART V.

ACCOUNTS AND INVESTMENT PROVISIONS.

18. The Board shall establish a Rental Bond Account Accounts.
and a Rental Bond Interest Account.

15 19. (1) There shall be paid into the Rental Bond
Account all rental bonds deposited with the Board in
accordance with section 8. Rental Bond Account.

(2) There shall be paid from the Rental Bond
Account—

- 20 (a) rental bonds authorised to be paid out under section
11; and
(b) any money that the Board is authorised to invest
under subsection (3) for the purpose of that
investment.

(3)

Landlord and Tenant (Rental Bonds).

(3) Subject to any specific or general direction given by the Minister, the Board may invest money from the Rental Bond Account—

- 5 (a) by way of deposit with or loan to the Rural Bank of New South Wales;
- (b) in shares in, or by way of deposit with or loan to, a permanent building society registered under the Permanent Building Societies Act, 1967;
- 10 (c) in securities authorised by law for the investment of trust funds; or
- (d) in any other manner prescribed for the purposes of this section.

20. (1) There shall be paid into the Rental Bond Interest Account all interest received on investments made by the Board under section 19 (3) and subsection (3). Rental
Bond
Interest
Account.

(2) Subject to any specific or general direction given by the Minister, there shall be paid from the Rental Bond Interest Account—

- 20 (a) the costs of, or the expenses incurred in, the administration of this Act;
- (b) any money that the Board is authorised to invest under subsection (3) for the purpose of that investment; and
- 25 (c) any other payments authorised by this Act to be made from that Account.

(3) The Board may invest money from the Rental Bond Interest Account—

- 30 (a) in the same manner as money from the Rental Bond Account may be invested under section 19 (3) (a),
- (b) and (c), except that the Board shall, subject to

Landlord and Tenant (Rental Bonds).

- to paragraph (c), only so invest money from the Rental Bond Interest Account if it is to be applied for or in connection with housing;
- 5 (b) by way of loan to terminating building societies registered under the Co-operation Act, 1923;
- (c) where the money is money set aside for use for the purposes referred to in subsection (2) (a), in the same manner as money from the Rental Bond Account may be invested under section 19 (3) (a), 10 (b) and (c); or
- (d) in any other manner prescribed for the purposes of this section.

21. The Board may provide from the Rental Bond Interest Account money for the establishment and 15 administration of a Rental Advisory Service.

22. (1) For the temporary accommodation of the Board it may obtain advances by overdraft on current account in any bank or banks to such extent as may from time to time be approved by the Governor on the recommendation of the 20 Treasurer.

(2) The Treasurer may advance such money to the Board, upon such terms and conditions as to repayment and interest, as may be agreed upon.

(3) Money advanced to the Board under this section 25 for the purposes of the Rental Bond Account or the Rental Bond Interest Account shall be repaid from the Account in respect of which the money was advanced subject to any interest payments on those advances being paid from the Rental Bond Interest Account.

23.

Landlord and Tenant (Rental Bonds).

23. (1) The Board shall cause to be kept proper books of account in relation to all of its operations, and shall, as soon as practicable after 30th June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in the form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Board.

Accounts
to be kept
by the
Board.

(2) The Minister shall cause the statement of accounts to be laid before Parliament within 14 sitting days if Parliament is in session, and if not, then within 14 sitting days after the commencement of the next session.

24. (1) The accounts of the Board shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law in force relating to the audit of public accounts, and the Audit Act, 1902, shall apply to members of the Board and its officers, employees or other servants in the same manner as it applies to accounting officers of public Departments.

Audit of
accounts.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

- (i) due diligence and care have been shown in the collection and banking of money payable to the Board;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised; and
- (iii) any money or other property of the Board has been misappropriated or improperly or irregularly dealt with; and

(b)

Landlord and Tenant (Rental Bonds).

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of an audit under this section the Board shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

25. Any money received, invested or paid out by an agent of the Board shall be deemed to have been received, invested or paid out, as the case may be, by the Board, and money received by an agent of the Board shall be deemed to have been received by the Board on the day that it is received by the agent.

PART VI.

GENERAL.

26. (1) The Governor may, by regulation made under this Act, exempt or exclude from the operation of all or any of the provisions of this Act—

- (a) any person or class of persons;
- (b) any statutory body or public authority or all statutory bodies or public authorities; or
- (c) any rental bond or class of rental bond.

(2) For the purposes of, but without prejudice to the generality of, subsection (1), a class of rental bond may be described by reference to a class of lease or a class of premises in respect of which rental bonds are deposited or paid.

(3)

Landlord and Tenant (Rental Bonds).

(3) For the purposes of, but without prejudice to the generality of, subsection (2), a class of lease may be described by reference to periods of continuous occupancy of premises under leases or by reference to terms or conditions of leases.

27. For the purposes of this Act and the regulations made under this Act, where the same lessee continuously occupies the same residential premises under a series of leases from the same lessor, those leases shall be deemed to be one lease.

28. (1) Notwithstanding the terms or conditions of any lease, rent paid in advance, or money purporting to be rent paid in advance, in respect of a lease—

- (a) shall not be appropriated by the lessor for any purpose other than the payment of rent; and
- (b) shall (unless it is returned immediately to the payer) be applied by the lessor in respect of a period for which rent has not already been paid, being the first such period after the date of payment.

(2) Notwithstanding the terms or conditions of any lease, where a lessee has paid an amount of rent in advance in accordance with the terms or conditions of a lease, the lessor, by himself or his agent, shall not require that lessee to pay further rent in advance otherwise than at or immediately before the expiration of the period for which the firstmentioned amount was paid.

(3) Subsection (2) does not prevent a lessee, of his own volition, paying rent in advance at any time.

Landlord and Tenant (Rental Bonds).

29. A person shall not, in any notification lodged with a rental bond deposited with the Board or in any application or direction to the Board to pay out a rental bond, wilfully make a false or misleading statement. False or misleading statements.

30. (1) The Board shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date. Annual report.

(2) The Minister shall lay the report, or cause it to be laid, before each House of Parliament as soon as practicable after the receipt by him of the report.

31. (1) Any notice, summons, writ or other proceeding to be served on the Board may be served— Service of notices, etc.

(a) by being left; or

15 (b) in the case of a notice, by posting it addressed to the Board,

at its office.

(2) A letter giving a notice in writing to a lessor or lessee by post under section 11 shall be deemed to be properly addressed if it is addressed to that lessor or lessee at his last known address according to the records of the Board.

32. Every document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chairman of the Board or his delegate. Authentication of documents.

33. Any charge, fee or money due to the Board may be recovered as a debt or liquidated demand in a court of competent jurisdiction. Recovery of money.

34.

Landlord and Tenant (Rental Bonds).

34. (1) The Governor may make regulations, not Regulations.
inconsistent with this Act, for or with respect to any matter
that by this Act is required or permitted to be prescribed or
that is necessary or convenient to be prescribed for carrying
5 out or giving effect to this Act.

(2) Without prejudice to the generality of subsection
(1), wherever a provision of this Act requires a form to be
prescribed or a document to be in writing the Governor may
make regulations, not inconsistent with this Act, prescribing—

- 10 (a) a form to be used for that purpose;
- (b) where that form or document is required to be
lodged with or served on or sent to any person—
the manner of lodgment, service or sending; and
- 15 (c) particulars or information to be provided by a person
completing that form or document.

(3) Regulations may be made so as to apply differ-
ently in different circumstances according to such factors as
may be specified in the regulations.

(4) A regulation may impose a penalty not exceeding
20 \$300 for any contravention thereof, whether by act or
omission.

Landlord and Tenant (Rental Bonds).

PART VII.

AMENDMENT TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974.

35. The Consumer Claims Tribunals Act, 1974, is
5 amended—

- (a) by omitting section 4A (1);
- (b) by omitting section 4A (3) and by inserting instead
the following subsection :—

Amend-
ment of Act
No. 16,
1974.
Sec. 4A.
(Act
applies to
certain
claims by
lessees.)

10 (3) This Act applies to and in respect of a
claim by a lessor or a lessee under a lease in
relation to a rental bond (being a lessor, lessee,
lease and rental bond as respectively defined in
the Landlord and Tenant (Rental Bonds) Act,
1977), including a claim in relation to any
15 matter which, under the terms or conditions of
that lease, could, but for that Act, have given
rise to a claim against a rental bond, as so
defined, deposited or paid in accordance with
those terms or conditions, in the same way as
20 it applies to and in respect of a consumer claim.

SCHEDULE 1.

Sec. 6 (4).

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD.

1. (1) A person who is of or above the age of 65 years
25 shall not be appointed as a member pursuant to section 6 (1)
(d).

Provisions
relating to
the member
appointed
pursuant
to section
6 (1) (d).

(2) The office of a member appointed pursuant to
section 6 (1) (d) shall not, for the purposes of any Act, be
deemed to be an office or place of profit under the Crown.

30 (3) The member appointed pursuant to section 6 (1)
(d) is entitled to be paid such remuneration (including
travelling and subsistence allowances) as the Minister may
from time to time determine in respect of him.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

(4) The Minister may appoint any person, qualified
5 under section 6 (1) (d), to act in the office of the member
appointed pursuant to section 6 (1) (d) while that member
is absent from his office through illness or any other cause,
and that person while so acting—

(a) shall have and may exercise and perform the
10 functions of that member; and

(b) shall be deemed to be a member.

(5) A member appointed pursuant to section 6 (1)
(d) is, for the purposes of subclause (4), deemed to be absent
from his office if there is a vacancy in that office which has
15 not been filled in accordance with subclause (6).

(6) On the occurrence of a vacancy in the office of a
member appointed pursuant to section 6 (1) (d) otherwise
than by the expiration of the term for which he was appointed,
the Minister may appoint a person to hold office as a member
20 for the balance of his predecessor's term of office, being a
person qualified under section 6 (1) (d).

