

FIRST PRINT

**RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
BILL 1994**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Residential Tenancies Act 1987 regulates the relationship between landlords and tenants of residential premises. That Act currently extends to agreements between landlords and tenants in relation to residential sites in caravan parks and manufactured home estates and, in particular, to agreements where the tenants are the owners of the moveable dwellings placed on the sites.

The objects of this Bill are:

- (a) to regulate the terms of agreements under which owners of moveable dwellings occupy rented residential sites in caravan parks and manufactured home estates; and
- (b) to exclude such agreements from the operation of the Residential Tenancies Act 1987 (Parts 6 and 7 of that Act excepted); and
- (c) to make other consequential amendments to the Residential Tenancies Act 1987; and
- (d) to provide for the making of savings, transitional and other provisions.

PART 1—PRELIMINARY

This Part (clauses 1–6) contains formal provisions, including provisions for the short title and commencement of the proposed Act, an objects clause, a definitions clause, a provision to bind the Crown and a provision specifying the agreements to which the proposed Act will apply.

Residential Tenancies (Relocatable Homes) 1994

PART 2—RESIDENTIAL SITE AGREEMENTS

This Part (clauses 7–17) contains general matters relating to the formation and construction of residential site agreements and empowers the Residential Tenancies Tribunal to make certain orders for the enforcement of residential site agreements and other preliminary matters. In particular, residential site agreements will be required to be in the form of a standard lease agreement, to which other terms (not inconsistent with the proposed Act or the regulations) may be added. In addition, all residential site agreements for a fixed term will be taken to continue as periodic tenancies, whether or not they contain a provision to that effect.

PART 3—LANDLORDS AND TENANTS

Division 1—Implied terms for residential site agreements

This Division (clauses 18–32) implies certain provisions into all residential site agreements, including provisions for payments of rent, rates and taxes and for utility services, tenants' rights to quiet enjoyment, landlords' access to residential sites, repairs, liability for damage done by third parties and rights to assign and sub-let.

Division 2—Change of landlord or tenant

This Division (clauses 33 and 34) binds a landlord's successor in title to a residential site to any residential site agreement with respect to that site and allows certain persons living on a residential site with a tenant to become the tenant in the event that the original tenant dies or ceases to occupy the site.

Division 3—Park rules

This Division (clauses 35–40) provides for the establishment of model park rules by the regulations and the registration, by the Tenancy Commissioner, of modifications particular to specific residential parks. Residents of residential parks will be bound by the park rules for their park if the relevant residential site agreement so provides.

Division 4—General

This Division (clauses 41–43) provides for the relocation of a tenant from one residential site to another, for the appointment of tenants' agents and for the notification of changes in landlords' names and addresses.

PART 4—RENTS

Division 1—General matters

This Division (clauses 44–51) deals with rents and other payments by the tenant. In particular, it provides for the charging of reservation fees, the payments that may be required under or in connection with a residential site agreement, the giving of rent receipts, the maintenance of rent records and the effect of penalty and premium rent terms in a residential site agreement.

Residential Tenancies (Relocatable Homes) 1994

Division 2—Rent increases and excessive rents

This Division (clauses 52–59) regulates the manner and timing of rent increases and enables a tenant to apply to the Tribunal for an order that a particular rent increase is excessive or (where services or facilities have been reduced or withdrawn) that a particular rent is excessive. Contravention of an order under this Division will attract penalties of 50 penalty units.

PART 5—TERMINATION OF RESIDENTIAL SITE AGREEMENTS

Division 1—Termination generally

This Division (clauses 60–62) provides that a residential site agreement may only be terminated in accordance with the proposed Act, that termination of a residential site agreement results in rental payments being payable or refundable on the basis of rent accruing daily and that acceptance of rent does not waive a notice of termination that has been duly given.

Division 2—Notices of termination

This Division (clauses 63–70) prescribes the grounds on which a notice of termination may be given by a landlord or tenant and the form in which such a notice must be given.

Division 3—Termination of residential site agreements by Tribunal

This Division (clauses 71–75) prescribes the grounds on which a notice of termination may be given by the Tribunal and contains other provisions with respect to such a notice.

Division 4—Recovery of possession of residential site

This Division (clauses 76–79) prohibits proceedings for the recovery of possession of a residential site to which a residential site agreement applies from being taken in the Supreme Court, the District Court or a Local Court, prohibits recovery of possession of such a site except under an order made by the Tribunal or by a court, provides for the enforcement of orders for possession made by the Tribunal and for the liability of a former tenant who remains in possession of a residential site in the face of an order for possession.

Division 5—Abandoned residential site and goods

This Division (clauses 80–82) enables the Tribunal to declare that a residential site has been abandoned, states the rights of the landlord in that event and provides for the disposal of goods abandoned with the site.

Residential Tenancies (Relocatable Homes) 1994

PART 6—MISCELLANEOUS

This Division (clauses 83–93) prohibits contracting out of the Act, provides for the payment of costs in proceedings that the Tribunal considers should not have been brought, prohibits the disclosure of information obtained in the administration of the proposed Act, varies the application of the Contracts Review Act 1980 to residential site agreements, provides for offences committed by corporations, creates ancillary offences of aiding and abetting and conspiring to commit offences against the proposed Act, provides for the service of documents, the making of regulations, the amendment of other Acts and the making of savings and transitional provisions.

**SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995**

This Schedule contains the provisions of a Regulation that will come into effect on the commencement of the proposed Act. The Regulation deals with various machinery matters and, in particular, sets out the form of a standard lease agreement (see clause 8 of the proposed Act) and establishes model park rules (see clause 35 of the proposed Act).

