

FIRST PRINT

**LANDLORD AND TENANT (RENTAL BONDS)  
AMENDMENT BILL 1987**

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The Housing (Rental Bonds) Amendment Bill 1987 is cognate with this Bill.

The object of this Bill is to amend the Landlord and Tenant (Rental Bonds) Act 1977 so as—

- (a) to empower the Rental Bond Board to take part in joint ventures for the provision of residential accommodation;
- (b) to authorise the Board to invest in a unit trust which invests its funds in residential accommodation (such as the proposed Rental Housing Trust);
- (c) to empower the Board to give guarantees and indemnities and to make good losses in connection with such a joint venture and other schemes for the provision of residential accommodation (such as the proposed Rental Housing Trust);
- (d) to authorise the Board to expend money from the Rental Bond Interest Account and the Rental Bond Account (kept under the Principal Act) for the purposes of paragraphs (a)–(c);
- (e) to simplify the procedure for the repayment of rental bonds by relaxing requirements for the service on the Board of certified copies of judgments and orders for repayment;
- (f) to make it clear that the Board can refuse to repay an amount of rental bond which exceeds that deposited with it even if repayment is on the basis of a judgment or order;
- (g) to enable the Board to repay a rental bond in accordance with a judgment or order even though a right of appeal exists which has not been exercised;
- (h) to deem a director or manager of a corporation to be guilty of a contravention of the Principal Act if he or she knowingly authorised or permitted a contravention by the corporation;

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- (i) to increase the number of members of the Board from 4 to 5 and to provide that 2 out of the 5 members are to be appointed by the Minister (rather than 1 out of 4 as at present);
- (j) to make experience in tenancy matters an alternative to experience in real estate matters as a qualification for the members of the Board appointed by the Minister; and
- (k) to make other minor or consequential changes.

The amendments will, among other matters, enable the Rental Bond Board to participate in the proposed Rental Housing Trust scheme for the provision of residential rental accommodation.

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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) inserts a provision which makes it clear that the Board is a statutory body representing the Crown.

Schedule 1 (2) (a) and (c) increase the number of members of the Board from 4 to 5.

Schedule 1 (2) (b) provides for the additional member to be appointed by the Minister and makes experience in tenancy matters an alternative to experience in real estate matters as a qualification for the 2 members appointed by the Minister.

Schedule 1 (3) inserts proposed Part IIA (proposed sections 7A–7E) into the Principal Act:

- (a) Proposed section 7A authorises the Board, with the Minister's approval and the Treasurer's concurrence, to enter into joint ventures for the development of land in connection with the provision of residential accommodation.
- (b) Proposed section 7B authorises the Board, for the purposes of such a joint venture, to deal in shares in and form companies, to provide finance and to do incidental things.
- (c) Proposed section 7C authorises the Board to invest in units in a residential accommodation unit trust, such as the proposed Rental Housing Trust.
- (d) Proposed section 7D authorises the Board with the Minister's approval to give guarantees and to make good any losses of and indemnify other parties in connection with schemes for the provision of residential accommodation.
- (e) Proposed section 7E authorises use of the funds of the Rental Board Interest Account to meet expenditure under the proposed Part and, in the case of the provision of financial accommodation, authorises the use of the Rental Bond Account.

Schedule 1 (4) (a) is a consequential amendment.

Schedule 1 (4) (b) and (c) streamline the procedure for the repayment of a rental bond on the basis of a judgment or order. It will no longer be necessary to serve a copy of the judgment or order on the Board within a fixed period after obtaining it. The copy will not have to be a certified copy and will not have to be supported by a statutory declaration to the effect that it has not been satisfied.

Schedule 1 (4) (d) is a consequential amendment.

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Schedule 1 (4) (e) deletes a provision which would require the Board to pay an amount under a judgment or order for the repayment of rental bond even though the amount exceeds the amount deposited with the Board.

