

FIRST PRINT

## LANDLORD AND TENANT (AMENDMENT) BILL 1987

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

This Bill is cognate with the Residential Tenancies Bill 1987.

The object of this Bill is to make amendments to the Landlord and Tenant Act 1899, the Landlord and Tenant (Amendment) Act 1948 and the Landlord and Tenant (Rental Bonds) Act 1977.

The Bill will—

- (a) amend the 1899 Act to exclude residential tenancy agreements to which the proposed Residential Tenancies Act 1987 will apply from the operation of the 1899 Act;
- (b) amend the 1948 Act to transfer the functions of Fair Rents Boards and the Rent Controller under that Act to the Residential Tenancies Tribunal;
- (c) amend the 1948 Act to transfer the functions of clerks of Fair Rents Boards under that Act to the Registrar of the Tribunal; and
- (d) amend the 1977 Act to change references in that Act to consumer claims tribunals to references to the Tribunal.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the provisions of the proposed Act will, with minor exceptions, commence on a day or days to be appointed by the Governor-in-Council.

Clauses 3–5 give effect to the Schedules of amendments.

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*Landlord and Tenant (Amendment) 1987*

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**SCHEDULE 1—AMENDMENT TO THE LANDLORD AND TENANT ACT 1899**

Schedule 1 inserts proposed section 1B (Exclusion of residential tenancy agreements from operation of Act) into the 1899 Act. The proposed section provides that the Act does not apply to residential tenancy agreements, or to land subject to residential tenancy agreements, to which the proposed Residential Tenancies Act 1987 applies.

**SCHEDULE 2—AMENDMENTS TO THE LANDLORD AND TENANT  
(AMENDMENT) ACT 1948**

Schedule 2 (1) omits the provision setting out the arrangement of the Parts of the 1948 Act.

Schedule 2 (2) inserts a definition of "Registrar" and a definition of "Tribunal" into the 1948 Act. "Registrar" means the Registrar of the Tribunal. "Tribunal" means the Residential Tenancies Tribunal of New South Wales.

Schedule 2 (3) inserts proposed section 13A (Transfer of functions) into the 1948 Act. The proposed section provides that a function exercisable by a Fair Rents Board or the Rent Controller before the commencement of the proposed section is exercisable by the Tribunal and that a function exercisable before that commencement by a clerk of a Fair Rents Board is exercisable by the Registrar. This will be subject to any exceptions prescribed by regulations made under the 1948 Act. The proposed section also provides that the Tribunal or Registrar, in exercising a function, has all the functions of a Fair Rents Board, the Rent Controller or clerk, as the case requires.

Schedule 2 (4) and (5) omit provisions of the 1948 Act in consequence of the shift of functions from the Rent Controller and the Fair Rents Boards to the Tribunal.

Schedule 2 (6) omits provisions of the 1948 Act dealing with rent control of caravans. A declaration of caravan rents under those provisions has never been made.

Schedule 2 (7) omits a reference to the provisions omitted by Schedule 2 (4) and (5).

Schedule 2 (8) omits a provision of the 1948 Act enabling the Governor to establish Tenancy Courts. A proclamation establishing such Courts has never been made.

Schedule 2 (9) omits a provision of the 1948 Act containing a power to make regulations transferring the powers of the Rent Controller to Fair Rents Boards. A regulation transferring those powers has never been made.

**SCHEDULE 3—AMENDMENTS TO THE LANDLORD AND TENANT (RENTAL  
BONDS) ACT 1977**

Schedule 3 (1) (a) and (2) make amendments consequential on the shift of functions under the 1977 Act from consumer claims tribunals to the Tribunal.

Schedule 3 (1) (b) inserts into the 1977 Act a definition of "Tribunal", to mean the Residential Tenancies Tribunal of New South Wales.

