

FIRST PRINT

LANDLORD AND TENANT (AMENDMENT) BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Residential Tenancies Tribunal Bill 1986.

The object of this Bill is to prevent landlords from succeeding in retaliatory proceedings to evict tenants who seek orders from the Residential Tenancies Tribunal established under the proposed Residential Tenancies Tribunal Act 1986.

Clause 1 specifies the short title of the proposed Act.

Clause 2 is a formal provision that gives effect to the Schedule of amendments.

Schedule 1 (1) omits the provision of the Principal Act setting out the arrangement into Parts of the Principal Act and re-enacts the provision setting out the short title of the Principal Act in modern form.

Schedule 1 (2) inserts proposed section 3 (Recovery of land may be refused in cases of retaliatory eviction) in the Principal Act. The proposed section enables the Supreme Court or a Local Court, in proceedings for the recovery of land, to refuse to give judgment for possession or issue a warrant for possession, as the case requires, if the Court is satisfied that the proceedings were wholly or partly commenced as a result of action taken by the tenant to obtain an order that a rent increase, or rent, is excessive or as a result of such an order being made by the Residential Tenancies Tribunal. The Residential Tenancies Tribunal is to be established under the proposed Residential Tenancies Tribunal Act 1986. Where such an order has been sought within the preceding 12 months or is in force, the burden of proof lies on the landlord to show that the taking of proceedings for recovery of possession was not motivated by either occurrence.

LANDLORD AND TENANT (AMENDMENT) BILL 1986

NEW SOUTH WALES



TABLE OF PROVISIONS

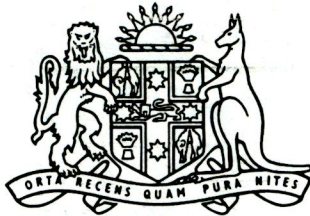
1. Short title
2. Amendment of Act No. 18, 1899

SCHEDULE 1—AMENDMENTS TO THE LANDLORD AND TENANT ACT 1899



LANDLORD AND TENANT (AMENDMENT) BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the Landlord and Tenant Act 1899 with respect to the protection of tenants taking action under the Residential Tenancies Tribunal Act 1986; and for other purposes.

Landlord and Tenant (Amendment) 1986

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 1986".

Amendment of Act No. 18, 1899

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

SCHEDULE 1

(Sec. 2)