SCHEDULE 2—AMENDMENT OF OTHER ACTS

This Schedule contains consequential amendments to the Residential Tenancies Act 1987 and the Subordinate Legislation Act 1989. The amendments to the Residential Tenancies Act 1987 exclude residential site agreements from the operation of that Act, imply a requirement to comply with the park rules for a residential park into any residential tenancy agreement entered into by way of sub-lease from a residential site agreement, provide for the right of appearance of residents' associations in proceedings before the Tribunal that arise under the proposed Act, provide for Supreme Court appeals for matters arising under the proposed Act and make other consequential amendments. The amendments to the Subordinate Legislation Act 1989 provide that the regulations contained in Schedule 1 to the proposed Act are taken to have been originally published on 1 January 1995.

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

This Schedule contains a provision enabling the regulations under the proposed Act to make provision with respect to savings and transitional matters arising as a consequence of the enactment of the proposed Act.

FIRST PRINT

**RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
BILL 1994**

NEW SOUTH WALES



TABLE OF PROVISIONS

PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Object of Act
4. Definitions
5. Crown bound
6. Application of Act

PART 2—RESIDENTIAL SITE AGREEMENTS

7. Residential site agreements in force at the commencement of this Act
8. Residential site agreements entered into after the commencement of this Act
9. Tenants under a residential site agreement
10. Additional terms
11. Terms in Act to prevail
12. Landlord to give tenant signed copy of residential site agreement
13. Certain unsigned residential site agreements enforceable
14. Continuation of fixed term agreements
15. Parties to minimise loss from breach of residential site agreement
16. Applications to the Tribunal in relation to preliminary matters
17. Applications to the Tribunal in relation to a breach of residential site agreement

Residential Tenancies (Relocatable Homes) 1994

PART 3—LANDLORDS AND TENANTS

Division 1—Implied terms for residential site agreements

18. Payment of rent
19. Payment of certain rates, taxes and charges
20. Legal impediments to occupation as residence
21. Vacant possession
22. Tenant's right to quiet enjoyment
23. Use of residential site by tenant
24. Membership of residents' associations
25. Landlord's access to residential site
26. Landlord's responsibility for cleanliness and repairs
27. Cleanliness, notification of damage to residential site etc.
28. Alterations to residential site
29. Urgent repairs
30. Tenant's liability for actions of others
31. Costs of preparation of residential site agreement
32. Right to assign rights or sub-let

Division 2—Change of landlord or tenant

33. Landlord's successors in title bound by residential site agreements
34. Recognition of certain persons as tenants

Division 3—Park rules

35. Model rules
36. Park rules
37. Register of park rules
38. Registration of modification of park rules
39. Review of Tenancy Commissioner's decision
40. Residents to be notified of modifications to park rules

Division 4—General

41. Relocation of tenant
42. Certain tenants may appoint agents
43. Changes of name or address

PART 4—RENTS

Division 1—General matters

44. Reservation fees
45. Nature of amounts to be paid for agreement
46. Rent in advance
47. Post-dated cheques
48. Rent receipts
49. Rent records
50. Penalty rent terms
51. Premium rent terms

Division 2—Rent increases and excessive rents

52. Increase of rent
53. Tenant may apply for an order that a rent increase is excessive
54. Tenant may apply for an order that rent is excessive

Residential Tenancies (Relocatable Homes) 1994

55. Matters to be considered in determining rent applications
56. Orders as to excessive rent increases or rents
57. Payments under separate agreements
58. Interim orders suspending rent increases or rent
59. Contravention of rent order

PART 5—TERMINATION OF RESIDENTIAL SITE AGREEMENTS

Division 1—Termination generally

60. Termination of residential site agreements
61. Apportionment and recovery of rent on termination
62. Breach or notice of termination not waived by acceptance of rent

Division 2—Notices of termination

63. Notice of termination by landlord for non-payment of rent
64. Notice of termination by landlord for other breaches of agreement
65. Notice of termination by landlord otherwise than for breaches of agreement
66. Notice of termination by landlord for the purpose of selling a residential site with vacant possession
67. Notice of termination by tenant without any ground
68. Notice of termination by tenant if agreement frustrated
69. Form of notice of termination
70. Notices of termination unaffected by certain matters

Division 3—Termination of residential site agreements by Tribunal

71. Application to Tribunal by landlord for termination and order for possession
72. Suspension or refusal of orders for termination
73. Tribunal may waive defect in notice of termination
74. Tribunal may terminate residential site agreement if tenant causes serious damage or injury
75. Tribunal may terminate residential site agreement for breach by landlord

Division 4—Recovery of possession of residential site

76. Prohibition on certain recovery proceedings in courts
77. Recovery of possession of residential site prohibited except by order
78. Enforcement of orders for possession
79. Liability of tenant remaining in possession

Division 5—Abandoned residential site and goods

80. Abandoned residential site
81. Right of landlord to compensation if tenant abandons residential site
82. Goods abandoned by tenant after residential site agreement is terminated

PART 6—MISCELLANEOUS

83. Contracting out prohibited
84. Costs in court proceedings
85. Disclosure of information
86. Proceedings for offences
87. Contracts Review Act 1980

Residential Tenancies (Relocatable Homes) 1994

- 88. Offences by corporations
- 89. Offences against this Act
- 90. Service of documents
- 91. Regulations
- 92. Amendment of other Acts
- 93. Savings, transitional and other provisions

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995

SCHEDULE 2—AMENDMENT OF OTHER ACTS

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

**RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
BILL 1994**

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to regulate the terms on which owners of moveable dwellings
occupy rented residential sites in residential parks; and for other purposes.

Residential Tenancies (Relocatable Homes) 1994

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

5 1. This Act may be cited as the Residential Tenancies (Relocatable Homes) Act 1994.

Commencement

2. This Act commences on 1 January 1995.

Object of Act

10 3. The object of this Act is to regulate the terms of agreements under which owners of moveable dwellings occupy rented residential sites in caravan parks and manufactured home estates.