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# LANDLORD AND TENANT (AMENDMENT) BILL 1987

NEW SOUTH WALES



## TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 18, 1899
4. Amendment of Act No. 25, 1948
5. Amendment of Act No. 44, 1977

SCHEDULE 1—AMENDMENT TO THE LANDLORD AND TENANT ACT 1899

SCHEDULE 2—AMENDMENTS TO THE LANDLORD AND TENANT  
(AMENDMENT) ACT 1948

SCHEDULE 3—AMENDMENTS TO THE LANDLORD AND TENANT (RENTAL  
BONDS) ACT 1977

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LANDLORD AND TENANT (AMENDMENT) BILL 1981

THE PARLIAMENT OF THE UNITED KINGDOM

IN SESSION



BY APPOINTMENT TO HER MAJESTY

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT  
DO HEREBY TO CERTIFY THAT THE FOLLOWING IS A TRUE AND CORRECT  
COPY OF THE BILL AS PASSED BY PARLIAMENT  
IN THE SEVENTH YEAR OF THE REIGN OF HER MAJESTY THE QUEEN

LONDON: PRINTED BY THE QUEEN'S PRINTER  
1981

# LANDLORD AND TENANT (AMENDMENT) BILL 1987

NEW SOUTH WALES



No. , 1987

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## A BILL FOR

An Act to amend various Acts dealing with landlords and tenants in consequence of the enactment of the Residential Tenancies Act 1987.

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*Landlord and Tenant (Amendment) 1987*

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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:

**5 Short title**

1. This Act may be cited as the "Landlord and Tenant (Amendment) Act 1987".

**Commencement**

2. (1) Except as provided by subsection (2), this Act shall commence  
10 on the date of assent to this Act.

(2) The several provisions of—

(a) section 3 and Schedule 1;

(b) section 4 and Schedule 2; and

(c) section 5 and Schedule 3,

15 shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Amendment of Act No. 18, 1899**

3. The Landlord and Tenant Act 1899 is amended in the manner set forth in Schedule 1.

**20 Amendment of Act No. 25, 1948**

4. The Landlord and Tenant (Amendment) Act 1948 is amended in the manner set forth in Schedule 2.

**Amendment of Act No. 44, 1977**

5. The Landlord and Tenant (Rental Bonds) Act 1977 is amended in  
25 the manner set forth in Schedule 3.

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*Landlord and Tenant (Amendment) 1987*

## SCHEDULE 1

(Sec. 3)

## AMENDMENT TO THE LANDLORD AND TENANT ACT 1899

## Section 1B—

5 After section 1A, insert:

**Exclusion of residential tenancy agreements from operation of Act**

1B. This Act does not apply to a residential tenancy agreement, or to land that is subject to a residential tenancy agreement, to which the Residential Tenancies Act 1987 applies.

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## SCHEDULE 2

(Sec. 4)

AMENDMENTS TO THE LANDLORD AND TENANT  
(AMENDMENT) ACT 1948(1) Section 3 (**Division into Parts**)—

15 Omit the section.

(2) Section 8 (**Definitions**)—

## (a) Section 8 (1), definition of “Registrar”—

After the definition of “rates”, insert:

“Registrar” means the Registrar of the Tribunal;

20 (b) Section 8 (1), definition of “Tribunal”—

After the definition of “the prescribed date”, insert:

“Tribunal” means the Residential Tenancies Tribunal of New South Wales constituted by the Residential Tenancies Act 1987.



*Landlord and Tenant (Amendment) 1987*

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SCHEDULE 2—*continued*

AMENDMENTS TO THE LANDLORD AND TENANT  
(AMENDMENT) ACT 1948—*continued*

(3) Section 13A—

After section 13, insert:

**Transfer of functions**

5 13A. (1) Except as may be otherwise prescribed, a function that, immediately before the commencement of this section—

(a) was exercisable by a Fair Rents Board—is exercisable by the Tribunal instead of the Board;

(b) was exercisable by the Controller—is exercisable by the Tribunal instead of the Controller; or

10 (c) was exercisable by the clerk of a Fair Rents Board—is exercisable by the Registrar instead of the clerk.

(2) In exercising a function conferred by this section, the Tribunal or the Registrar—

15 (a) has all the functions of a Fair Rents Board, the Controller or the clerk, as the case requires; and

20 (b) shall, for the purposes of any other provisions of this Act (other than sections 42, 43, 44, 45, 48, 50 and 53) setting out the procedure for the exercise of such a function, be deemed to be a Fair Rents Board, the Controller or the clerk, as the case requires.