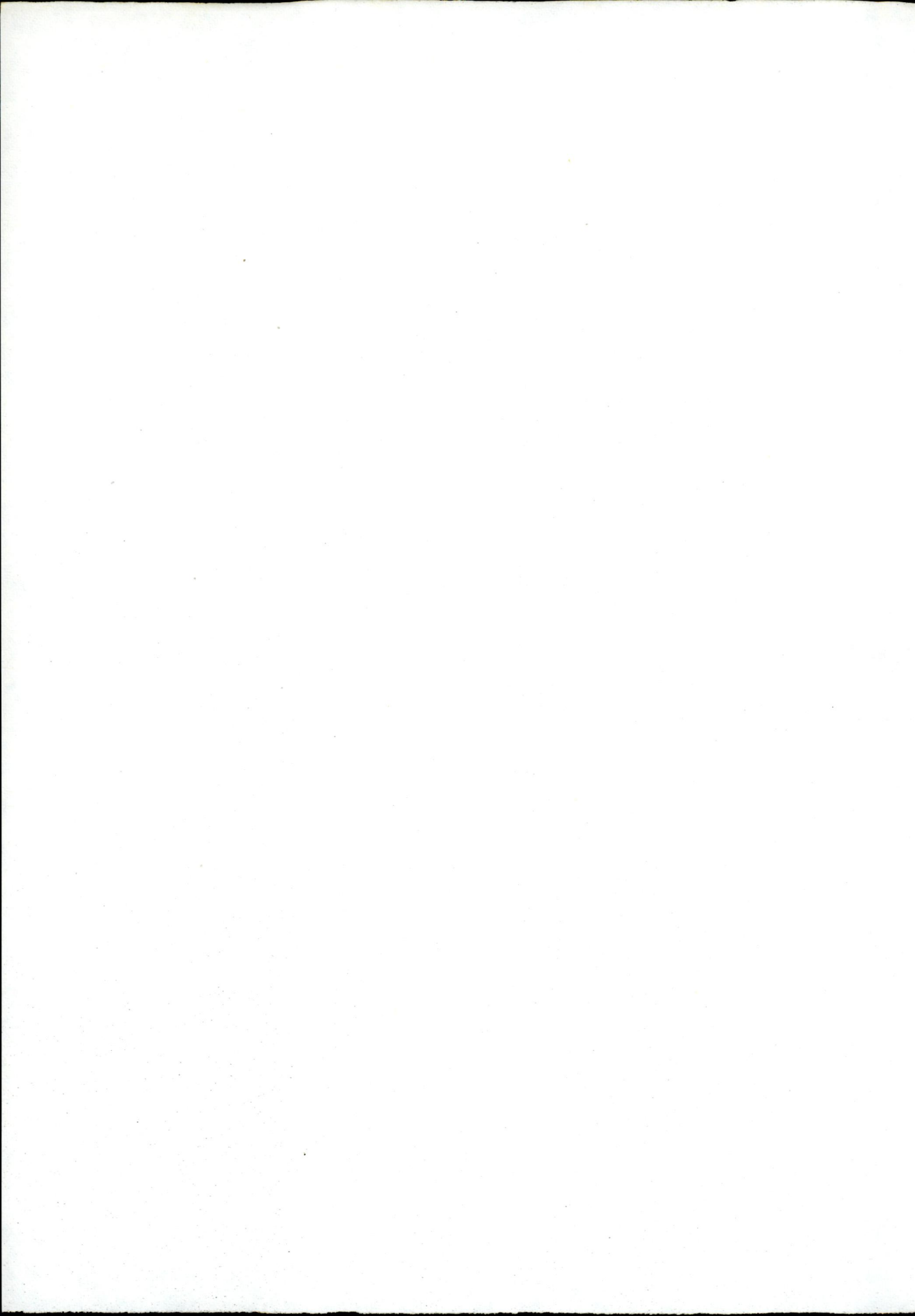
Schedule 1 (4) (f) alters the provision which prevented the Board repaying a rental bond on the basis of a judgment or order if an appeal could be lodged. The Board will now be able to repay even if a right of appeal exists so long as an appeal has not been lodged. If an appeal has been lodged, repayment must not be made until the appeal is withdrawn or dismissed.

Schedule 1 (5) inserts a provision which deems a director or person concerned in the management of a corporation to have contravened any provision of the Principal Act which the corporation contravenes if he or she knowingly authorised or permitted the contravention (proposed section 16A).

Schedule 1 (6) effects a minor amendment to a Part heading.

Schedule 1 (7) and (8) are consequential amendments.

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**LANDLORD AND TENANT (RENTAL BONDS)  
AMENDMENT BILL 1987**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Amendment of Act No. 44, 1977

SCHEDULE 1—AMENDMENTS

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**LANDLORD AND TENANT (RENTAL BONDS)  
AMENDMENT BILL 1987**

NEW SOUTH WALES



No. , 1987

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**A BILL FOR**

An Act to amend the Landlord and Tenant (Rental Bonds) Act 1977 with respect to participation by the Rental Bond Board in schemes for the provision of residential accommodation, the membership of the Rental Bond Board and the repayment of rental bonds, and in other respects.