Definitions

4. (1) In this Act:

15 “**dwelling**” means a moveable dwelling within the meaning of the Local Government Act 1993, but does not include:

(a) a caravan (other than a caravan that is attached to a building or structure, other than a tent, designed to extend the livable area of the caravan); or

(b) a campervan or tent;

20 “**function**” includes power, authority and duty; “**confer a function**” includes impose a duty; “**exercise a function**” includes perform a duty;

25 “**landlord**” means the person who grants the right to install a dwelling on a residential site and to use the dwelling as a residence under a residential site agreement, and includes the person’s heirs, executors, administrators and assigns;

“**landlord’s agent**” means a person who acts as the agent of a landlord and who (whether or not the person carries on any other business) carries on business as an agent for:

30 (a) the letting of residential sites; or

(b) the collection of rents payable for any tenancy of a residential site;

Residential Tenancies (Relocatable Homes) 1994

- “park rules”**, in relation to a residential park, means the model park rules prescribed by the regulations, as modified for the purposes of the park in accordance with this Act;
- “proprietor”** of a residential park means:
- (a) the person who holds an approval under the Local Government Act 1993 to operate the residential park; or 5
 - (b) in the case of a residential park for which no such approval is required (such as a residential park situated in a national park within the meaning of the National Parks and Wildlife Act 1974), the person who operates the park; 10
- “rent”** means an amount payable by a tenant under a residential site agreement in respect of a period of the tenancy;
- “reservation fee”** means an amount paid or required to be paid by a prospective tenant in consideration for the prospective landlord not letting a residential site pending their entering into a residential site agreement; 15
- “resident”** of a residential park means a person who is a tenant of a residential site within the residential park;
- “residential park”** means a caravan park or manufactured home estate within the meaning of the Local Government Act 1993, whether or not the subject of an approval under that Act; 20
- “residential site”** means a site within a residential park that is used, or is intended to be used, for the installation of a dwelling;
- “residential site agreement”** means an agreement or arrangement under which one person grants to another, for value, a right to install a dwelling on a residential site and to use the dwelling as a residence, whether or not the right is a right of exclusive occupation; 25
- “residents’ association”** means an association of persons formed for the purpose of advancing or protecting the interests of the tenants of residential parks, whether formed with respect to residential parks generally or with respect to one or more specific residential parks; 30
- “signed”** includes executed by a corporation in any manner permitted by law;
- “standard lease agreement”** means an agreement in the form prescribed by the regulations; 35
- “tenancy”** means the right to install a dwelling on a residential site and to use the dwelling as a residence under a residential site agreement;
- “Tenancy Commissioner”** means the Tenancy Commissioner referred to in section 117A of the Residential Tenancies Act 1987; 40

Residential Tenancies (Relocatable Homes) 1994

“**tenant**” means the person who has the right to install a dwelling on a residential site and to use the dwelling as a residence under a residential site agreement, and includes the person’s heirs, executors, administrators and assigns;

5 “**tenant’s agent**” means an agent appointed by a tenant under section 42;

10 “**termination date**”, in relation to a residential site agreement, means the date specified in a notice of termination under Part 5 as the date on which vacant possession of the residential site must be, or will be, given to the landlord;

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

15 (2) For the purpose of determining whether an agreement is a residential site agreement, it does not matter that the person granted the right of occupation is a corporation if the site is used, or is intended to be used, for the installation of a dwelling on a residential site and the use of the dwelling as a residence by a natural person.

Crown bound

20 5. This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Application of Act

25 6. (1) This Act applies to all residential site agreements (excluding agreements referred to in subsection (2) but including agreements referred to in subsection (3) or (4)) and so applies whether those agreements were entered into before or after the commencement of this Act.

(2) This Act does not apply to the following residential site agreements:

30 (a) an agreement which relates to a residential site within a caravan park (within the meaning of the Local Government Act 1993) but which is not specified in the relevant development consent under the Environmental Planning and Assessment Act 1979 as being a site that is suitable for long-term residence within the meaning of State Environmental Planning Policy No. 21—Caravan Parks;

35 (b) subject to subsection (3), an agreement that grants a tenancy for less than 3 months;

(c) subject to subsection (4), an agreement under which the tenant under some other residential site agreement grants a sub-lease of the residential site.

Residential Tenancies (Relocatable Homes) 1994

(3) The Tribunal may declare that this Act applies to a residential site agreement that grants a tenancy for less than 3 months if the tenant has been in occupation of the residential site, whether under the residential site agreement or otherwise, for more than 3 months (unless, before the end of that period, the landlord has taken action in accordance with the Residential Tenancies Act 1987 to terminate the agreement or to regain possession of the site) and, in the event that such a declaration is made, this Act so applies. 5

(4) The Tribunal may declare that this Act applies to a residential site agreement under which the tenant under some other residential site agreement grants a sub-lease of the residential site if it is satisfied that the tenant by whom the sub-lease is granted is acting: 10

(a) for or on behalf of the landlord under the residential site agreement; or

(b) for or on behalf of the proprietor of the residential park, 15

and, in the event that such a declaration is made, this Act so applies.

(5) To the extent to which this Act applies to a residential site agreement, it so applies despite the terms of the agreement or of any other contract, agreement or arrangement, whether made before or after the commencement of this Act. 20

PART 2—RESIDENTIAL SITE AGREEMENTS

Residential site agreements in force at the commencement of this Act

7. (1) A residential site agreement that was in force immediately before the commencement of this Act is taken to have been modified to the extent necessary to ensure that it conforms to the standard lease agreement. 25

(2) Nothing in this section voids the effect of any term of a residential site agreement that is not inconsistent with this Act or the regulations.

Residential site agreements entered into after the commencement of this Act 30

8. (1) A residential site agreement that is entered into after the commencement of this Act:

(a) must be in writing in the form of the standard lease agreement; and

(b) may, subject to this Act, contain other terms not inconsistent with this Act or the regulations. 35

Residential Tenancies (Relocatable Homes) 1994

(2) The standard lease agreement:

- (a) is taken to contain all terms included in the agreement by Division 1 of Part 3; and
- (b) may set out those terms or provisions to the same effect; and
- (c) may contain other terms not inconsistent with this Act.