(7) A member appointed pursuant to section 6 (1)
(d) shall be deemed to have vacated his office—

(a) if he dies;

25 (b) if he becomes a temporary patient, a continued
treatment patient, a protected person or an incap-
able person within the meaning of the Mental Health
Act, 1958, or a person under detention under Part
VII of that Act;

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

- 5 (c) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- 10 (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
- 15 (e) if he is absent from 4 consecutive ordinary meetings of the Board of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Board or, unless, before the expiration of 4 weeks after
- 20 the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (f) if he resigns his office by writing under his hand addressed to the Minister;
- (g) if he declines office;
- 25 (h) if he is removed from office by the Minister under subclause (8); or
- (i) upon his attaining the age of 65 years.

(8) The Minister may, for any cause which to him seems sufficient, remove a member appointed pursuant to section 6 (1) (d) from office.

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

2. (1) A member holding office pursuant to section 6 Deputies.
5 (1) (a), (b) or (c) may appoint an officer of the Registry
of Permanent Building Societies, the office of the Rent
Controller or the Treasury, respectively, to act on his behalf
as his deputy, either generally or for any particular meeting
of the Board.
- 10 (2) An officer appointed pursuant to subclause (1)
by the member holding office pursuant to section 6 (1) (a)
shall, while acting as deputy, have and may exercise and
perform the functions of Chairman of the Board.
- (3) An appointment under subclause (1) may be
15 revoked by the member, or by any member holding the same
office as the member, who made the appointment.
3. No person shall be concerned to inquire whether or Acting
not any occasion has arisen requiring or authorising a person members.
to act in the place of a member in accordance with clause
20 1 (4) or clause 2 (1) or as Chairman of the Board in
accordance with clause 2 (2), and all things done or omitted
by the person while so acting shall be as valid and effectual
and shall have the same consequences as if they had been
done or omitted by the member or the Chairman, as the
25 case may be
4. (1) Subject to subclause (2), the Board shall hold Meetings.
meetings at such times as are determined by the Board.
- (2) The Board shall hold at least one meeting each
quarter.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

(3) The procedure for the calling of, and for the
5 conduct of business at, meetings of the Board shall, subject
to any procedure that is specified in this Act or prescribed,
be as determined by the Board.

(4) The number of members which shall constitute
a quorum at any meeting of the Board shall be 3, one of
10 whom shall be the Chairman of the Board or his deputy.

(5) Any duly convened meeting of the Board at which
a quorum is present shall be competent to transact any
business of the Board.

(6) Questions arising at a meeting of the Board shall
15 be determined by a majority of votes of the members present
and voting.

(7) The Chairman of the Board shall preside at all
meetings of the Board.

(8) The Chairman of the Board has a deliberative
20 vote and, in the event of an equality of votes, also has a
casting vote.

(9) The Board shall cause minutes to be kept of
its proceedings at meetings.

5. (1) No matter or thing done, and no contract entered
25 into, by the Board, and no matter or thing done by a member
or by any other person acting under the direction or as
delegate of the Board shall, if the matter or thing was done,
or the contract was entered into, in good faith for the purposes
of executing this Act, subject the member or person personally
30 to any action, liability, claim or demand.

Protection
from
liability.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

- 5 (2) Nothing in subclause (1) exempts any member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Board, and which the member or other person authorised or joined in authorising wilfully knowing the payment to be unauthorised.
- 10 6. In proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—^{Presump-}_{tions.}
- (a) the constitution of the Board;
 - (b) any resolution of the Board;
 - 15 (c) the appointment of any member referred to in section 6 (1) (d) or of any person referred to in clause 1 (4) or clause 2 (1); or
 - (d) the presence of a quorum at any meeting of the Board.
- 20 7. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a member pursuant to section 6 (1) (d) and any member shall not, in his capacity as a member, be subject to the provisions of that Act during his term of office.^{Public Service Act, 1902, apply.}

Landlord and Tenant (Rent) Bonds

SCHEDULE 1—continued

Provisions Relating to Constitution and
Procedure of the Board—continued

(2) Nothing in subclause (1) exempts any member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Board, and which the member or other person authorised or joined in authorising wilfully knowing the payment to be unauthorised.

10 d. In proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

(a) the constitution of the Board;

(b) any resolution of the Board;

15 (c) the appointment of any member referred to in section 6 (1) (d) or of any person referred to in clause 1 (4) or clause 2 (1); or

(d) the presence of a quorum at any meeting of the Board.

20 The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a member pursuant to section 6 (1) (d) and any member shall not, in his capacity as a member, be subject to the provisions of that Act during his term of office.

Landlord and Tenant (Rental Bonds).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 44, 1977.

An Act to constitute a Rental Bond Board; to confer and impose on the Board certain powers, authorities, duties and functions; to require lessors of residential premises to deposit rental bonds with the Board; to provide for the payment out of rental bonds; to enable the investment of rental bonds and the investment and expenditure of interest on rental bonds; and to amend the Consumer Claims Tribunals Act, 1974. [Assented to, 19th April, 1977.]

BE

Landlord and Tenant (Rental Bonds).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the "Landlord and Tenant (Rental Bonds) Act, 1977".

Commencement.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Division of Act.

3. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—CONSTITUTION OF THE RENTAL BOND BOARD—ss. 5-7.

PART III.—DEPOSIT OF RENTAL BONDS WITH THE RENTAL BOND BOARD—ss. 8-11.

PART IV.—ENFORCEMENT PROVISIONS—ss. 12-17.

PART V.—ACCOUNTS AND INVESTMENT PROVISIONS—ss. 18-25.

PART VI.—GENERAL—ss. 26-34.

PART

Landlord and Tenant (Rental Bonds).

**PART VII.—AMENDMENT TO THE CONSUMER CLAIMS
TRIBUNALS ACT, 1974—s. 35.**

SCHEDULE 1.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— **Interpreta-
tion.**

“authorised officer” means an inspector appointed under the Permanent Building Societies Act, 1967, an authorized officer within the meaning of the Landlord and Tenant (Amendment) Act, 1948, and a person appointed by the Board to be an authorised officer for the purposes of this Act;

“Board” means the Rental Bond Board constituted under this Act;

“functions” includes responsibilities, powers, authorities and duties;

“lease” means a lease or sub-lease of residential premises and includes—

- (a) a contract for the letting of residential premises, whether the contract is express or implied or is made orally, in writing or by deed;
- (b) a contract for the letting of residential premises together with goods; and
- (c) a tenancy of residential premises the existence of which is presumed by operation of section 22A of the Landlord and Tenant Act, 1899,

but does not include such a lease, sub-lease, contract or tenancy where the premises the subject of the lease, sub-lease, contract or tenancy are partly residential premises and partly premises that are not residential premises;

“lessee”

Landlord and Tenant (Rental Bonds).

"lessee" means a person who is or was a lessee or tenant under a lease (being a lease as defined in this subsection) and includes his heirs, executors, administrators and assigns;

"lessor" means a person who is or was a lessor or landlord under a lease (being a lease as defined in this subsection) and includes his heirs, executors, administrators and assigns;

"member" means a member of the Board;

"money" includes a cheque;

"prescribed proceedings" means proceedings in a court (other than a prosecution) or before a tribunal in relation to any matter which, under the terms or conditions of a lease, could, but for this Act, have given rise to a claim against a rental bond deposited or paid in accordance with those terms or conditions;

"rental bond", in relation to a lease, means an amount of money deposited with or paid to—

- (a) the lessor under that lease;
- (b) a person, other than the lessor under that lease, in accordance with the directions of that lessor or the terms or conditions of that lease; or
- (c) a person, other than the lessor under that lease, acting on behalf of that lessor,

being money so deposited or paid in such a way that the effect is to secure, otherwise than by payment of rent in advance, that lessor against any failure by a lessee to comply with any terms or conditions (irrespective of whether those terms or conditions are related to payment of rent or not) applying to or in connection with that lease;

"residential

Landlord and Tenant (Rental Bonds).

“residential premises” means—

- (a) a dwelling-house or any part thereof;
- (b) premises, other than a dwelling-house, or any part thereof; or
- (c) a caravan within the meaning of section 31A of the Landlord and Tenant (Amendment) Act, 1948, that is leased in a fixed position, used solely for the purposes of residence and, where land or appurtenances are leased with that dwelling-house, those premises or that caravan (not being land or appurtenances used for commercial purposes or for the purposes of a business or an industry), includes that land or those appurtenances;

“tribunal” means a consumer claims tribunal constituted under the Consumer Claims Tribunals Act, 1974.

(2) An amount of money deposited with or paid to a person as referred to in paragraph (b) or (c) of the definition of “rental bond” in subsection (1) in respect of a lease shall be deemed, for the purposes of section 8, to be deposited with or paid to the lessor under that lease.

PART II.

CONSTITUTION OF THE RENTAL BOND BOARD.

5. (1) There is hereby constituted a corporation under the corporate name of the “Rental Bond Board”.

Constitution
of the
Rental
Bond
Board.

(2) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Board shall be subject in all respects to the control and direction of the Minister.

6.

Landlord and Tenant (Rental Bonds).

Provisions
relating to
constitution
and
procedure
of Board.

6. (1) The Board shall consist of 4 members of whom—

- (a) one shall be the person for the time being holding, or acting in, the office of Registrar of Permanent Building Societies who shall be the Chairman of the Board;
- (b) one shall be the person for the time being holding, or acting in, the office of Rent Controller;
- (c) one shall be the person for the time being holding, or acting in, the office of Under Secretary of the Treasury; and
- (d) one shall be a person appointed by the Minister, being a person who, in the opinion of the Minister, has had experience in real estate matters.

(2) Subject to this Act, the member appointed pursuant to subsection (1) (d) shall hold office for such term, not exceeding 3 years, as is specified in the instrument of his appointment.

(3) A member appointed pursuant to subsection (1) (d) shall, if otherwise qualified, be eligible for re-appointment from time to time for such further term, not exceeding 3 years, as is specified in the instrument of his re-appointment.