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See also Housing (Rental Bonds) Amendment Bill 1987.

*Landlord and Tenant (Rental Bonds) Amendment 1987***The Legislature of New South Wales enacts:****Short title**

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

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

2. The Landlord and Tenant (Rental Bonds) Act 1977 is amended as set out in Schedule 1.

**SCHEDULE 1—AMENDMENTS**

(Sec. 2)

10 (1) **Section 5 (Constitution of the Rental Bond Board)—**

Section 5 (3)—

After section 5 (2), insert:

(3) The Board is, for the purposes of any Act, a statutory body representing the Crown.

15 (2) **Section 6 (Constitution and procedure of the Board)—**

(a) Section 6 (1)—

Omit “4 members”, insert instead “5 members”.

(b) Section 6 (1) (d)—

Omit the paragraph, insert instead:

20 (d) two shall be persons appointed by the Minister, each of whom has, in the opinion of the Minister, had experience in real estate or tenancy matters.

(c) Section 6 (2)—

Omit “the member”, insert instead “a member”.

25 (3) **Part II<sub>A</sub>—**

After Part II, insert:

**PART II<sub>A</sub>—SPECIAL FUNCTIONS OF THE BOARD  
(PROVISION OF RESIDENTIAL ACCOMMODATION)**

**Joint ventures for residential accommodation**

30 7A. (1) The Board may, with the approval of the Minister and the concurrence of the Treasurer, enter into a joint venture (including a partnership and any other association) with other persons or bodies, whether or not incorporated.



*Landlord and Tenant (Rental Bonds) Amendment 1987***SCHEDULE 1—AMENDMENTS—*continued***

(2) The joint venture shall be for the purpose of the development (including the acquisition, management, leasing and disposal) of land for or in connection with the provision of residential accommodation.

**5 Joint venture powers**

7B. (1) For the purposes of such a joint venture, the Board may, with the approval of the Minister—

- (a) join in the formation of any company to be incorporated in the State;
- 10 (b) purchase, hold, dispose of or deal with shares in, or subscribe to the issue of shares by, any company incorporated in the State;
- (c) make advances of money or provide other financial accommodation to any person or body (whether or not
- 15 incorporated) participating in the joint venture or acting for or on behalf of the joint venture; and
- (d) do such other things as are necessary or convenient for, or incidental to, the joint venture.

(2) A company in which the Board has a controlling interest because of its shareholding in the capital of the company is not and does not represent the Crown.

**Investment in residential accommodation unit trusts**

7C. (1) The Board may invest money in units in a residential accommodation unit trust and may, with the approval of the

25 Minister, underwrite the issue of units in such a trust.

(2) A residential accommodation unit trust is a unit trust providing for participation by unit holders in income and profits arising from the development of property that wholly or partly comprises residential accommodation.

30 (3) Development of property includes the acquisition, holding, management, leasing and disposal of property.

**Guarantees etc. by Board**

7D. (1) The Board may, with the approval of the Minister—

- 35 (a) guarantee the due performance of an obligation incurred by a person or body in connection with a scheme for the provision of residential accommodation;
- (b) make good a loss incurred by a person or body in connection with a scheme for the provision of residential accommodation;

*Landlord and Tenant (Rental Bonds) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

- (c) indemnify a person or body against a liability incurred under a guarantee (provided by the person or body) of the kind which the Board could provide under this section; and
- 5 (d) enter into and give effect to an agreement to do anything which the Board is authorised to do under this section.
- (2) The following are examples of schemes for the provision of residential accommodation:
- (a) a joint venture which the Board enters into under this Part;
- 10 (b) a residential accommodation unit trust in which the Board is empowered to invest under this Part.
- (3) A permissible method of making good a loss involving such a residential accommodation unit trust is investment in units in the trust.
- 15 **Finance**
- 7E. (1) Amounts may be paid from the Rental Bond Interest Account under Part V to meet expenditure by the Board under this Part.
- (2) Amounts may also be paid from the Rental Bond Account under Part V to meet so much of that expenditure as is attributable to the provision of financial accommodation (including advances).
- 20 (3) Interest and other income accruing to the Board in connection with any investment made, financial accommodation provided or joint venture entered into under this Part shall be paid into the Rental Bond Interest Account under Part V.
- 25 (4) Section 11 (**Payment out of rental bonds**)—
- (a) Section 11 (9) (a)—  
Omit “, subject to subsection (12)”.
- 30 (b) Section 11 (9) (a) (i)—  
Omit the subparagraph, insert instead:
- (i) upon being served with or obtaining a copy of that judgment or order; and
- (c) Section 11 (9) (a) (ii)—
- 35 Omit “by statutory declaration so served”.
- (d) Section 11 (9) (b)—  
Omit “subject to subsection (12),”.