(3) The standard lease agreement may not exclude the operation or vary the effect of any of the terms included in the agreement by Division 1 of Part 3.

(4) A residential site agreement that is not in the form of the standard lease agreement is taken to have been modified to the extent necessary to ensure that it conforms to the standard lease agreement.

(5) Nothing in this section voids the effect of any term of a residential site agreement that is not inconsistent with this Act or the regulations.

Tenants under a residential site agreement

9. If the prospective landlord or prospective tenant so requests, the persons named as tenants under a residential site agreement are to include any or all of the persons who intend to reside on the residential site (other than persons, such as children, who do not have the legal capacity to enter into such an agreement).

Additional terms

10. (1) The parties to a residential site agreement may insert additional terms in the agreement, but only if the terms:

- (a) do not contravene this Act or the regulations or any other Act or regulation; or
- (b) are not inconsistent with the terms contained in the standard lease agreement by virtue of this Act or the regulations.

(2) On the application of a tenant or a landlord, the Tribunal, if satisfied that an additional term:

- (a) contravenes subsection (1); or
- (b) is unconscionable, harsh or oppressive,

may declare that the additional term is void.

Terms in Act to prevail

11. A term of a residential site agreement is void to the extent to which it is inconsistent with any term included in the agreement by Division 1 of Part 3.

Landlord to give tenant signed copy of residential site agreement

12. (1) A prospective landlord must give a prospective tenant copies of the following documents:

- (a) the proposed residential site agreement, signed by the landlord;
- (b) this Act; 5
- (c) if the agreement contains a term requiring the tenant to comply with the park rules for the residential park, the park rules.

(2) The documents must be given to the tenant:

- (a) if the landlord reserves a residential site for the tenant and no reservation fee is payable for the reservation, when the site is reserved; or 10
- (b) if the landlord reserves a residential site for the tenant and a reservation fee is payable for the reservation, when the reservation fee is paid; or
- (c) in any other case, as soon as reasonably practicable but in any case before the tenant gives the landlord a copy of the residential site agreement, signed by the tenant. 15

(3) A prospective landlord under a residential site agreement must not contravene this section.

Maximum penalty: 5 penalty units. 20

(4) This section does not require more than one copy of a document to be given in respect of the same residential site agreement just because there is more than one landlord or more than one tenant.

Certain unsigned residential site agreements enforceable

13. (1) If a residential site agreement has been signed by a tenant and given to the landlord or a person on the landlord's behalf, but has not been signed by the landlord: 25

- (a) acceptance of rent by or on behalf of the landlord without reservation; or
- (b) any other act of part performance of the agreement by or on behalf of the landlord, 30

gives to the agreement the same effect as it would have had if it had been signed by the landlord on the first day in respect of which rent was accepted or on the day on which such an act was first performed.

(2) This section applies despite section 54A of the Conveyancing Act 1919. 35

Continuation of fixed term agreements

5 **14. (1)** If a residential site agreement (having no provision in its terms for continuation) that creates a tenancy for a fixed term continues after the day on which the term ends and notice of termination has not been given before that day in accordance with this Act, then:

- 6 (a) the residential site agreement continues to apply on the same terms (other than any term relating to termination of the agreement) as last applying before that day; and
- 10 (b) the residential site agreement so continues on the basis that the tenant is holding over under a periodic tenancy.

15 **(2)** The Tribunal may, on application by a landlord or a tenant, modify the terms (including terms contained in the standard lease agreement but not any terms included in the agreement by Division 1 of Part 3) of a residential site agreement as it considers appropriate for the continuation of the agreement.

Parties to minimise loss from breach of residential site agreement

20 **15. (1)** The rules of law relating to mitigation of loss or damage on breach of a contract apply to a breach of a residential site agreement.

20 **(2)** Nothing in this section affects the operation of section 81 (which also deals with mitigation of loss).

Applications to the Tribunal in relation to preliminary matters

25 **16. (1)** A person who disputes any of the following matters:

- 25 (a) whether a residential site has been reserved for the person;
- (b) the identity of the residential site reserved for the person;
- 25 (c) the period for which the residential site has been reserved for the person;
- (d) whether a reservation fee is payable for the reservation of the residential site;
- (e) the amount of any such reservation fee;
- 30 (f) whether any such reservation fee has been paid;
- (g) the way in which any such reservation fee has been dealt with;
- (h) any other question as to the reservation of a residential site,

may apply to the Tribunal for an order in respect of the dispute.

35 **(2)** The person may make the application whether or not the prospective residential site agreement was entered into.

Residential Tenancies (Relocatable Homes) 1994

(3) The Tribunal may make such order as appears appropriate in relation to the application.

(4) An order under subsection (3) may be made even though it provides a remedy in the nature of an injunction or order for specific performance in circumstances in which such a remedy would not otherwise be available. 5

(5) An application under this section may be made before, during the currency of or after the termination of a residential site agreement.

Applications to the Tribunal in relation to a breach of residential site agreement 10

17. (1) If a landlord or a tenant under a residential site agreement claims that a breach of a term of the agreement has occurred, the landlord or the tenant may, not later than 30 days after becoming aware of the breach, apply to the Tribunal for an order in respect of the breach.

(2) If a landlord or a tenant under a residential site agreement claims that a dispute has arisen under the agreement, the landlord or the tenant may refer the dispute to the Tenancy Commissioner. 15

(3) When a dispute is referred to the Tenancy Commissioner under this section, the Tenancy Commissioner may attempt to bring the landlord and the tenant to a settlement acceptable to them. 20

(4) If the landlord and tenant fail to make such a settlement, the landlord or the tenant may apply to the Tribunal for an order in respect of the dispute.