(4) Schedule 1 has effect.

Officers,
employees,
etc.

7. (1) Except as provided in subsection (2), such officers and employees as may be necessary to enable the Board to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902.

(2) The Board may, with the approval of the Minister, appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Board any person, body or organisation considered capable of providing services, information or advice required by the Board in exercising and performing its functions.

(3)

Landlord and Tenant (Rental Bonds).

(3) For the purposes of exercising and performing its functions, the Board may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or public authority.

PART III.

**DEPOSIT OF RENTAL BONDS WITH THE
RENTAL BOND BOARD.**

8. (1) Where, before the commencement of this section, a lessor under a lease has received a rental bond that, as at that commencement—

**Deposit of
rental
bonds
with the
Board.**

(a) has not been refunded or become refundable;

(b) has not become the property of that lessor; or

(c) is not subject to prescribed proceedings,

that lessor (by himself or his agent) shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act, deposit with the Board within one month after that commencement an amount of money equivalent to the amount of that rental bond.

(2) Where, after the commencement of this section, a lessor receives a rental bond, that lessor shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act, deposit with the Board within 7 days (or, where some other period is prescribed for the purposes of this subsection, that period) after the date of receipt of that rental bond an amount of money equivalent to the amount of that rental bond.

(3)

(3)

Landlord and Tenant (Rental Bonds).

(3) Subsection (1) does not apply to a rental bond that—

- (a) is refunded or becomes refundable;
- (b) becomes the property of a lessor; or
- (c) becomes subject to prescribed proceedings,

during the period referred to in subsection (1).

(4) The Board may, without affecting the obligation imposed on a lessor under subsection (1) or (2), refuse to accept any amount tendered for deposit under subsection (1) or (2) that is not accompanied by a notification in or to the effect of the prescribed form duly completed.

(5) If a rental bond—

- (a) exempt or excluded from the operation of subsection (1); or
- (b) exempt or excluded from the operation of subsection (2),

pursuant to section 26, subsequently ceases to be so exempt or excluded, this section shall, in respect of that rental bond, be deemed to be amended—

- (c) where paragraph (a) applies—by omitting from subsection (1) the words “after that commencement” and by inserting instead the words “after that rental bond ceases to be exempt or excluded from the operation of this subsection”; or
- (d) where paragraph (b) applies—by omitting from subsection (2) the words “after the date of receipt of that rental bond” and by inserting instead the words “after that rental bond ceases to be exempt or excluded from the operation of this subsection”.

(6)

Landlord and Tenant (Rental Bonds).

(6) The Minister, by instrument in writing, may—

- (a) generally or in any particular case or class of cases, extend the period prescribed by subsection (1); and
- (b) in any particular case or class of cases, extend the period prescribed by or under subsection (2).

9. (1) Notwithstanding the terms of any agreement, no person as lessor of residential premises shall, in respect of a lease of those premises, demand or receive from another person anything, other than money, that would have the effect of securing the lessor against any failure by a lessee to comply with any terms or conditions applying to or in connection with that lease, whether that thing is to be received by or deposited with—

**Rental
bonds
to be
in
money.**

- (a) the lessor;
- (b) another person in accordance with the directions of the lessor or the terms or conditions of the lease; or
- (c) another person acting on behalf of the lessor.

(2) Notwithstanding the terms of any agreement, a lessor of residential premises shall not, in respect of a lease of those premises, demand an amount of money that would, if deposited or paid, be a rental bond, or receive a rental bond, of an amount that exceeds the rental of those premises—

- (a) in the case of a lease of unfurnished premises—in respect of the first 4 weeks of the lease;
- (b) in the case of a lease of furnished premises—in respect of the first 6 weeks of the lease; or
- (c) where some other period is prescribed for the purposes of paragraph (a) or (b), for that other period in the case of a lease referred to in that paragraph.

Landlord and Tenant (Rental Bonds).

(3) A lessor shall be deemed to have demanded a rental bond if a term or condition of the lease requires that rental bond to be deposited with or paid to the lessor or another person in accordance with the directions of the lessor or acting on behalf of the lessor.

**Provisions
in leases
relating
to rental
bonds.**

10. (1) Notwithstanding the terms of any agreement, no person (other than the Board) shall, in respect of any period after the date that an amount of money equivalent to the amount of a rental bond is deposited with the Board, be entitled to receive interest in respect of that rental bond.

(2) Subject to subsection (3), the terms and conditions of a lease, to the extent that those terms and conditions are rendered inoperative by the provisions of this Act, shall be deemed to be void.

(3) Where, but for this Act, a lessor or lessee would have a claim against a rental bond under the terms and conditions of a lease for an amount which cannot be recovered under any other provision of those terms and conditions—

- (a) that lessor may recover from the lessee as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond; and
- (b) that lessee may recover from the lessor as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond.

**Payment
out of
rental
bonds.**

11. (1) A reference in this section to an amount of money, in relation to a lease, is a reference to an amount of money equivalent to the amount of money, or part of the amount of money, as the case may require, held on deposit by the Board in respect of that lease.

(2)

Landlord and Tenant (Rental Bonds).

(2) An application to the Board to pay out an amount of money in respect of a lease shall be in or to the effect of the prescribed form and may—

- (a) in the case of an application of a kind referred to in subsection (3)—be made at any time; or
- (b) in the case of an application of a kind referred to in subsection (4) or (5)—be made upon termination of the lease.

(3) Subject to subsection (11), where an application under subsection (2)—

- (a) is made jointly by a lessor and a lessee under a lease;
- (b) is made by a lessor under a lease who, in that application, directs the Board to pay out an amount of money to the lessee under that lease; or
- (c) is made by a lessee under a lease who, in that application, directs the Board to pay out an amount of money to the lessor under that lease,

the Board shall pay out an amount of money as directed in that application.

(4) Where an application under subsection (2) is made by a lessor under a lease who, in that application, directs the Board to pay out an amount of money to himself, the Board shall, unless a notice has been given under subsection (5) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessee under that lease.

(5) Where an application under subsection (2) is made by a lessee under a lease who, in that application, directs the Board to pay out an amount of money to himself, the Board shall, unless a notice has been given under subsection (4) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessor under that lease.

(6)

Landlord and Tenant (Rental Bonds).

(6) Subject to subsection (11), if an application referred to in subsection (4) or (5) is made in respect of part of an amount of money held on deposit by the Board in respect of a lease the Board shall—

- (a) in the case of an application referred to in subsection (4)—pay out to the lessee the remainder of that amount; and
- (b) in the case of an application referred to in subsection (5)—pay out to the lessor the remainder of that amount.

(7) If a lessee to whom notice has been given under subsection (4)—

- (a) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service on him of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he has commenced prescribed proceedings in relation to an amount of money referred to in the notice; or
- (b) does so notify the Board, but those proceedings are discontinued,

the Board shall, subject to subsection (11), pay out that amount to the lessor.

(8) If a lessor to whom notice has been given under subsection (5)—

- (a) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service on him of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he has commenced prescribed proceedings in relation to an amount of money referred to in the notice; or

(b)

Landlord and Tenant (Rental Bonds).

(b) does so notify the Board, but those proceedings are discontinued,

the Board shall, subject to subsection (11), pay out that amount to the lessee.

(9) Where a lessor or lessee under a lease has, within the period prescribed by or under subsection (7) or (8), commenced prescribed proceedings in relation to the lease and judgment in those proceedings has been entered in or given by a court or a court or tribunal has made an order in those proceedings for the payment of money—

(a) the Board shall, subject to subsection (12)—

(i) upon being served with or obtaining a certified copy of that judgment or order within the period of 14 days that next succeeds entry or giving of the judgment or the making of the order or, where some other period is prescribed, within that other period; and

(ii) upon being satisfied by statutory declaration so served that the judgment or order has not been satisfied and no steps to enforce the judgment or order have been taken under any other Act,

pay out an amount of money held by the Board on deposit in respect of that lease, as if it were the person obliged to pay under that judgment or order;
or

(b) subject to subsection (12), where the Board is satisfied that—

(i) the judgment has been entered or given, or the order made; and

(ii) that judgment or order has been satisfied (other than as provided in paragraph (a)),

the Board shall pay out that amount of money to the person obliged to pay under that judgment or order.

Landlord and Tenant (Rental Bonds).

(10) For all purposes, money paid out by the Board under subsection (9) shall be deemed to be money paid by the person against whom the judgment was obtained or the order was made.

(11) Where, in respect of a lease, the Board would, but for this subsection, be required (otherwise than pursuant to subsection (9)) to pay out an amount of money and that amount of money is in excess of the amount of money held on deposit by the Board in respect of that lease, the Board—

- (a) shall refuse to pay out the money;
- (b) shall treat applications for payment out of the money as having been withdrawn; and
- (c) shall inform the applicants accordingly.

(12) Notwithstanding subsection (9), where there is a right of appeal against a judgment or order referred to in that subsection, the Board may pay out money in respect of that judgment or order only if—

- (a) the time for lodging the appeal has expired and the Board has not been notified that an appeal has been lodged; or
- (b) the Board has been notified before the expiration of that time that an appeal has been lodged and the Board is satisfied that the appeal has been withdrawn or dismissed.

(13) Where proceedings have not been commenced in relation to an amount of money held by the Board within the period prescribed by or under subsection (7) or (8), a lessor or a lessee may, at any time before a payment is made in accordance with an application made by him, withdraw that application and, for the purposes of this section, that application shall thereupon be deemed never to have been made.

(14)

Landlord and Tenant (Rental Bonds).

(14) Where the Board is required to pay out an amount of money to a person under this section, the Board may, instead of paying out that money to that person, pay out or apply that money in accordance with that person's directions.