*Landlord and Tenant (Rental Bonds) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

## (e) Section 11 (11)—

Omit “(otherwise than pursuant to subsection (9))”.

## (f) Section 11 (12)–(12B)—

Omit section 11 (12), insert instead:

5 (12) The Board may pay out money in respect of a judgment or order even if there is a right of appeal against the judgment or order, but only if an appeal has not been lodged.

10 (12A) If an appeal has been lodged, the Board must not pay out money in respect of the judgment or order unless satisfied that the appeal has been withdrawn or dismissed.

(12B) A payment of money by the Board in respect of a judgment or order does not prevent an appeal being lodged.

## (5) Section 16A—

After section 16, insert:

15 **Offences by corporations**

16A. (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened the same provision if the person  
20 knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

25 (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

30 (4) This section does not apply to a person in the person's capacity as a director of, or as a person concerned in the management of, a corporation constituted by or under an Act.

## (6) Part V, heading—

Omit the heading, insert instead:

**PART V—ACCOUNTS AND FINANCE**(7) Section 19 (**Rental Bond Account**)—

35 (a) Section 19 (2) (a)—

Omit “and”.



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SCHEDULE 1—AMENDMENTS—*continued*

(b) Section 19 (2) (b), (c)—

At the end of section 19 (2) (b), insert:

; and

(c) any other payments authorised by this Act to be made from that account.

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(8) Schedule 1 (**Provisions relating to the constitution and procedure of the Board**)—

(a) Clause 1 (3)—

Omit “The member”, insert instead “A member”.

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(b) Clause 1 (4)—

Omit “the member”, insert instead “a member”.