(5) The Tribunal may, on application by a person under this section, make one or more of the following orders: 25

(a) an order that:

(i) restrains any action in breach of the residential site agreement; or

(ii) requires an action in performance of the residential site agreement; 30

(b) an order that requires a person to pay an amount of money to some other person;

(c) an order that requires a person to perform such work or take such other steps as the order specifies to remedy a breach of the agreement; 35

(d) an order that requires a person to pay compensation, including (without limiting the Tribunal's power to make such an order):

(i) compensation for loss of rent; and

Residential Tenancies (Relocatable Homes) 1994

- (ii) compensation for a landlord's withholding or refusal of consent to the removal of a tenant's fixture; and
- (iii) compensation for any other breach of the residential site agreement;
- 5 (e) an order that requires a person to pay the whole or part of the rent under the agreement into the Tribunal until the whole or part of the agreement has been performed or any application for compensation has been determined;
- 10 (f) an order that requires a person to contribute (out of rent paid into the Tribunal) towards the cost of remedying a breach of the residential site agreement or towards the amount of any compensation.

15 (6) An order under subsection (5) (a) may be made even though it provides a remedy in the nature of an injunction or order for specific performance in circumstances in which such a remedy would not otherwise be available.

20 (7) An application under this section may be made during the currency of or after the termination of a residential site agreement and may be made whether or not notice of termination has been given or an order for termination has been made by the Tribunal.

PART 3—LANDLORDS AND TENANTS

Division 1—Implied terms for residential site agreements

Payment of rent

25 18. It is a term of every residential site agreement that the tenant must pay the rent on or before the day set out in the agreement.

Payment of certain rates, taxes and charges

30 19. (1) It is a term of every residential site agreement that the landlord must pay all rates, taxes or charges payable under any Act in connection with the residential site.

 (2) This section does not apply to the following charges:

- (a) charges for water, electricity or gas supplied to the residential site;
- (b) any other charges prescribed by the regulations.

35 (3) It is a term of every residential site agreement that, in the case of a residential site that is individually metered for the supply of water, electricity or gas, the maximum amount that a tenant is required to pay to

Residential Tenancies (Relocatable Homes) 1994

the landlord for water, electricity or gas supplied to the residential site by the landlord is the amount calculated according to the domestic tariffs of the water, electricity or gas distributor by which the water, electricity or gas is supplied to the landlord.

Legal impediments to occupation as residence

5

20. It is a term of every residential site agreement that the landlord warrants that there is no legal impediment (of which the landlord had or ought reasonably to have had knowledge at the time of entering into the agreement) to the use of a dwelling on the residential site as a residence for the period of the tenancy.

10

Vacant possession

21. (1) It is a term of every residential site agreement that the tenant must be given vacant possession of the residential site on the day on which the tenant is entitled to occupy the site under the agreement.

(2) This section does not apply to any part of a residential site to which the tenant does not have a right of exclusive occupation under the residential site agreement.

15

Tenant's right to quiet enjoyment

22. (1) It is a term of every residential site agreement that:

(a) the tenant must have quiet enjoyment of the residential site without interruption by the landlord or any person claiming by, through or under the landlord or having superior title (for example, a head landlord) to that of the landlord; and

20

(b) the landlord or the landlord's agent must not interfere, or cause or permit any interference, with the reasonable peace, comfort or privacy of the tenant in using the residential site.

25

(2) A landlord or a landlord's agent under a residential site agreement must not, during the currency of the agreement, contravene this section.

Maximum penalty: 5 penalty units.

Use of residential site by tenant

30

23. It is a term of every residential site agreement that:

(a) the tenant must not use the residential site, or cause or permit the site to be used, for any illegal purpose; and

(b) the tenant must not cause or permit a nuisance; and

Residential Tenancies (Relocatable Homes) 1994

- (c) the tenant must not interfere, or cause or permit any interference, with the reasonable peace, comfort or privacy of any neighbour of the tenant.

Membership of residents' associations

5 **24. (1)** It is a term of every residential site agreement that the tenant may belong to, and participate in the activities of, any residents' association.

(2) A landlord or a landlord's agent must not interfere with the tenant's rights under this section.

10 Maximum penalty: 50 penalty units.

Landlord's access to residential site

15 **25. (1)** It is a term of every residential site agreement that the landlord, the landlord's agent and any person authorised by the landlord may, during the currency of the agreement, enter the residential site, but only in the following circumstances:

- (a) in an emergency (including entry for the purpose of carrying out urgent repairs);
- (b) to inspect an electricity, water or gas meter situated on the residential site;
- 20 (c) to inspect the residential site, on not more than 4 occasions in any period of 12 months, if the tenant has been given not less than 7 days' notice on each occasion;
- (d) to carry out necessary repairs to, or maintenance of, the residential site, if (except in the case of urgent repairs) the tenant has been
- 25 given not less than 2 days' notice on each occasion;
- (e) to show the residential site to prospective purchasers or mortgagees, on a reasonable number of occasions, if the tenant has been given reasonable notice on each occasion;
- 30 (f) to show the residential site to prospective tenants, on a reasonable number of occasions during the period of 14 days preceding the termination of the agreement, if the tenant has been given reasonable notice on each occasion;
- (g) if the landlord forms a belief on reasonable grounds that the residential site has been abandoned;
- 35 (h) at any time with the consent of the tenant;
- (i) in accordance with an order of the Tribunal.

Residential Tenancies (Relocatable Homes) 1994

(2) It is a term of every residential site agreement that a person must not enter the residential site in the circumstances set out in subsection (1) (b), (c), (d), (e) or (f):

(a) on a Sunday or a public holiday, unless the tenant otherwise agrees; and 5

(b) except between the hours of 8.00 a.m. and 8.00 p.m., unless the tenant otherwise agrees; and

(c) in the case of a person other than the landlord or the landlord's agent, except with the prior written consent of the landlord or the landlord's agent. 10

(3) It is a term of every residential site agreement that a written consent referred to in subsection (2) (c) must be produced to the tenant.