(15) For the purposes of this Act, a court or tribunal is authorised to issue—

- (a) a copy of any entry of a judgment or a copy of an order, in each case certified by the proper officer to be a true copy of the entry or order; and
- (b) where proceedings have been discontinued, a certificate to that effect signed by the proper officer.

(16) No claim other than a claim provided in this Act shall lie against the Board in respect of rental bonds deposited with the Board.

(17) This section applies notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act.

(18) The Board may in any particular case extend the period prescribed by or under subsection (9) (a) (i).

PART IV.

ENFORCEMENT PROVISIONS.

12. (1) A lessor, or his agent, receiving money deposited or paid as a rental bond shall, at the time of receiving that money, give or cause to be given to the person making that deposit or payment a receipt for that money. Receipts
to be
given for
rental
bonds.

Landlord and Tenant (Rental Bonds).

(2) A receipt given under subsection (1) shall contain such particulars as are prescribed for the purposes of this subsection.

(3) A lessor, or his agent, shall keep or cause to be kept, in the manner (if any) and for such term (if any) as are prescribed, a copy of each receipt given under this section.

Information
to be
furnished
on request.

13. (1) An authorised officer may orally or in writing require a person—

(a) to furnish to the authorised officer such information as he requires;

(b) to answer any question put to him by the authorised officer; or

(c) to produce for inspection any books, documents or other records in his custody or control,

in relation to the leasing of residential premises.

(2) An authorised officer may make copies of or take extracts from books, documents or other records produced under subsection (1).

(3) A person shall not, in relation to a requirement under subsection (1)—

(a) refuse or fail to furnish the information or to answer the question or to produce the books, documents or other records; or

(b) give any information or make any answer which is false in any particular.

(4) Where information furnished, or an answer given, in response to a requirement under subsection (1) tends to incriminate the person giving the information or answer, neither the terms of the requirement, nor the information or

Landlord and Tenant (Rental Bonds).

answer may be used (whether or not that person objected to giving the information or answer) in any proceedings against that person except proceedings under subsection (3) (b) in relation to that information or answer.

(5) A person is not obliged to furnish any information or to answer any question or to produce any books, documents or other records under this section unless he has first been informed by the authorised officer making the requirement that he is required and is obliged, by virtue of this section, to furnish the information or to answer the question or to produce the books, documents or other records.

14. (1) A person shall not enter into or make any contract or arrangement, whether orally or in writing, for the purpose of, or which has the effect of, in any way, and whether directly or indirectly, defeating, evading or preventing the operation of this Act in any respect. Contracts to evade Act prohibited.

(2) Any contract or arrangement referred to in subsection (1) is void whether or not a person has been convicted under that subsection in respect of that contract or arrangement.

15. A certificate purporting to be a certificate given by the Chairman of the Board or his delegate certifying that no rental bond has been deposited with, or that no rental bond was or is held on deposit by, the Board in relation to a tenancy of premises specified in the certificate during a period specified in the certificate shall be received in evidence in a court and shall, until the contrary is proved, be accepted as evidence of the matters set out therein. Proof.

16. (1) Any person who contravenes, whether by act or omission, any provision of this Act is guilty of an offence against this Act. Offences and penalty.

(2)

Landlord and Tenant (Rental Bonds).

(2) Any person who is guilty of an offence against this Act shall, upon conviction, be liable to a penalty not exceeding \$500.

Proceedings
for
offences.

17. (1) Proceedings for offences against this Act or the regulations shall be disposed of in a summary manner before a court of petty sessions held before a stipendiary magistrate sitting alone.

(2) Notwithstanding anything in any Act, proceedings for any offence punishable under this Act may be brought within 3 years after the commission of the offence.

PART V.

ACCOUNTS AND INVESTMENT PROVISIONS.

Accounts.

18. The Board shall establish a Rental Bond Account and a Rental Bond Interest Account.

Rental
Bond
Account.

19. (1) There shall be paid into the Rental Bond Account all rental bonds deposited with the Board in accordance with section 8.

(2) There shall be paid from the Rental Bond Account—

- (a) rental bonds authorised to be paid out under section 11; and
- (b) any money that the Board is authorised to invest under subsection (3) for the purpose of that investment.

Landlord and Tenant (Rental Bonds).

(3) Subject to any specific or general direction given by the Minister, the Board may invest money from the Rental Bond Account—

- (a) by way of deposit with or loan to the Rural Bank of New South Wales;
- (b) in shares in, or by way of deposit with or loan to, a permanent building society registered under the Permanent Building Societies Act, 1967;
- (c) in securities authorised by law for the investment of trust funds; or
- (d) in any other manner prescribed for the purposes of this section.

20. (1) There shall be paid into the Rental Bond Interest Account all interest received on investments made by the Board under section 19 (3) and subsection (3). Rental
Bond
Interest
Account.

(2) Subject to any specific or general direction given by the Minister, there shall be paid from the Rental Bond Interest Account—

- (a) the costs of, or the expenses incurred in, the administration of this Act;
- (b) any money that the Board is authorised to invest under subsection (3) for the purpose of that investment; and
- (c) any other payments authorised by this Act to be made from that Account.

(3) The Board may invest money from the Rental Bond Interest Account—

- (a) in the same manner as money from the Rental Bond Account may be invested under section 19 (3) (a), (b) and (c), except that the Board shall, subject

to

Landlord and Tenant (Rental Bonds).

- to paragraph (c), only so invest money from the Rental Bond Interest Account if it is to be applied for or in connection with housing;
- (b) by way of loan to terminating building societies registered under the Co-operation Act, 1923;
 - (c) where the money is money set aside for use for the purposes referred to in subsection (2) (a), in the same manner as money from the Rental Bond Account may be invested under section 19 (3) (a), (b) and (c); or
 - (d) in any other manner prescribed for the purposes of this section.

Rental
advisory
service.

21. The Board may provide from the Rental Bond Interest Account money for the establishment and administration of a Rental Advisory Service.

Temporary
accommodation.

22. (1) For the temporary accommodation of the Board it may obtain advances by overdraft on current account in any bank or banks to such extent as may from time to time be approved by the Governor on the recommendation of the Treasurer.

(2) The Treasurer may advance such money to the Board, upon such terms and conditions as to repayment and interest, as may be agreed upon.

(3) Money advanced to the Board under this section for the purposes of the Rental Bond Account or the Rental Bond Interest Account shall be repaid from the Account in respect of which the money was advanced subject to any interest payments on those advances being paid from the Rental Bond Interest Account.

23.

Landlord and Tenant (Rental Bonds).

23. (1) The Board shall cause to be kept proper books of account in relation to all of its operations, and shall, as soon as practicable after 30th June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in the form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Board. Accounts to be kept by the Board.

(2) The Minister shall cause the statement of accounts to be laid before Parliament within 14 sitting days if Parliament is in session, and if not, then within 14 sitting days after the commencement of the next session.

24. (1) The accounts of the Board shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law in force relating to the audit of public accounts, and the Audit Act, 1902, shall apply to members of the Board and its officers, employees or other servants in the same manner as it applies to accounting officers of public Departments. Audit of accounts.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

- (i) due diligence and care have been shown in the collection and banking of money payable to the Board;
- (ii) the expenditure incurred has been duly authorised, vouched and supervised; and
- (iii) any money or other property of the Board has been misappropriated or improperly or irregularly dealt with; and

(b)

Landlord and Tenant (Rental Bonds).

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of an audit under this section the Board shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

Agents
of the
Board.

25. Any money received, invested or paid out by an agent of the Board shall be deemed to have been received, invested or paid out, as the case may be, by the Board, and money received by an agent of the Board shall be deemed to have been received by the Board on the day that it is received by the agent.

PART VI.

GENERAL.

Exclusion
from
operation
of Act.

26. (1) The Governor may, by regulation made under this Act, exempt or exclude from the operation of all or any of the provisions of this Act—

- (a) any person or class of persons;
- (b) any statutory body or public authority or all statutory bodies or public authorities; or
- (c) any rental bond or class of rental bond.

(2) For the purposes of, but without prejudice to the generality of, subsection (1), a class of rental bond may be described by reference to a class of lease or a class of premises in respect of which rental bonds are deposited or paid.

Landlord and Tenant (Rental Bonds).

(3) For the purposes of, but without prejudice to the generality of, subsection (2), a class of lease may be described by reference to periods of continuous occupancy of premises under leases or by reference to terms or conditions of leases.

27. For the purposes of this Act and the regulations made under this Act, where the same lessee continuously occupies the same residential premises under a series of leases from the same lessor, those leases shall be deemed to be one lease. Continuous occupancy.

28. (1) Notwithstanding the terms or conditions of any lease, rent paid in advance, or money purporting to be rent paid in advance, in respect of a lease— Rent paid in advance.

(a) shall not be appropriated by the lessor for any purpose other than the payment of rent; and

(b) shall (unless it is returned immediately to the payer) be applied by the lessor in respect of a period for which rent has not already been paid, being the first such period after the date of payment.

(2) Notwithstanding the terms or conditions of any lease, where a lessee has paid an amount of rent in advance in accordance with the terms or conditions of a lease, the lessor, by himself or his agent, shall not require that lessee to pay further rent in advance otherwise than at or immediately before the expiration of the period for which the firstmentioned amount was paid.

(3) Subsection (2) does not prevent a lessee, of his own volition, paying rent in advance at any time.

Landlord and Tenant (Rental Bonds).

False or
misleading
state-
ments.

29. A person shall not, in any notification lodged with a rental bond deposited with the Board or in any application or direction to the Board to pay out a rental bond, wilfully make a false or misleading statement.

Annual
report.

30. (1) The Board shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date.

(2) The Minister shall lay the report, or cause it to be laid, before each House of Parliament as soon as practicable after the receipt by him of the report.

Service of
notices, etc.

31. (1) Any notice, summons, writ or other proceeding to be served on the Board may be served—

(a) by being left; or

(b) in the case of a notice, by posting it addressed to the Board,

at its office.