**LANDLORD AND TENANT (RENTAL BONDS)  
AMENDMENT ACT 1987 No. 170**

NEW SOUTH WALES



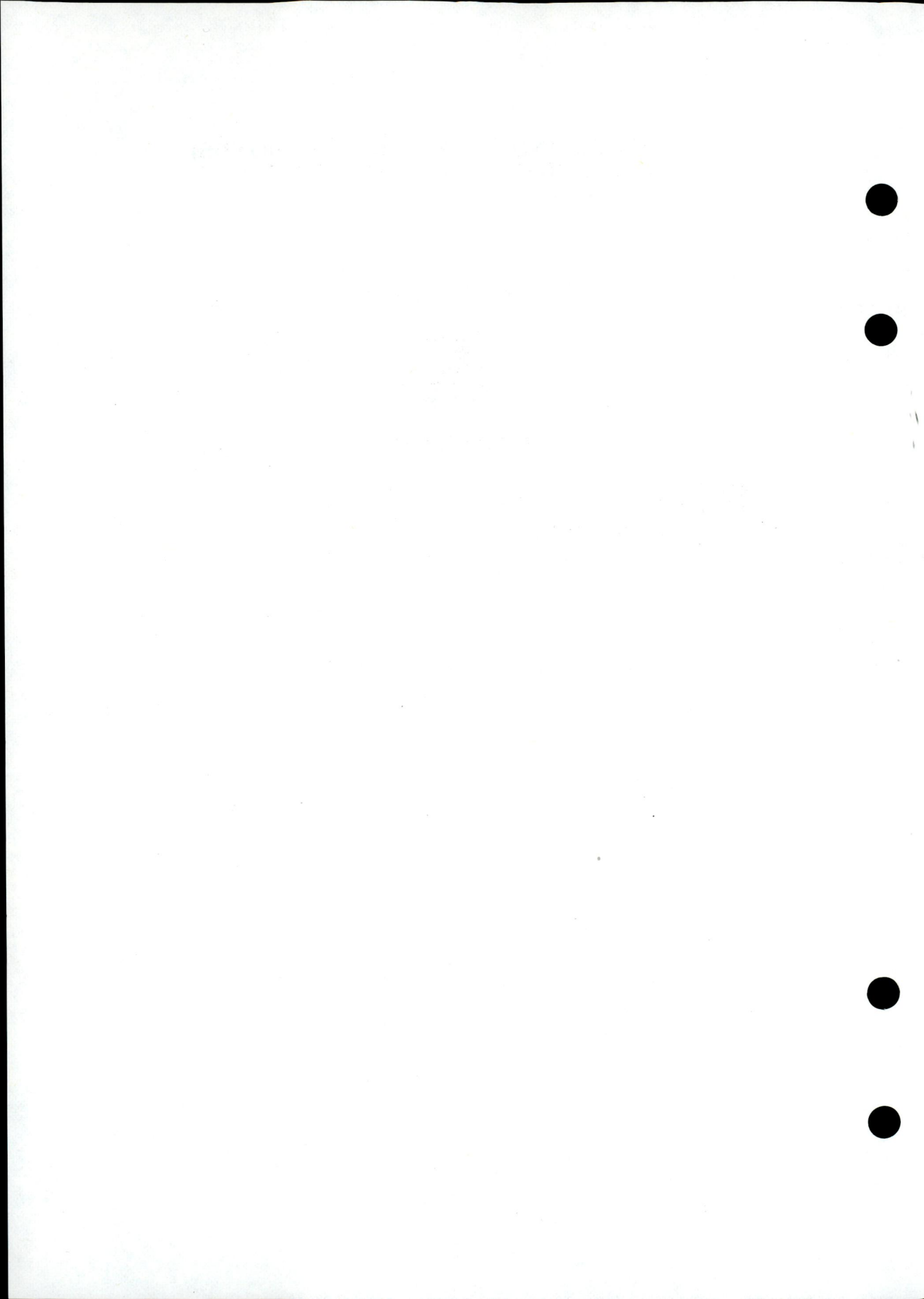
**TABLE OF PROVISIONS**

1. Short title
2. Amendment of Act No. 44, 1977

SCHEDULE 1—AMENDMENTS

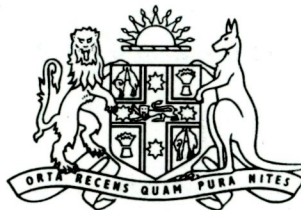
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**LANDLORD AND TENANT (RENTAL BONDS) AMENDMENT ACT  
1987 No. 170**

NEW SOUTH WALES



**Act No. 170, 1987**

An Act to amend the Landlord and Tenant (Rental Bonds) Act 1977 with respect to participation by the Rental Bond Board in schemes for the provision of residential accommodation, the membership of the Rental Bond Board and the repayment of rental bonds, and in other respects. [Assented to 26 November 1987]

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See also Housing (Rental Bonds) Amendment Act 1987.

*Landlord and Tenant (Rental Bonds) Amendment 1987*

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

**Short title**

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

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

2. The Landlord and Tenant (Rental Bonds) Act 1977 is amended as set out in Schedule 1.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 2)

**(1) Section 5 (Constitution of the Rental Bond Board)—**

Section 5 (3)—

After section 5 (2), insert:

(3) The Board is, for the purposes of any Act, a statutory body representing the Crown.

**(2) Section 6 (Constitution and procedure of the Board)—**

(a) Section 6 (1)—

Omit “4 members”, insert instead “5 members”.

(b) Section 6 (1) (d)—

Omit the paragraph, insert instead:

(d) two shall be persons appointed by the Minister, each of whom has, in the opinion of the Minister, had experience in real estate or tenancy matters.

(c) Section 6 (2)—

Omit “the member”, insert instead “a member”.

**(3) Part II A—**

After Part II, insert:

**PART II A—SPECIAL FUNCTIONS OF THE BOARD  
(PROVISION OF RESIDENTIAL ACCOMMODATION)**

**Joint ventures for residential accommodation**

7A. (1) The Board may, with the approval of the Minister and the concurrence of the Treasurer, enter into a joint venture (including a partnership and any other association) with other persons or bodies, whether or not incorporated.

SCHEDULE 1—AMENDMENTS—*continued*

(2) The joint venture shall be for the purpose of the development (including the acquisition, management, leasing and disposal) of land for or in connection with the provision of residential accommodation.