(4) The Tribunal may, on application by a landlord under a residential site agreement, make an order authorising the landlord or any other person to enter the residential site. 15

(5) Without limiting the generality of subsection (4), the Tribunal may make an order under that subsection authorising the landlord or any other person to enter the residential site for the purpose of determining whether the tenant has breached the term of the residential site agreement set out in section 23. 20

(6) The landlord under a residential site agreement, the landlord's agent and any other person referred to in this section must not, during the currency of the agreement, enter the residential site except as permitted by this section.

Maximum penalty: 5 penalty units. 25

(7) Nothing in this section authorises the landlord under a residential site agreement, the landlord's agent or any other person referred to in this section to enter a dwelling installed on the residential site.

(8) In this section:

“urgent repairs” has the same meaning as it has in section 29. 30

Landlord's responsibility for cleanliness and repairs

26. It is a term of every residential site agreement that the landlord must, at the commencement of the tenancy, provide the residential site in a reasonable state of cleanliness and fitness for occupation by the tenant.

Cleanliness, notification of damage to residential site etc.

27. It is a term of every residential site agreement that:

- 5 (a) having regard to the condition of the residential site at the commencement of the tenancy, the tenant must keep the residential site in a reasonable state of cleanliness; and
- (b) the tenant must, as soon as practicable, notify the landlord of any damage to the residential site; and
- (c) the tenant must not intentionally or negligently cause or permit any damage to the residential site.

10 **Alterations to residential site**

28. (1) It is a term of every residential site agreement that:

- (a) the tenant must not, except with the landlord's written consent or unless the agreement otherwise provides, affix any fixture to the residential site or make any alteration to the residential site; and
- 15 (b) if the tenant causes any damage to the residential site by removing any fixture affixed by the tenant, the tenant must notify the landlord and, at the landlord's request, repair the damage or compensate the landlord for the landlord's reasonable expenses in repairing the damage.

20 (2) In this section:

"fixture" does not include the dwelling to be installed on the site under the residential site agreement.

Urgent repairs

25 29. (1) It is a term of every residential site agreement that the landlord must, not later than 14 days after receiving a written notice from the tenant, reimburse the tenant for any reasonable costs (up to but not exceeding, in each case, \$500 or such other amount as may be prescribed by the regulations) incurred by the tenant in making urgent repairs to the residential site, if:

- 30 (a) the state of disrepair arose otherwise than as a result of a breach of the agreement by the tenant; and
- (b) the tenant has given or has made a reasonable attempt to give the landlord notice of the state of disrepair; and
- 35 (c) where notice has been given, the tenant has given the landlord a reasonable opportunity to make the repairs; and
- (d) where the landlord has, in the agreement, nominated a duly qualified person or persons to carry out repairs of the kind

Residential Tenancies (Relocatable Homes) 1994

- concerned, the tenant has made a reasonable attempt to arrange for that person or one of those persons to carry out the repairs; and
- (e) the repairs were carried out, if appropriate, by duly qualified persons; and
- (f) the tenant has, as soon as practicable, given or has made a reasonable attempt to give the landlord a written notice specifying details of the repairs and their costs, together with all receipts or copies of receipts for costs paid by the tenant. 5
- (2) Nothing in this section prevents a tenant, with the consent of the landlord, from: 10
- (a) making repairs to the residential site; and
- (b) being reimbursed for the costs of those repairs.
- (3) In this section:
- “urgent repairs”** means any work needed to repair any one or more of the following: 15
- (a) a burst water service;
- (b) a gas leak;
- (c) a dangerous electrical fault;
- (d) flooding or serious flood damage;
- (e) serious storm or fire damage; 20
- (f) a failure or breakdown of the gas, electricity or water supply to the residential site;
- (g) any fault or damage that causes the residential site to be unsafe or insecure;
- (h) any other damage of a kind prescribed by the regulations, 25
- but does not include work needed to repair goods or fixtures not owned by the landlord or a person having superior title (for example, a head landlord) to the landlord.

Tenant’s liability for actions of others

30. It is a term of every residential site agreement that the tenant is responsible to the landlord for any act or omission by any other person who is lawfully on the residential site (other than a person who has a right of entry to the site without the tenant’s consent) if the act or omission would have been a breach of the agreement had it been an act or omission by the tenant. 35

Residential Tenancies (Relocatable Homes) 1994

Costs of preparation of residential site agreement

31. (1) It is a term of every residential site agreement that the costs of preparation of a residential site agreement by or on behalf of a landlord are payable in equal shares by the landlord and the tenant.

5 (2) A landlord under a proposed residential site agreement must give to the tenant under the proposed agreement, before the tenant enters into the agreement, a written statement of any costs of preparation of the agreement and of any other charges (including any stamp duty) payable by the tenant in respect of the agreement.

10 Maximum penalty: 2 penalty units.

(3) The regulations may prescribe a maximum amount payable by a tenant for the costs of preparation of a residential site agreement and for any other charges (other than stamp duty) payable by a tenant in respect of the agreement.

15 (4) If the regulations prescribe a maximum amount payable by the tenant for any such costs or charges, any difference between those costs or charges and the maximum amount prescribed is payable by the landlord.

Right to assign rights or sub-let

20 32. (1) It is a term of every residential site agreement that:

(a) the tenant may, with the prior consent of the landlord:

(i) assign the whole or part of the tenant's interest under the agreement; or

(ii) sub-let the residential site; and

25 (b) the landlord must not make any charge for giving such a consent, otherwise than for the landlord's reasonable expenses in giving consent.

30 (2) It is a term of every residential site agreement that the landlord may not unreasonably withhold or refuse consent to an assignment referred to in subsection (1).

Division 2—Change of landlord or tenant**Landlord's successors in title bound by residential site agreements**

35 33. (1) A person who succeeds the landlord under a residential site agreement as the owner of the residential site (whether by purchase or otherwise) is bound by the agreement, and becomes the landlord under the agreement, by operation of this section.