(2) A letter giving a notice in writing to a lessor or lessee by post under section 11 shall be deemed to be properly addressed if it is addressed to that lessor or lessee at his last known address according to the records of the Board.

Authenti-
cation of
documents.

32. Every document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chairman of the Board or his delegate.

Recovery
of money.

33. Any charge, fee or money due to the Board may be recovered as a debt or liquidated demand in a court of competent jurisdiction.

34.

Landlord and Tenant (Rental Bonds).

34. (1) The Governor may make regulations, not Regulations. inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of subsection (1), wherever a provision of this Act requires a form to be prescribed or a document to be in writing the Governor may make regulations, not inconsistent with this Act, prescribing—

- (a) a form to be used for that purpose;
- (b) where that form or document is required to be lodged with or served on or sent to any person—the manner of lodgment, service or sending; and
- (c) particulars or information to be provided by a person completing that form or document.

(3) Regulations may be made so as to apply differently in different circumstances according to such factors as may be specified in the regulations.

(4) A regulation may impose a penalty not exceeding \$300 for any contravention thereof, whether by act or omission.

Landlord and Tenant (Rental Bonds).

PART VII.

**AMENDMENT TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974.**

Amend-
ment of Act
No. 16,
1974.

Sec. 4A.
(Act
applies to
certain
claims by
lessees.)

35. The Consumer Claims Tribunals Act, 1974, is amended—

(a) by omitting section 4A (1);

(b) by omitting section 4A (3) and by inserting instead the following subsection :—

(3) This Act applies to and in respect of a claim by a lessor or a lessee under a lease in relation to a rental bond (being a lessor, lessee, lease and rental bond as respectively defined in the Landlord and Tenant (Rental Bonds) Act, 1977), including a claim in relation to any matter which, under the terms or conditions of that lease, could, but for that Act, have given rise to a claim against a rental bond, as so defined, deposited or paid in accordance with those terms or conditions, in the same way as it applies to and in respect of a consumer claim.

Sec. 6 (4).

SCHEDULE 1.

**PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD.**

Provisions
relating to
the member
appointed
pursuant
to section
6 (1) (d).

1. (1) A person who is of or above the age of 65 years shall not be appointed as a member pursuant to section 6 (1) (d).

(2) The office of a member appointed pursuant to section 6 (1) (d) shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

(3) The member appointed pursuant to section 6 (1) (d) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

(4) The Minister may appoint any person, qualified under section 6 (1) (d), to act in the office of the member appointed pursuant to section 6 (1) (d) while that member is absent from his office through illness or any other cause, and that person while so acting—

- (a) shall have and may exercise and perform the functions of that member; and
- (b) shall be deemed to be a member.

(5) A member appointed pursuant to section 6 (1) (d) is, for the purposes of subclause (4), deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with subclause (6).

(6) On the occurrence of a vacancy in the office of a member appointed pursuant to section 6 (1) (d) otherwise than by the expiration of the term for which he was appointed, the Minister may appoint a person to hold office as a member for the balance of his predecessor's term of office, being a person qualified under section 6 (1) (d).

(7) A member appointed pursuant to section 6 (1) (d) shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

- (c) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
- (e) if he is absent from 4 consecutive ordinary meetings of the Board of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Board or, unless, before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (f) if he resigns his office by writing under his hand addressed to the Minister;
- (g) if he declines office;
- (h) if he is removed from office by the Minister under subclause (8); or
- (i) upon his attaining the age of 65 years.

(8) The Minister may, for any cause which to him seems sufficient, remove a member appointed pursuant to section 6 (1) (d) from office.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

2. (1) A member holding office pursuant to section 6 ^{Deputies.}
(1) (a), (b) or (c) may appoint an officer of the Registry
of Permanent Building Societies, the office of the Rent
Controller or the Treasury, respectively, to act on his behalf
as his deputy, either generally or for any particular meeting
of the Board.

(2) An officer appointed pursuant to subclause (1)
by the member holding office pursuant to section 6 (1) (a)
shall, while acting as deputy, have and may exercise and
perform the functions of Chairman of the Board.

(3) An appointment under subclause (1) may be
revoked by the member, or by any member holding the same
office as the member, who made the appointment.

3. No person shall be concerned to inquire whether or ^{Acting}
not any occasion has arisen requiring or authorising a person ^{members.}
to act in the place of a member in accordance with clause
1 (4) or clause 2 (1) or as Chairman of the Board in
accordance with clause 2 (2), and all things done or omitted
by the person while so acting shall be as valid and effectual
and shall have the same consequences as if they had been
done or omitted by the member or the Chairman, as the
case may be.

4. (1) Subject to subclause (2), the Board shall hold ^{Meetings.}
meetings at such times as are determined by the Board.

(2) The Board shall hold at least one meeting each
quarter.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

(3) The procedure for the calling of, and for the conduct of business at, meetings of the Board shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Board.

(4) The number of members which shall constitute a quorum at any meeting of the Board shall be 3, one of whom shall be the Chairman of the Board or his deputy.

(5) Any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board.

(6) Questions arising at a meeting of the Board shall be determined by a majority of votes of the members present and voting.

(7) The Chairman of the Board shall preside at all meetings of the Board.

(8) The Chairman of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(9) The Board shall cause minutes to be kept of its proceedings at meetings.

Protection
from
liability.

5. (1) No matter or thing done, and no contract entered into, by the Board, and no matter or thing done by a member or by any other person acting under the direction or as delegate of the Board shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject the member or person personally to any action, liability, claim or demand.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

(2) Nothing in subclause (1) exempts any member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Board, and which the member or other person authorised or joined in authorising wilfully knowing the payment to be unauthorised.

6. In proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—^{Presump-}_{tions.}

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member referred to in section 6 (1) (d) or of any person referred to in clause 1 (4) or clause 2 (1); or
- (d) the presence of a quorum at any meeting of the Board.

7. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a member pursuant to section 6 (1) (d) and any member shall not, in his capacity as a member, be subject to the provisions of that Act during his term of office.^{Public Service Act, 1902, not to apply.}

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 30 March, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 44, 1977.

An Act to constitute a Rental Bond Board; to confer and impose on the Board certain powers, authorities, duties and functions; to require lessors of residential premises to deposit rental bonds with the Board; to provide for the payment out of rental bonds; to enable the investment of rental bonds and the investment and expenditure of interest on rental bonds; and to amend the Consumer Claims Tribunals Act, 1974. [Assented to, 19th April, 1977.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

T. J. CAHILL,
Chairman of Committees of the Legislative Assembly.

Landlord and Tenant (Rental Bonds).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short
title.

1. This Act may be cited as the "Landlord and Tenant (Rental Bonds) Act, 1977".

Commence-
ment.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Division
of Act.

3. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—CONSTITUTION OF THE RENTAL BOND BOARD—ss. 5-7.

PART III.—DEPOSIT OF RENTAL BONDS WITH THE RENTAL BOND BOARD—ss. 8-11.

PART IV.—ENFORCEMENT PROVISIONS—ss. 12-17.

PART V.—ACCOUNTS AND INVESTMENT PROVISIONS—ss. 18-25.

PART VI.—GENERAL—ss. 26-34.

PART

Landlord and Tenant (Rental Bonds).

PART VII.—AMENDMENT TO THE CONSUMER CLAIMS
TRIBUNALS ACT, 1974—s. 35.

SCHEDULE 1.

4. (1) In this Act, except in so far as the context or Interpretation.
subject-matter otherwise indicates or requires—

“authorised officer” means an inspector appointed under the Permanent Building Societies Act, 1967, an authorized officer within the meaning of the Landlord and Tenant (Amendment) Act, 1948, and a person appointed by the Board to be an authorised officer for the purposes of this Act;

“Board” means the Rental Bond Board constituted under this Act;

• “functions” includes responsibilities, powers, authorities and duties;

“lease” means a lease or sub-lease of residential premises and includes—

(a) a contract for the letting of residential premises, whether the contract is express or implied or is made orally, in writing or by deed;

(b) a contract for the letting of residential premises together with goods; and

(c) a tenancy of residential premises the existence of which is presumed by operation of section 22A of the Landlord and Tenant Act, 1899,

but does not include such a lease, sub-lease, contract or tenancy where the premises the subject of the lease, sub-lease, contract or tenancy are partly residential premises and partly premises that are not residential premises;

“lessee”

Landlord and Tenant (Rental Bonds).

“lessee” means a person who is or was a lessee or tenant under a lease (being a lease as defined in this subsection) and includes his heirs, executors, administrators and assigns;

“lessor” means a person who is or was a lessor or landlord under a lease (being a lease as defined in this subsection) and includes his heirs, executors, administrators and assigns;

“member” means a member of the Board;

“money” includes a cheque;

“prescribed proceedings” means proceedings in a court (other than a prosecution) or before a tribunal in relation to any matter which, under the terms or conditions of a lease, could, but for this Act, have given rise to a claim against a rental bond deposited or paid in accordance with those terms or conditions;

“rental bond”, in relation to a lease, means an amount of money deposited with or paid to—

- (a) the lessor under that lease;
- (b) a person, other than the lessor under that lease, in accordance with the directions of that lessor or the terms or conditions of that lease; or
- (c) a person, other than the lessor under that lease, acting on behalf of that lessor,

being money so deposited or paid in such a way that the effect is to secure, otherwise than by payment of rent in advance, that lessor against any failure by a lessee to comply with any terms or conditions (irrespective of whether those terms or conditions are related to payment of rent or not) applying to or in connection with that lease;

“residential

Landlord and Tenant (Rental Bonds).

“residential premises” means—

- (a) a dwelling-house or any part thereof;
- (b) premises, other than a dwelling-house, or any part thereof; or
- (c) a caravan within the meaning of section 31A of the Landlord and Tenant (Amendment) Act, 1948, that is leased in a fixed position, used solely for the purposes of residence and, where land or appurtenances are leased with that dwelling-house, those premises or that caravan (not being land or appurtenances used for commercial purposes or for the purposes of a business or an industry), includes that land or those appurtenances;

“tribunal” means a consumer claims tribunal constituted under the Consumer Claims Tribunals Act, 1974.