**Joint venture powers**

7B. (1) For the purposes of such a joint venture, the Board may, with the approval of the Minister—

- (a) join in the formation of any company to be incorporated in the State;
- (b) purchase, hold, dispose of or deal with shares in, or subscribe to the issue of shares by, any company incorporated in the State;
- (c) make advances of money or provide other financial accommodation to any person or body (whether or not incorporated) participating in the joint venture or acting for or on behalf of the joint venture; and
- (d) do such other things as are necessary or convenient for, or incidental to, the joint venture.

(2) A company in which the Board has a controlling interest because of its shareholding in the capital of the company is not and does not represent the Crown.

**Investment in residential accommodation unit trusts**

7C. (1) The Board may invest money in units in a residential accommodation unit trust and may, with the approval of the Minister, underwrite the issue of units in such a trust.

(2) A residential accommodation unit trust is a unit trust providing for participation by unit holders in income and profits arising from the development of property that wholly or partly comprises residential accommodation.

(3) Development of property includes the acquisition, holding, management, leasing and disposal of property.

**Guarantees etc. by Board**

7D. (1) The Board may, with the approval of the Minister—

- (a) guarantee the due performance of an obligation incurred by a person or body in connection with a scheme for the provision of residential accommodation;
- (b) make good a loss incurred by a person or body in connection with a scheme for the provision of residential accommodation;



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SCHEDULE 1—AMENDMENTS—*continued*

- (c) indemnify a person or body against a liability incurred under a guarantee (provided by the person or body) of the kind which the Board could provide under this section; and
  - (d) enter into and give effect to an agreement to do anything which the Board is authorised to do under this section.
- (2) The following are examples of schemes for the provision of residential accommodation:
- (a) a joint venture which the Board enters into under this Part;
  - (b) a residential accommodation unit trust in which the Board is empowered to invest under this Part.
- (3) A permissible method of making good a loss involving such a residential accommodation unit trust is investment in units in the trust.

**Finance**

7E. (1) Amounts may be paid from the Rental Bond Interest Account under Part V to meet expenditure by the Board under this Part.

(2) Amounts may also be paid from the Rental Bond Account under Part V to meet so much of that expenditure as is attributable to the provision of financial accommodation (including advances).

(3) Interest and other income accruing to the Board in connection with any investment made, financial accommodation provided or joint venture entered into under this Part shall be paid into the Rental Bond Interest Account under Part V.

(4) Section 11 (**Payment out of rental bonds**)—

(a) Section 11 (9) (a)—

Omit “, subject to subsection (12)”.

(b) Section 11 (9) (a) (i)—

Omit the subparagraph, insert instead:

(i) upon being served with or obtaining a copy of that judgment or order; and

(c) Section 11 (9) (a) (ii)—

Omit “by statutory declaration so served”.

(d) Section 11 (9) (b)—

Omit “subject to subsection (12),”.



*Landlord and Tenant (Rental Bonds) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*

## (e) Section 11 (11)—

Omit “(otherwise than pursuant to subsection (9))”.

## (f) Section 11 (12)–(12B)—

Omit section 11 (12), insert instead:

(12) The Board may pay out money in respect of a judgment or order even if there is a right of appeal against the judgment or order, but only if an appeal has not been lodged.

(12A) If an appeal has been lodged, the Board must not pay out money in respect of the judgment or order unless satisfied that the appeal has been withdrawn or dismissed.

(12B) A payment of money by the Board in respect of a judgment or order does not prevent an appeal being lodged.

## (5) Section 16A—

After section 16, insert:

**Offences by corporations**

16A. (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

(4) This section does not apply to a person in the person's capacity as a director of, or as a person concerned in the management of, a corporation constituted by or under an Act.

## (6) Part V, heading—

Omit the heading, insert instead:

**PART V—ACCOUNTS AND FINANCE**(7) Section 19 (**Rental Bond Account**)—

## (a) Section 19 (2) (a)—

Omit “and”.

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) Section 19 (2) (b), (c)—  
At the end of section 19 (2) (b), insert:  
    ; and  
    (c) any other payments authorised by this Act to be made  
    from that account.
- (8) Schedule 1 (**Provisions relating to the constitution and procedure of the Board**)—
- (a) Clause 1 (3)—  
Omit “The member”, insert instead “A member”.
- (b) Clause 1 (4)—  
Omit “the member”, insert instead “a member”.