(3) The provisions of Part 6 of the Residential Tenancies Act 1987 (other than sections 89, 94, 106, 107 and 111) apply to the exercise of a function by the Tribunal or the Registrar under this section.

25 (4) Nothing in this section—

(a) affects any proceedings before a Fair Rents Board, any other matter before a Board, the Controller or a clerk of a Board or the exercise of a function by a Board, the Controller or a clerk of a Board; or



*Landlord and Tenant (Amendment) 1987*

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SCHEDULE 2—*continued*

AMENDMENTS TO THE LANDLORD AND TENANT  
(AMENDMENT) ACT 1948—*continued*

- (b) affects any right, privilege, obligation or liability arising out of any such proceedings or matter or the exercise of the function,

5 where the proceedings, matter or exercise commenced before the commencement of this section.

- (5) In this section—

- (a) a reference to a function includes a reference to a power, authority and duty; and

- 10 (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

- (4) Section 30 (**Appeal from determination**)—

Omit the section.

- (5) Section 31 (**Procedure on appeal**)—

15 Omit the section.

- (6) Part II, Division 4A (**Control of rents of caravans**)—

Omit the Division.

- (7) Section 41 (**Appeals**)—

Section 41 (1)—

20 Omit “sections 30 and 31 and”.

- (8) Section 69A (**Tenancy Courts**)—

Omit the section.

- (9) Section 97 (**Regulations may transfer powers of Controller to Fair Rents Board**)—

25 Omit the section.

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*Landlord and Tenant (Amendment) 1987*

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## SCHEDULE 3

(Sec. 5)

AMENDMENTS TO THE LANDLORD AND TENANT (RENTAL  
BONDS) ACT 1977

- 5 (1) Section 4 (**Interpretation**)—
- (a) Section 4 (1), definition of “prescribed proceedings”—  
Omit “a tribunal”, insert instead “the Tribunal”.
- (b) Section 4 (1), definition of “Tribunal”—  
Omit the definition of “tribunal”, insert instead:
- 10 “Tribunal” means the Residential Tenancies Tribunal of New  
South Wales constituted by the Residential Tenancies Act  
1987.
- (2) Section 11 (**Payment out of rental bonds**)—
- Section 11 (9), (15)—
- 15 Omit “or tribunal” wherever occurring, insert instead “or the  
Tribunal”.







**LANDLORD AND TENANT (AMENDMENT) ACT 1987**  
**No. 27**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Act No. 18, 1899
4. Amendment of Act No. 25, 1948
5. Amendment of Act No. 44, 1977

SCHEDULE 1—AMENDMENT TO THE LANDLORD AND TENANT ACT 1899

SCHEDULE 2—AMENDMENTS TO THE LANDLORD AND TENANT  
(AMENDMENT) ACT 1948

SCHEDULE 3—AMENDMENTS TO THE LANDLORD AND TENANT (RENTAL  
BONDS) ACT 1977

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**LANDLORD AND TENANT (AMENDMENT) ACT 1987 No. 27**

NEW SOUTH WALES



**Act No. 27, 1987**

An Act to amend various Acts dealing with landlords and tenants in consequence of the enactment of the Residential Tenancies Act 1987.  
[Assented to 12 May 1987]

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*Landlord and Tenant (Amendment) 1987*

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**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:

**Short title**

1. This Act may be cited as the "Landlord and Tenant (Amendment) Act 1987".

**Commencement**

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) The several provisions of—

- (a) section 3 and Schedule 1;
- (b) section 4 and Schedule 2; and
- (c) section 5 and Schedule 3,

shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Amendment of Act No. 18, 1899**

3. The Landlord and Tenant Act 1899 is amended in the manner set forth in Schedule 1.

**Amendment of Act No. 25, 1948**

4. The Landlord and Tenant (Amendment) Act 1948 is amended in the manner set forth in Schedule 2.

**Amendment of Act No. 44, 1977**

5. The Landlord and Tenant (Rental Bonds) Act 1977 is amended in the manner set forth in Schedule 3.

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*Landlord and Tenant (Amendment) 1987*

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SCHEDULE 1

(Sec. 3)

AMENDMENT TO THE LANDLORD AND TENANT ACT 1899

Section 1B—

After section 1A, insert:

**Exclusion of residential tenancy agreements from operation of Act**

1B. This Act does not apply to a residential tenancy agreement, or to land that is subject to a residential tenancy agreement, to which the Residential Tenancies Act 1987 applies.