- (2) An amount of money deposited with or paid to a person as referred to in paragraph (b) or (c) of the definition of “rental bond” in subsection (1) in respect of a lease shall be deemed, for the purposes of section 8, to be deposited with or paid to the lessor under that lease.

PART II.

CONSTITUTION OF THE RENTAL BOND BOARD.

5. (1) There is hereby constituted a corporation under the corporate name of the “Rental Bond Board”.

Constitution
of the
Rental
Bond
Board.

(2) In the exercise or performance of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), the Board shall be subject in all respects to the control and direction of the Minister.

6.

Landlord and Tenant (Rental Bonds).

Provisions
relating to
constitution
and
procedure
of Board.

6. (1) The Board shall consist of 4 members of whom—

- (a) one shall be the person for the time being holding, or acting in, the office of Registrar of Permanent Building Societies who shall be the Chairman of the Board;
- (b) one shall be the person for the time being holding, or acting in, the office of Rent Controller;
- (c) one shall be the person for the time being holding, or acting in, the office of Under Secretary of the Treasury; and
- (d) one shall be a person appointed by the Minister, being a person who, in the opinion of the Minister, has had experience in real estate matters.

(2) Subject to this Act, the member appointed pursuant to subsection (1) (d) shall hold office for such term, not exceeding 3 years, as is specified in the instrument of his appointment.

(3) A member appointed pursuant to subsection (1) (d) shall, if otherwise qualified, be eligible for re-appointment from time to time for such further term, not exceeding 3 years, as is specified in the instrument of his re-appointment.

(4) Schedule 1 has effect.

Officers,
employees,
etc.

7. (1) Except as provided in subsection (2), such officers and employees as may be necessary to enable the Board to exercise and perform its functions shall be appointed and employed under and subject to the Public Service Act, 1902.

(2) The Board may, with the approval of the Minister, appoint and employ on such terms and conditions as it thinks fit and for any particular purpose specified in a resolution of the Board any person, body or organisation considered capable of providing services, information or advice required by the Board in exercising and performing its functions.

(3)

Landlord and Tenant (Rental Bonds).

(3) For the purposes of exercising and performing its functions, the Board may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or public authority.

PART III.

**DEPOSIT OF RENTAL BONDS WITH THE
RENTAL BOND BOARD.**

8. (1) Where, before the commencement of this section, a lessor under a lease has received a rental bond that, as at that commencement—

Deposit of
rental
bonds
with the
Board.

- (a) has not been refunded or become refundable;
- (b) has not become the property of that lessor; or
- (c) is not subject to prescribed proceedings,

that lessor (by himself or his agent) shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act, deposit with the Board within one month after that commencement an amount of money equivalent to the amount of that rental bond.

(2) Where, after the commencement of this section, a lessor receives a rental bond, that lessor shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act, deposit with the Board within 7 days (or, where some other period is prescribed for the purposes of this subsection, that period) after the date of receipt of that rental bond an amount of money equivalent to the amount of that rental bond.

(3)

Landlord and Tenant (Rental Bonds).

(3) Subsection (1) does not apply to a rental bond that—

- (a) is refunded or becomes refundable;
- (b) becomes the property of a lessor; or
- (c) becomes subject to prescribed proceedings,

during the period referred to in subsection (1).

(4) The Board may, without affecting the obligation imposed on a lessor under subsection (1) or (2), refuse to accept any amount tendered for deposit under subsection (1) or (2) that is not accompanied by a notification in or to the effect of the prescribed form duly completed.

(5) If a rental bond—

- (a) exempt or excluded from the operation of subsection (1); or
- (b) exempt or excluded from the operation of subsection (2),

pursuant to section 26, subsequently ceases to be so exempt or excluded, this section shall, in respect of that rental bond, be deemed to be amended—

- (c) where paragraph (a) applies—by omitting from subsection (1) the words “after that commencement” and by inserting instead the words “after that rental bond ceases to be exempt or excluded from the operation of this subsection”; or
- (d) where paragraph (b) applies—by omitting from subsection (2) the words “after the date of receipt of that rental bond” and by inserting instead the words “after that rental bond ceases to be exempt or excluded from the operation of this subsection”.

(6)

Landlord and Tenant (Rental Bonds).

- (6) The Minister, by instrument in writing, may—
- (a) generally or in any particular case or class of cases, extend the period prescribed by subsection (1); and
 - (b) in any particular case or class of cases, extend the period prescribed by or under subsection (2).

9. (1) Notwithstanding the terms of any agreement, no person as lessor of residential premises shall, in respect of a lease of those premises, demand or receive from another person anything, other than money, that would have the effect of securing the lessor against any failure by a lessee to comply with any terms or conditions applying to or in connection with that lease, whether that thing is to be received by or deposited with—

- (a) the lessor;
- (b) another person in accordance with the directions of the lessor or the terms or conditions of the lease; or
- (c) another person acting on behalf of the lessor.

(2) Notwithstanding the terms of any agreement, a lessor of residential premises shall not, in respect of a lease of those premises, demand an amount of money that would, if deposited or paid, be a rental bond, or receive a rental bond, of an amount that exceeds the rental of those premises—

- (a) in the case of a lease of unfurnished premises—in respect of the first 4 weeks of the lease;
- (b) in the case of a lease of furnished premises—in respect of the first 6 weeks of the lease; or
- (c) where some other period is prescribed for the purposes of paragraph (a) or (b), for that other period in the case of a lease referred to in that paragraph.

Landlord and Tenant (Rental Bonds).

(3) A lessor shall be deemed to have demanded a rental bond if a term or condition of the lease requires that rental bond to be deposited with or paid to the lessor or another person in accordance with the directions of the lessor or acting on behalf of the lessor.

Provisions
in leases
relating
to rental
bonds.

10. (1) Notwithstanding the terms of any agreement, no person (other than the Board) shall, in respect of any period after the date that an amount of money equivalent to the amount of a rental bond is deposited with the Board, be entitled to receive interest in respect of that rental bond.

(2) Subject to subsection (3), the terms and conditions of a lease, to the extent that those terms and conditions are rendered inoperative by the provisions of this Act, shall be deemed to be void.

(3) Where, but for this Act, a lessor or lessee would have a claim against a rental bond under the terms and conditions of a lease for an amount which cannot be recovered under any other provision of those terms and conditions—

(a) that lessor may recover from the lessee as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond; and

(b) that lessee may recover from the lessor as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond.

Payment
out of
rental
bonds.

11. (1) A reference in this section to an amount of money, in relation to a lease, is a reference to an amount of money equivalent to the amount of money, or part of the amount of money, as the case may require, held on deposit by the Board in respect of that lease.

(2)

Landlord and Tenant (Rental Bonds).

(2) An application to the Board to pay out an amount of money in respect of a lease shall be in or to the effect of the prescribed form and may—

- (a) in the case of an application of a kind referred to in subsection (3)—be made at any time; or
- (b) in the case of an application of a kind referred to in subsection (4) or (5)—be made upon termination of the lease.

(3) Subject to subsection (11), where an application under subsection (2)—

- (a) is made jointly by a lessor and a lessee under a lease;
- (b) is made by a lessor under a lease who, in that application, directs the Board to pay out an amount of money to the lessee under that lease; or
- (c) is made by a lessee under a lease who, in that application, directs the Board to pay out an amount of money to the lessor under that lease,

the Board shall pay out an amount of money as directed in that application.

(4) Where an application under subsection (2) is made by a lessor under a lease who, in that application, directs the Board to pay out an amount of money to himself, the Board shall, unless a notice has been given under subsection (5) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessee under that lease.

(5) Where an application under subsection (2) is made by a lessee under a lease who, in that application, directs the Board to pay out an amount of money to himself, the Board shall, unless a notice has been given under subsection (4) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessor under that lease.

(d)

(6)

Landlord and Tenant (Rental Bonds).

(6) Subject to subsection (11), if an application referred to in subsection (4) or (5) is made in respect of part of an amount of money held on deposit by the Board in respect of a lease the Board shall—

- (a) in the case of an application referred to in subsection (4)—pay out to the lessee the remainder of that amount; and
- (b) in the case of an application referred to in subsection (5)—pay out to the lessor the remainder of that amount.

(7) If a lessee to whom notice has been given under subsection (4)—

- (a) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service on him of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he has commenced prescribed proceedings in relation to an amount of money referred to in the notice; or

- (b) does so notify the Board, but those proceedings are discontinued,

the Board shall, subject to subsection (11), pay out that amount to the lessor.

(8) If a lessor to whom notice has been given under subsection (5)—

- (a) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service on him of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he has commenced prescribed proceedings in relation to an amount of money referred to in the notice; or

(a)

(b)

Landlord and Tenant (Rental Bonds).

- (b) does so notify the Board, but those proceedings are discontinued,

the Board shall, subject to subsection (11), pay out that amount to the lessee.

(9) Where a lessor or lessee under a lease has, within the period prescribed by or under subsection (7) or (8), commenced prescribed proceedings in relation to the lease and judgment in those proceedings has been entered in or given by a court or a court or tribunal has made an order in those proceedings for the payment of money—

- (a) the Board shall, subject to subsection (12)—

(i) upon being served with or obtaining a certified copy of that judgment or order within the period of 14 days that next succeeds entry or giving of the judgment or the making of the order or, where some other period is prescribed, within that other period; and

(ii) upon being satisfied by statutory declaration so served that the judgment or order has not been satisfied and no steps to enforce the judgment or order have been taken under any other Act,

pay out an amount of money held by the Board on deposit in respect of that lease, as if it were the person obliged to pay under that judgment or order; or

- (b) subject to subsection (12), where the Board is satisfied that—

(i) the judgment has been entered or given, or the order made; and

(ii) that judgment or order has been satisfied (other than as provided in paragraph (a)),

the Board shall pay out that amount of money to the person obliged to pay under that judgment or order.