Residential Tenancies (Relocatable Homes) 1994

(2) A notice given to a tenant under a residential site agreement by a person who becomes the landlord under the agreement by operation of this section, being a notice that:

(a) specifies the name of the new landlord; and

(b) directs the tenant to pay all future rent to the new landlord, 5

operates as an attornment as tenant to the new landlord by the tenant at the rent, and subject to the terms of the agreement, as at the date the notice is given.

Recognition of certain persons as tenants

34. (1) A person who is occupying a residential site the subject of a residential site agreement may: 10

(a) on the death of the tenant; or

(b) if the tenant no longer occupies the site,

apply to the Tribunal to be recognised as a tenant under the agreement, or to be joined as a party to any proceedings before the Tribunal relating to the site, or both. 15

(2) An application to be recognised as a tenant may be made at the same time as any other application or during proceedings before the Tribunal or independently of any such other application or proceedings.

(3) The Tribunal may, on an application under this section, do either or both of the following: 20

(a) it may make an order recognising the applicant as a tenant under a residential site agreement, in which case the applicant is taken, for the purposes of this or any other Act and the agreement, to be a tenant under the agreement; 25

(b) it may make an order joining the person as a party to proceedings.

(4) The Tribunal may, if a person has made an application to be recognised as a tenant and if it thinks it appropriate to do so in the circumstances, make an order vesting a tenancy over the residential site in the person on such of the terms and conditions that applied under the previous residential site agreement as are in its opinion, having regard to the circumstances of the case, appropriate. 30

Division 3—Park rules

Model rules

35. (1) The regulations may prescribe model rules for the purposes of this Act. 35

Residential Tenancies (Relocatable Homes) 1994

(2) The model rules may make provision (not inconsistent with this Act or the regulations) for such matters as may be prescribed by the regulations.

Park rules

5 **36. (1)** The park rules for a residential park are the model rules prescribed by the regulations, together with such modifications (if any) as are made in accordance with this Division.

10 (2) A residential site agreement may contain provisions requiring the tenant under the agreement to comply with the park rules for the residential park in which the residential site is situated.

(3) In that event, the park rules for the residential park are taken to form part of the residential site agreement and may be enforced accordingly.

Register of park rules

15 **37. (1)** The Tenancy Commissioner must maintain a register of park rules for each residential park.

(2) The register is to contain the park rules for each residential park, together with all modifications to those rules that are registered in accordance with this Division.

20 (3) The register is to be made available for inspection, free of charge, by members of the public during normal office hours.

Registration of modification of park rules

25 **38. (1)** The proprietor of a residential park may, on payment of the fee prescribed by the regulations, apply to the Tenancy Commissioner for registration of a modification of the park rules.

(2) The proprietor of a residential park must give notice of the application, in the manner prescribed by the regulations, to each resident of the residential park.

(3) The Tenancy Commissioner:

- 30 (a) may register the modification; or
 (b) may refuse to register the modification; or
 (c) may refer the application to the Tribunal for decision,
as the Tenancy Commissioner thinks fit.

Residential Tenancies (Relocatable Homes) 1994

- (4) However, a modification of the park rules must not be registered:
 (a) if it is inconsistent with this Act or the regulations; or
 (b) if it is contrary to the public interest.
- (5) Any submissions made:
 (a) by the proprietor of the residential park; or 5
 (b) by the residents of the residential park,
 must be taken into consideration before a decision is made on the application.
- (6) The Tribunal's decision on the application has effect as if it were a decision of the Tenancy Commissioner. 10
- (7) A modification of the park rules has no effect until it is registered but, to the extent to which it has effect, binds both existing and future residents under residential agreements that adopt the park rules.
- Review of Tenancy Commissioner's decision**
39. (1) An application may be made to the Tribunal: 15
 (a) by the proprietor of a residential park, for a review of the Tenancy Commissioner's decision to refuse to register a modification of the park rules; or
 (b) by a resident of the residential park, for a review of the Tenancy Commissioner's decision to register a modification of the park rules. 20
- (2) Such an application must be made within 90 days after the decision is made or within such further time as the Tribunal may allow in a particular case.
- (3) The Tribunal's determination of the application has effect as if it were a decision of the Tenancy Commissioner. 25
- Residents to be notified of modifications to park rules**
40. The proprietor of a residential park must give notice of any modifications to the park rules, in the manner prescribed by the regulations, to each resident of the residential park. 30

Division 4—General

Relocation of tenant

41. (1) The landlord and tenant under a residential site agreement may agree to the relocation of the tenant to a different residential site, whether within the same or a different residential park. 35

Residential Tenancies (Relocatable Homes) 1994

5 (2) The landlord under a residential site agreement may, by notice in writing, require the tenant to relocate to a different residential site, whether within the same or a different residential park, if the tenant is in breach of the agreement because of the unsightly or dilapidated condition of the dwelling.

(3) Such a notice must specify the date by which the tenant must relocate, being a date not earlier than 90 days after the notice is given.

(4) If, within the period of 90 days referred to in the notice, the tenant has remedied the breach, the notice ceases to have effect.

10 (5) Failure to comply with the notice amounts to a serious and persistent breach of the agreement for the purposes of Part 5.

(6) If the tenant relocates:

(a) by agreement, as referred to in subsection (1); or

15 (b) in accordance with a notice to relocate, as referred to in subsection (2),

the residential agreement is taken to be varied by substituting the new residential site for the old.

20 (7) The rent payable under a residential site agreement that is varied may be reduced, but (in the case of a relocation resulting from a notice to relocate under subsection (2)) may not be increased, as a consequence of the variation.

25 (8) On application by a tenant who is required to locate, or who has relocated, as referred to in subsection (2), the Tribunal may order the landlord to contribute towards the tenant's costs in relocating to the new residential site.