AMENDMENTS TO THE LANDLORD AND TENANT ACT 1899**(1) Section 1—**

15 Omit the section, insert instead:

Short title

1. This Act may be cited as the "Landlord and Tenant Act 1899".

(2) Section 3—

20 After section 2C, insert:

Recovery of land may be refused in cases of retaliatory eviction

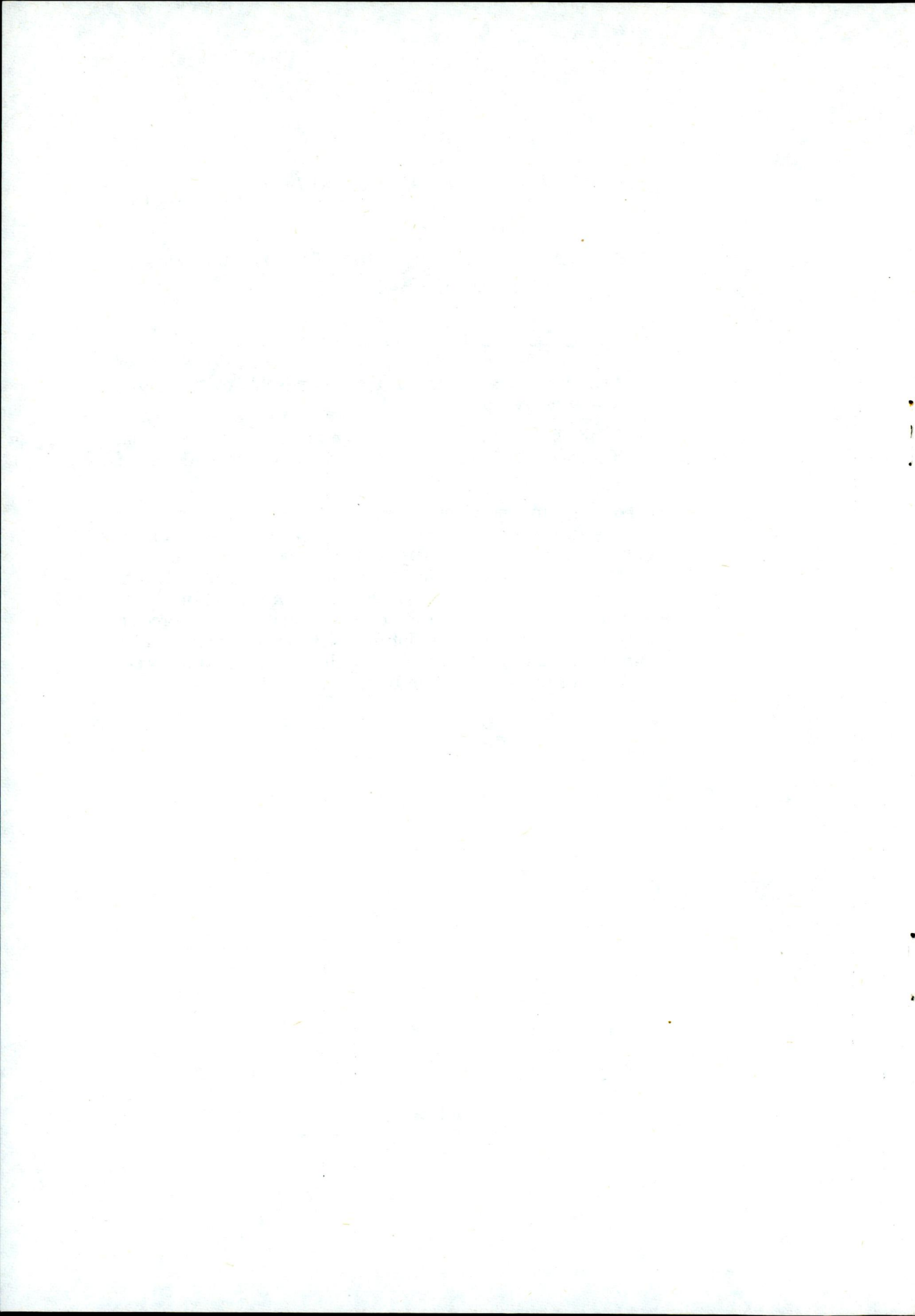
25 3. (1) The Supreme Court or a Local Court may, where proceedings have been commenced against a tenant in either Court for recovery of land, refuse to give judgment for possession of land or issue a warrant for possession of land, as the case requires, if the Court is satisfied that the person who commenced the proceedings was wholly or partly motivated to do so—

Landlord and Tenant (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE LANDLORD AND TENANT ACT 1899—
continued

- (a) by the fact that the tenant had applied or proposed to apply to the Residential Tenancies Tribunal for an order that an increase in rent or the rent payable by the tenant was excessive; or
- 5 (b) by the fact that an order had been made by the Residential Tenancies Tribunal specifying the maximum amount of rent payable by the tenant.
- (2) If the Supreme Court or a Local Court is satisfied that a tenant against whom proceedings for recovery of possession of land have been commenced has, within the period of 12 months preceding that commencement, applied to the Residential Tenancies Tribunal for an order referred to in subsection (1) (a) or that an order referred to in subsection (1) (b) is in force in relation to the tenant, the burden lies on the person who commenced the proceedings to prove that the proceedings were not wholly or partly motivated by that fact.
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LANDLORD AND TENANT (AMENDMENT) ACT 1986
No. 61

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 18, 1899

SCHEDULE 1—AMENDMENTS TO THE LANDLORD AND TENANT ACT 1899

STANDARD AND INDUSTRIAL (S.I.) ACTION
No. 11

FOR YOUR INFO

DATE OF REPORT

DATE OF REVIEW

THE FOLLOWING INFORMATION IS FOR YOUR INFORMATION

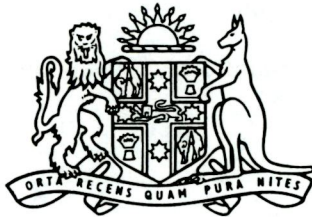
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STANDARD AND INDUSTRIAL

LANDLORD AND TENANT (AMENDMENT) ACT 1986 No. 61

NEW SOUTH WALES



Act No. 61, 1986

An Act to amend the Landlord and Tenant Act 1899 with respect to the protection of tenants taking action under the Residential Tenancies Tribunal Act 1986; and for other purposes. [Assented to, 21 May 1986]

Landlord and Tenant (Amendment) 1986

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 1986".