Landlord and Tenant (Rental Bonds).

(10) For all purposes, money paid out by the Board under subsection (9) shall be deemed to be money paid by the person against whom the judgment was obtained or the order was made.

(11) Where, in respect of a lease, the Board would, but for this subsection, be required (otherwise than pursuant to subsection (9)) to pay out an amount of money and that amount of money is in excess of the amount of money held on deposit by the Board in respect of that lease, the Board—

- (a) shall refuse to pay out the money;
- (b) shall treat applications for payment out of the money as having been withdrawn; and
- (c) shall inform the applicants accordingly.

(12) Notwithstanding subsection (9), where there is a right of appeal against a judgment or order referred to in that subsection, the Board may pay out money in respect of that judgment or order only if—

- (a) the time for lodging the appeal has expired and the Board has not been notified that an appeal has been lodged; or
- (b) the Board has been notified before the expiration of that time that an appeal has been lodged and the Board is satisfied that the appeal has been withdrawn or dismissed.

(13) Where proceedings have not been commenced in relation to an amount of money held by the Board within the period prescribed by or under subsection (7) or (8), a lessor or a lessee may, at any time before a payment is made in accordance with an application made by him, withdraw that application and, for the purposes of this section, that application shall thereupon be deemed never to have been made.

(14)

Landlord and Tenant (Rental Bonds).

(14) Where the Board is required to pay out an amount of money to a person under this section, the Board may, instead of paying out that money to that person, pay out or apply that money in accordance with that person's directions.

(15) For the purposes of this Act, a court or tribunal is authorised to issue—

- (a) a copy of any entry of a judgment or a copy of an order, in each case certified by the proper officer to be a true copy of the entry or order; and
- (b) where proceedings have been discontinued, a certificate to that effect signed by the proper officer.

(16) No claim other than a claim provided in this Act shall lie against the Board in respect of rental bonds deposited with the Board.

(17) This section applies notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act.

(18) The Board may in any particular case extend the period prescribed by or under subsection (9) (a) (i).

PART IV.

ENFORCEMENT PROVISIONS.

12. (1) A lessor, or his agent, receiving money deposited or paid as a rental bond shall, at the time of receiving that money, give or cause to be given to the person making that deposit or payment a receipt for that money. Receipts to be given for rental bonds.

(2)

Landlord and Tenant (Rental Bonds).

(2) A receipt given under subsection (1) shall contain such particulars as are prescribed for the purposes of this subsection.

(3) A lessor, or his agent, shall keep or cause to be kept, in the manner (if any) and for such term (if any) as are prescribed, a copy of each receipt given under this section.

Information
to be
furnished
on request.

13. (1) An authorised officer may orally or in writing require a person—

- (a) to furnish to the authorised officer such information as he requires;
 - (b) to answer any question put to him by the authorised officer; or
 - (c) to produce for inspection any books, documents or other records in his custody or control,
- in relation to the leasing of residential premises.

(2) An authorised officer may make copies of or take extracts from books, documents or other records produced under subsection (1).

(3) A person shall not, in relation to a requirement under subsection (1)—

- (a) refuse or fail to furnish the information or to answer the question or to produce the books, documents or other records; or
- (b) give any information or make any answer which is false in any particular.

(4) Where information furnished, or an answer given, in response to a requirement under subsection (1) tends to incriminate the person giving the information or answer, neither the terms of the requirement, nor the information or

(5)

answer

Landlord and Tenant (Rental Bonds).

answer may be used (whether or not that person objected to giving the information or answer) in any proceedings against that person except proceedings under subsection (3) (b) in relation to that information or answer.

(5) A person is not obliged to furnish any information or to answer any question or to produce any books, documents or other records under this section unless he has first been informed by the authorised officer making the requirement that he is required and is obliged, by virtue of this section, to furnish the information or to answer the question or to produce the books, documents or other records.

14. (1) A person shall not enter into or make any contract or arrangement, whether orally or in writing, for the purpose of, or which has the effect of, in any way, and whether directly or indirectly, defeating, evading or preventing the operation of this Act in any respect. Contracts to evade Act prohibited.

(2) Any contract or arrangement referred to in subsection (1) is void whether or not a person has been convicted under that subsection in respect of that contract or arrangement.

15. A certificate purporting to be a certificate given by the Chairman of the Board or his delegate certifying that no rental bond has been deposited with, or that no rental bond was or is held on deposit by, the Board in relation to a tenancy of premises specified in the certificate during a period specified in the certificate shall be received in evidence in a court and shall, until the contrary is proved, be accepted as evidence of the matters set out therein. Proof.

16. (1) Any person who contravenes, whether by act or omission, any provision of this Act is guilty of an offence against this Act. Offences and penalty.

(2)

Landlord and Tenant (Rental Bonds).

(2) Any person who is guilty of an offence against this Act shall, upon conviction, be liable to a penalty not exceeding \$500.

Proceedings
for
offences.

17. (1) Proceedings for offences against this Act or the regulations shall be disposed of in a summary manner before a court of petty sessions held before a stipendiary magistrate sitting alone.

(2) Notwithstanding anything in any Act, proceedings for any offence punishable under this Act may be brought within 3 years after the commission of the offence.

PART V.

ACCOUNTS AND INVESTMENT PROVISIONS.

Accounts.

18. The Board shall establish a Rental Bond Account and a Rental Bond Interest Account.

Rental
Bond
Account.

19. (1) There shall be paid into the Rental Bond Account all rental bonds deposited with the Board in accordance with section 8.

(2) There shall be paid from the Rental Bond Account—

- (a) rental bonds authorised to be paid out under section 11; and
- (b) any money that the Board is authorised to invest under subsection (3) for the purpose of that investment.

(2)

(3)

Landlord and Tenant (Rental Bonds).

(3) Subject to any specific or general direction given by the Minister, the Board may invest money from the Rental Bond Account—

- (a) by way of deposit with or loan to the Rural Bank of New South Wales;
- (b) in shares in, or by way of deposit with or loan to, a permanent building society registered under the Permanent Building Societies Act, 1967;
- (c) in securities authorised by law for the investment of trust funds; or
- (d) in any other manner prescribed for the purposes of this section.

20. (1) There shall be paid into the Rental Bond Interest Account all interest received on investments made by the Board under section 19 (3) and subsection (3). Rental
Bond
Interest
Account.

(2) Subject to any specific or general direction given by the Minister, there shall be paid from the Rental Bond Interest Account—

- (a) the costs of, or the expenses incurred in, the administration of this Act;
- (b) any money that the Board is authorised to invest under subsection (3) for the purpose of that investment; and
- (c) any other payments authorised by this Act to be made from that Account.

(3) The Board may invest money from the Rental Bond Interest Account—

- (a) in the same manner as money from the Rental Bond Account may be invested under section 19 (3) (a), (b) and (c), except that the Board shall, subject

to

Landlord and Tenant (Rental Bonds).

to paragraph (c), only so invest money from the Rental Bond Interest Account if it is to be applied for or in connection with housing;

(b) by way of loan to terminating building societies registered under the Co-operation Act, 1923;

(c) where the money is money set aside for use for the purposes referred to in subsection (2) (a), in the same manner as money from the Rental Bond Account may be invested under section 19 (3) (a), (b) and (c); or

(d) in any other manner prescribed for the purposes of this section.

Rental
advisory
service.

21. The Board may provide from the Rental Bond Interest Account money for the establishment and administration of a Rental Advisory Service.

Temporary
accommodation.

22. (1) For the temporary accommodation of the Board it may obtain advances by overdraft on current account in any bank or banks to such extent as may from time to time be approved by the Governor on the recommendation of the Treasurer.

(2) The Treasurer may advance such money to the Board, upon such terms and conditions as to repayment and interest, as may be agreed upon.

(3) Money advanced to the Board under this section for the purposes of the Rental Bond Account or the Rental Bond Interest Account shall be repaid from the Account in respect of which the money was advanced subject to any interest payments on those advances being paid from the Rental Bond Interest Account.

23.

Landlord and Tenant (Rental Bonds).

23. (1) The Board shall cause to be kept proper books of account in relation to all of its operations, and shall, as soon as practicable after 30th June in each year, prepare and transmit to the Minister for presentation to Parliament a statement of accounts in the form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Board.

Accounts
to be kept
by the
Board.

(2) The Minister shall cause the statement of accounts to be laid before Parliament within 14 sitting days if Parliament is in session, and if not, then within 14 sitting days after the commencement of the next session.

24. (1) The accounts of the Board shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law in force relating to the audit of public accounts, and the Audit Act, 1902, shall apply to members of the Board and its officers, employees or other servants in the same manner as it applies to accounting officers of public Departments.

Audit of
accounts.

(2) The Auditor-General shall report to the Board and the Minister—

(a) whether or not in his opinion—

(i) due diligence and care have been shown in the collection and banking of money payable to the Board;

(ii) the expenditure incurred has been duly authorised, vouched and supervised; and

(iii) any money or other property of the Board has been misappropriated or improperly or irregularly dealt with; and

(b)

Landlord and Tenant (Rental Bonds).

- (b) as to any other matters which in his judgment call for special notice or which are prescribed.

(3) Towards defraying the costs and expenses of an audit under this section the Board shall pay to the Consolidated Revenue Fund such sums, at such periods, as the Treasurer may decide.

Agents
of the
Board.

25. Any money received, invested or paid out by an agent of the Board shall be deemed to have been received, invested or paid out, as the case may be, by the Board, and money received by an agent of the Board shall be deemed to have been received by the Board on the day that it is received by the agent.

PART VI.

GENERAL.

Exclusion
from
operation
of Act.