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SCHEDULE 2

(Sec. 4)

AMENDMENTS TO THE LANDLORD AND TENANT  
(AMENDMENT) ACT 1948

(1) Section 3 (**Division into Parts**)—

Omit the section.

(2) Section 8 (**Definitions**)—

(a) Section 8 (1), definition of “Registrar”—

After the definition of “rates”, insert:

“Registrar” means the Registrar of the Tribunal;

(b) Section 8 (1), definition of “Tribunal”—

After the definition of “the prescribed date”, insert:

“Tribunal” means the Residential Tenancies Tribunal of New South Wales constituted by the Residential Tenancies Act 1987.



*Landlord and Tenant (Amendment) 1987*

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SCHEDULE 2—*continued*

AMENDMENTS TO THE LANDLORD AND TENANT  
(AMENDMENT) ACT 1948—*continued*

(3) Section 13A—

After section 13, insert:

**Transfer of functions**

13A. (1) Except as may be otherwise prescribed, a function that, immediately before the commencement of this section—

- (a) was exercisable by a Fair Rents Board—is exercisable by the Tribunal instead of the Board;
- (b) was exercisable by the Controller—is exercisable by the Tribunal instead of the Controller; or
- (c) was exercisable by the clerk of a Fair Rents Board—is exercisable by the Registrar instead of the clerk.

(2) In exercising a function conferred by this section, the Tribunal or the Registrar—

- (a) has all the functions of a Fair Rents Board, the Controller or the clerk, as the case requires; and
- (b) shall, for the purposes of any other provisions of this Act (other than sections 42, 43, 44, 45, 48, 50 and 53) setting out the procedure for the exercise of such a function, be deemed to be a Fair Rents Board, the Controller or the clerk, as the case requires.

(3) The provisions of Part 6 of the Residential Tenancies Act 1987 (other than sections 89, 94, 106, 107 and 111) apply to the exercise of a function by the Tribunal or the Registrar under this section.

(4) Nothing in this section—

- (a) affects any proceedings before a Fair Rents Board, any other matter before a Board, the Controller or a clerk of a Board or the exercise of a function by a Board, the Controller or a clerk of a Board; or

*Landlord and Tenant (Amendment) 1987*

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SCHEDULE 2—*continued*

AMENDMENTS TO THE LANDLORD AND TENANT  
(AMENDMENT) ACT 1948—*continued*

- (b) affects any right, privilege, obligation or liability arising out of any such proceedings or matter or the exercise of the function,

where the proceedings, matter or exercise commenced before the commencement of this section.

- (5) In this section—

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

- (4) Section 30 (**Appeal from determination**)—

Omit the section.

- (5) Section 31 (**Procedure on appeal**)—

Omit the section.

- (6) Part II, Division 4A (**Control of rents of caravans**)—

Omit the Division.

- (7) Section 41 (**Appeals**)—

Section 41 (1)—

Omit “sections 30 and 31 and”.

- (8) Section 69A (**Tenancy Courts**)—

Omit the section.

- (9) Section 97 (**Regulations may transfer powers of Controller to Fair Rents Board**)—

Omit the section.

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*Landlord and Tenant (Amendment) 1987*

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## SCHEDULE 3

(Sec. 5)

AMENDMENTS TO THE LANDLORD AND TENANT (RENTAL  
BONDS) ACT 1977(1) Section 4 (**Interpretation**)—

## (a) Section 4 (1), definition of “prescribed proceedings”—

Omit “a tribunal”, insert instead “the Tribunal”.

## (b) Section 4 (1), definition of “Tribunal”—

Omit the definition of “tribunal”, insert instead:

“Tribunal” means the Residential Tenancies Tribunal of New  
South Wales constituted by the Residential Tenancies Act  
1987.(2) Section 11 (**Payment out of rental bonds**)—

Section 11 (9), (15)—

Omit “or tribunal” wherever occurring, insert instead “or the  
Tribunal”.