Amendment of Act No. 18, 1899

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

SCHEDULE 1

(Sec. 2)

AMENDMENTS TO THE LANDLORD AND TENANT ACT 1899

(1) Section 1—

Omit the section, insert instead:

Short title

1. This Act may be cited as the "Landlord and Tenant Act 1899".

(2) Section 3—

After section 2C, insert:

Recovery of land may be refused in cases of retaliatory eviction

3. (1) The Supreme Court or a Local Court may, where proceedings have been commenced against a tenant in either Court for recovery of land, refuse to give judgment for possession of land or issue a warrant for possession of land, as the case requires, if the Court is satisfied that the person who commenced the proceedings was wholly or partly motivated to do so—

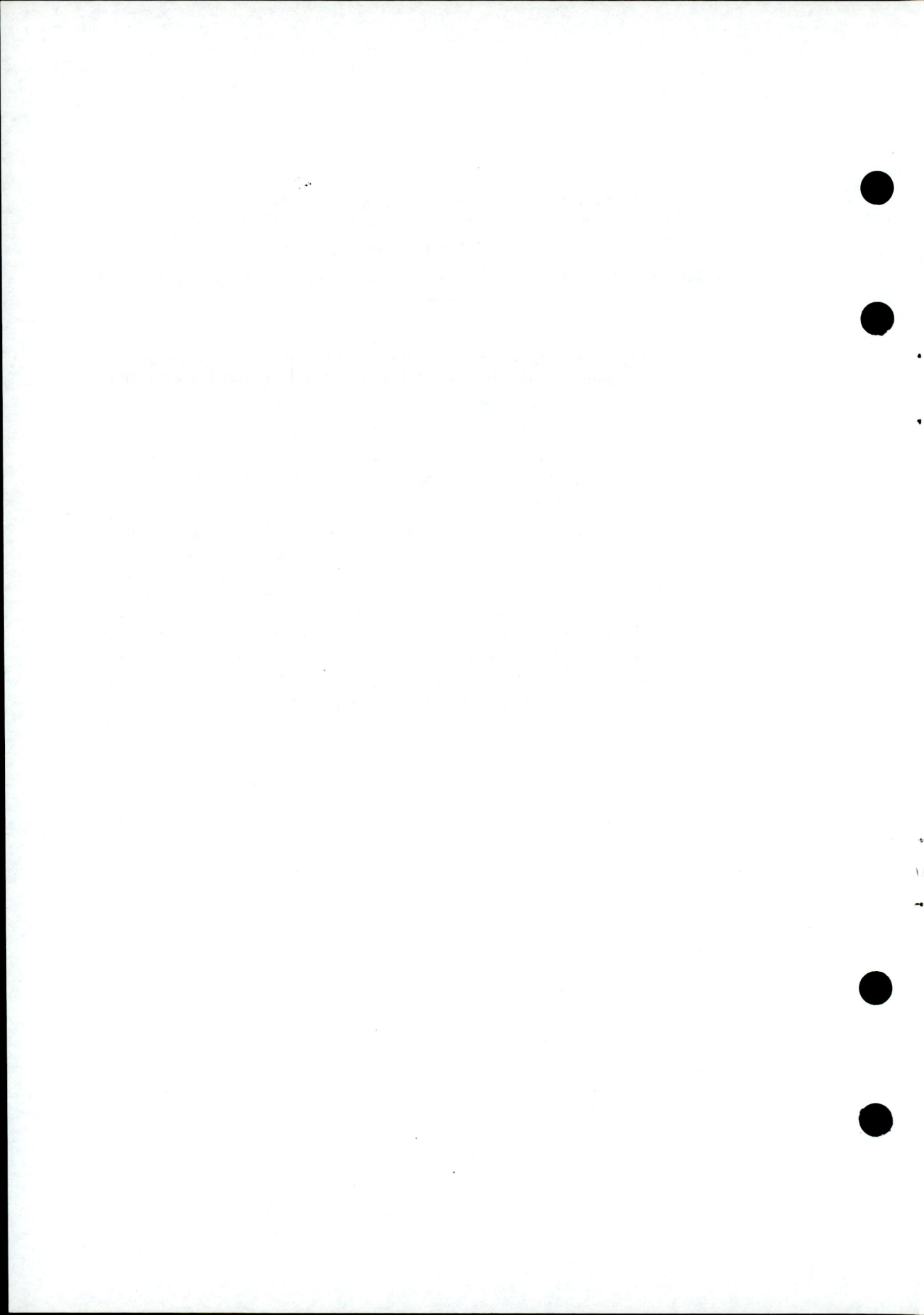
Landlord and Tenant (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE LANDLORD AND TENANT ACT 1899—
continued

- (a) by the fact that the tenant had applied or proposed to apply to the Residential Tenancies Tribunal for an order that an increase in rent or the rent payable by the tenant was excessive; or
- (b) by the fact that an order had been made by the Residential Tenancies Tribunal specifying the maximum amount of rent payable by the tenant.

(2) If the Supreme Court or a Local Court is satisfied that a tenant against whom proceedings for recovery of possession of land have been commenced has, within the period of 12 months preceding that commencement, applied to the Residential Tenancies Tribunal for an order referred to in subsection (1) (a) or that an order referred to in subsection (1) (b) is in force in relation to the tenant, the burden lies on the person who commenced the proceedings to prove that the proceedings were not wholly or partly motivated by that fact.



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