26. (1) The Governor may, by regulation made under this Act, exempt or exclude from the operation of all or any of the provisions of this Act—

- (a) any person or class of persons;
- (b) any statutory body or public authority or all statutory bodies or public authorities; or
- (c) any rental bond or class of rental bond.

(2) For the purposes of, but without prejudice to the generality of, subsection (1), a class of rental bond may be described by reference to a class of lease or a class of premises in respect of which rental bonds are deposited or paid.

(3)

Landlord and Tenant (Rental Bonds).

(3) For the purposes of, but without prejudice to the generality of, subsection (2), a class of lease may be described by reference to periods of continuous occupancy of premises under leases or by reference to terms or conditions of leases.

27. For the purposes of this Act and the regulations made under this Act, where the same lessee continuously occupies the same residential premises under a series of leases from the same lessor, those leases shall be deemed to be one lease.

Continuous
occupa-
tion.

28. (1) Notwithstanding the terms or conditions of any lease, rent paid in advance, or money purporting to be rent paid in advance, in respect of a lease—

Rent
paid in
advance.

- (a) shall not be appropriated by the lessor for any purpose other than the payment of rent; and
- (b) shall (unless it is returned immediately to the payer) be applied by the lessor in respect of a period for which rent has not already been paid, being the first such period after the date of payment.

(2) Notwithstanding the terms or conditions of any lease, where a lessee has paid an amount of rent in advance in accordance with the terms or conditions of a lease, the lessor, by himself or his agent, shall not require that lessee to pay further rent in advance otherwise than at or immediately before the expiration of the period for which the firstmentioned amount was paid.

(3) Subsection (2) does not prevent a lessee, of his own volition, paying rent in advance at any time.

Landlord and Tenant (Rental Bonds).

False or
misleading
state-
ments.

29. A person shall not, in any notification lodged with a rental bond deposited with the Board or in any application or direction to the Board to pay out a rental bond, wilfully make a false or misleading statement.

Annual
report.

30. (1) The Board shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities for the 12 months preceding that date.

(2) The Minister shall lay the report, or cause it to be laid, before each House of Parliament as soon as practicable after the receipt by him of the report.

Service of
notices, etc.

31. (1) Any notice, summons, writ or other proceeding to be served on the Board may be served—

(a) by being left; or

(b) in the case of a notice, by posting it addressed to the Board,

at its office.

(2) A letter giving a notice in writing to a lessor or lessee by post under section 11 shall be deemed to be properly addressed if it is addressed to that lessor or lessee at his last known address according to the records of the Board.

Authenti-
cation of
documents.

32. Every document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chairman of the Board or his delegate.

Recovery
of money.

33. Any charge, fee or money due to the Board may be recovered as a debt or liquidated demand in a court of competent jurisdiction.

34.

Landlord and Tenant (Rental Bonds).

34. (1) The Governor may make regulations, not Regulations. inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of subsection (1), wherever a provision of this Act requires a form to be prescribed or a document to be in writing the Governor may make regulations, not inconsistent with this Act, prescribing—

- (a)** a form to be used for that purpose;
- (b)** where that form or document is required to be lodged with or served on or sent to any person—the manner of lodgment, service or sending; and
- (c)** particulars or information to be provided by a person completing that form or document.

(3) Regulations may be made so as to apply differently in different circumstances according to such factors as may be specified in the regulations.

(4) A regulation may impose a penalty not exceeding \$300 for any contravention thereof, whether by act or omission.

PART

Landlord and Tenant (Rental Bonds).

PART VII.

**AMENDMENT TO THE CONSUMER CLAIMS TRIBUNALS ACT,
1974.**

Amend-
ment of Act
No. 16,
1974.

Sec. 4A.
(Act
applies to
certain
claims by
lessees.)

35. The Consumer Claims Tribunals Act, 1974, is amended—

(a) by omitting section 4A (1);

(b) by omitting section 4A (3) and by inserting instead the following subsection :—

(3) This Act applies to and in respect of a claim by a lessor or a lessee under a lease in relation to a rental bond (being a lessor, lessee, lease and rental bond as respectively defined in the Landlord and Tenant (Rental Bonds) Act, 1977), including a claim in relation to any matter which, under the terms or conditions of that lease, could, but for that Act, have given rise to a claim against a rental bond, as so defined, deposited or paid in accordance with those terms or conditions, in the same way as it applies to and in respect of a consumer claim.

Sec. 6 (4).

SCHEDULE 1.

**PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD.**

Provisions
relating to
the member
appointed
pursuant
to section
6 (1) (d).

1. (1) A person who is of or above the age of 65 years shall not be appointed as a member pursuant to section 6 (1) (d).

(2) The office of a member appointed pursuant to section 6 (1) (d) shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

(3) The member appointed pursuant to section 6 (1) (d) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

(4) The Minister may appoint any person, qualified under section 6 (1) (d), to act in the office of the member appointed pursuant to section 6 (1) (d) while that member is absent from his office through illness or any other cause, and that person while so acting—

(a) shall have and may exercise and perform the functions of that member; and

(b) shall be deemed to be a member.

(5) A member appointed pursuant to section 6 (1) (d) is, for the purposes of subclause (4), deemed to be absent from his office if there is a vacancy in that office which has not been filled in accordance with subclause (6).

(6) On the occurrence of a vacancy in the office of a member appointed pursuant to section 6 (1) (d) otherwise than by the expiration of the term for which he was appointed, the Minister may appoint a person to hold office as a member for the balance of his predecessor's term of office, being a person qualified under section 6 (1) (d).

(7) A member appointed pursuant to section 6 (1) (d) shall be deemed to have vacated his office—

(a) if he dies;

(b) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

- (c) if he is convicted in New South Wales of a felony or misdemeanour which is punishable by imprisonment for 12 months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be a felony or misdemeanour so punishable;
- (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
- (e) if he is absent from 4 consecutive ordinary meetings of the Board of which reasonable notice has been given to him, either personally or in the ordinary course of post, unless on leave granted by the Board or, unless, before the expiration of 4 weeks after the last of those meetings, he is excused by the Minister for his absence from those meetings;
- (f) if he resigns his office by writing under his hand addressed to the Minister;
- (g) if he declines office;
- (h) if he is removed from office by the Minister under subclause (8); or
- (i) upon his attaining the age of 65 years.

(8) The Minister may, for any cause which to him seems sufficient, remove a member appointed pursuant to section 6 (1) (d) from office.

SCHEDULE

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—continued.

**PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—continued.**

2. (1) A member holding office pursuant to section 6 ^{Deputies.}
(1) (a), (b) or (c) may appoint an officer of the Registry
of Permanent Building Societies, the office of the Rent
Controller or the Treasury, respectively, to act on his behalf
as his deputy, either generally or for any particular meeting
of the Board.

(2) An officer appointed pursuant to subclause (1)
by the member holding office pursuant to section 6 (1) (a)
shall, while acting as deputy, have and may exercise and
perform the functions of Chairman of the Board.

(3) An appointment under subclause (1) may be
revoked by the member, or by any member holding the same
office as the member, who made the appointment.

3. No person shall be concerned to inquire whether or ^{Acting}
not any occasion has arisen requiring or authorising a person ^{members.}
to act in the place of a member in accordance with clause
1 (4) or clause 2 (1) or as Chairman of the Board in
accordance with clause 2 (2), and all things done or omitted
by the person while so acting shall be as valid and effectual
and shall have the same consequences as if they had been
done or omitted by the member or the Chairman, as the
case may be.

4. (1) Subject to subclause (2), the Board shall hold ^{Meetings.}
meetings at such times as are determined by the Board.

(2) The Board shall hold at least one meeting each
quarter.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

(3) The procedure for the calling of, and for the conduct of business at, meetings of the Board shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Board.

(4) The number of members which shall constitute a quorum at any meeting of the Board shall be 3, one of whom shall be the Chairman of the Board or his deputy.

(5) Any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board.

(6) Questions arising at a meeting of the Board shall be determined by a majority of votes of the members present and voting.

(7) The Chairman of the Board shall preside at all meetings of the Board.

(8) The Chairman of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(9) The Board shall cause minutes to be kept of its proceedings at meetings.

Protection
from
liability.

5. (1) No matter or thing done, and no contract entered into, by the Board, and no matter or thing done by a member or by any other person acting under the direction or as delegate of the Board shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject the member or person personally to any action, liability, claim or demand.

SCHEDULE

Landlord and Tenant (Rental Bonds).

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued.*

(2) Nothing in subclause (1) exempts any member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Board, and which the member or other person authorised or joined in authorising wilfully knowing the payment to be unauthorised.

6. In proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—^{Presump-}_{tions.}

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member referred to in section 6 (1) (d) or of any person referred to in clause 1 (4) or clause 2 (1); or
- (d) the presence of a quorum at any meeting of the Board.

7. The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment of a member pursuant to section 6 (1) (d) and any member shall not, in his capacity as a member, be subject to the provisions of that Act during his term of office. ^{Public Service Act, 1902, not to apply.}

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 19th April, 1977.*

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Landlord and Tenant (Rentals) Act

Section 10

Provisions relating to the Board and its members

(1) Nothing in this section shall prevent any member of the Board from being liable to be sued in respect of any act or omission of his in the discharge of his duties as a member of the Board.

(2) In proceedings brought against the Board no proof shall be required (until evidence is given to the contrary) that the Board acted negligently.

(a) the constitution of the Board;

(b) any resolution of the Board;

(c) the appointment of any member referred to in section 6 (1) (b) or of any person referred to in clause 1 (4) or clause 2 (1) of the Regulations;

(d) the presence of a person at any meeting of the Board.

7. The provisions of the Public Service Act, 1902, shall apply to the Board as if it were a public officer, and any member of the Board shall not be liable to be sued in respect of any act or omission of his in the discharge of his duties as a member of the Board.

In the name and on behalf of the Minister, I assent to this

A. R. CUTLER,

Governor.

Government House,
Sydney, 19th April 1977.