Certain tenants may appoint agents

42. (1) A tenant under a residential site agreement who because of:

(a) intellectual or physical impairment; or

(b) illiteracy or inability to read or write English sufficiently well; or

30 (c) absence from the residential site,

is unable to deal with notices or other documents given under the agreement or this Act may appoint a person as the tenant's agent for the purpose of receiving those notices or other documents.

(2) An appointment under this section:

35 (a) may be made in the residential site agreement or at any time after the agreement commences; and

Residential Tenancies (Relocatable Homes) 1994

(b) may be revoked at any time by the tenant,
and any such appointment or revocation has no effect until it is notified to the landlord or the landlord's agent.

(3) A landlord, the landlord's agent or the Tribunal, if notified of the appointment, must give to the tenant's agent, until such time as the appointment expires or is revoked, any notices or other documents required under the residential site agreement or this Act to be given to the tenant. 5

(4) A notice or other document that is required by this section to be given to a tenant's agent, but that is not so given, is taken not to have been given to the tenant. 10

Changes of name or address

43. (1) A landlord under a residential site agreement must, at or before the time of entering into the agreement, give the tenant notice in writing of: 15

- (a) the name and residential address of the landlord; or
- (b) the name and business address of the landlord's agent; or
- (c) if the landlord or agent is a corporation, the name of the secretary of the corporation and the address of the registered office of the corporation. 20

Maximum penalty: 2 penalty units.

(2) A person who succeeds another person as the landlord under a residential site agreement must, not later than 14 days after succeeding as landlord, give the tenant notice in writing of:

- (a) the name and residential address of the new landlord; or 25
- (b) the name and business address of the new landlord's agent; or
- (c) if the new landlord or agent is a corporation, the name of the secretary of the corporation and the address of the registered office of the corporation.

Maximum penalty: 2 penalty units. 30

(3) If a name or an address of which a current landlord is required to give notice under this section changes, the current landlord must give the tenant notice in writing of the changed name or address within 14 days of becoming aware of the change.

Maximum penalty: 2 penalty units. 35

PART 4—RENTS**Division 1—General matters****Reservation fees**

5 **44. (1)** A person must not require or receive from:

- (a) a prospective tenant; or
- (b) any person on behalf of a prospective tenant,

a reservation fee of more than \$250, or such other amount as may be prescribed by the regulations.

Maximum penalty: 5 penalty units.

10 **(2)** Payment of a reservation fee operates to reserve the residential site for such period (being at least 10 weeks) as is agreed between the prospective landlord and prospective tenant.

15 **(3)** In the event that the prospective landlord and prospective tenant enter into a residential site agreement, the reservation fee is to be applied towards the rent payable under the agreement.

(4) In the event that the prospective landlord and prospective tenant do not enter into a residential site agreement, the landlord must return the reservation fee to the tenant, but only if the tenant notifies the landlord that the tenant no longer wishes to enter into the agreement.

20 Maximum penalty: 20 penalty units.

(5) The notice must be given within 14 days after the reservation fee was paid, but may not be given if the tenant:

- (a) has moved into possession of the residential site concerned; or
 - (b) has given a signed copy of the residential site agreement to the
- 25 landlord.

(6) A prospective landlord may keep the reservation fee if no such notice is given.

Nature of amounts to be paid for agreement

30 **45. (1)** A person must not require or receive from a tenant or prospective tenant any monetary consideration (otherwise than by way of reservation fee or rent) for or in relation to entering into, renewing, extending or continuing a residential site agreement.

Maximum penalty: 5 penalty units.

35 **(2)** In particular, a person must not require or receive from a tenant or prospective tenant any rental bond, within the meaning of the Landlord

Residential Tenancies (Relocatable Homes) 1994

and Tenant (Rental Bonds) Act 1977, in relation to a residential site agreement.

Maximum penalty: 5 penalty units.

(3) This section does not apply to such fees, charges or other amounts as may be prescribed by the regulations. 5

Rent in advance

46. (1) A person must not require:

(a) if the rent under a proposed residential site agreement does not exceed the prescribed rent, more than 2 weeks' rent; or

(b) if the rent exceeds the prescribed rent, more than 1 month's rent, 10
to be paid as rent in advance under the agreement.

Maximum penalty: 5 penalty units.

(2) A person must not require the payment of any rent (other than the first payment) under a residential site agreement for a period of the tenancy to be made before the end of the previous period for which rent has been paid. 15

Maximum penalty: 5 penalty units.

(3) In this section:

“prescribed rent” means rent of \$150 per week or such other amount as may be prescribed by the regulations. 20

Post-dated cheques

47. A person must not, in payment of rent under a residential site agreement, require a cheque or other negotiable instrument that is post-dated.

Maximum penalty: 5 penalty units. 25

Rent receipts

48. (1) If rent under a residential site agreement is paid in person, any person who receives payment of the rent must, without delay, give to the person making the payment a receipt for the payment.

Maximum penalty: 5 penalty units. 30

Residential Tenancies (Relocatable Homes) 1994

(2) If rent is not paid in person, the landlord or the landlord's agent must, on receipt of the rent, prepare a receipt for the rent and make the receipt available for collection by the tenant or post it to the tenant.

Maximum penalty: 5 penalty units.

5 (3) A receipt for rent is not a receipt for the purposes of this section unless it includes the following particulars:

- (a) the name and address of the residential park;
- (b) the number of the residential site;
- (c) whether the tenant is in debit or credit as at the date of payment;
- 10 (d) the date on which the rent is received;
- (e) the amount of rent paid.

(4) This section does not apply to rent paid, in accordance with an agreement between the landlord and the tenant, into an account at a bank, building society or other similar body nominated by the landlord.

15 **Rent records**

49. (1) A landlord under a residential site agreement or the landlord's agent must keep a record showing rent received under the agreement.

Maximum penalty: 5 penalty units.

20 (2) The record may be kept in the form of a book, account, document, paper or other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means.

25 (3) The record, and copies of all rent receipts issued by or on behalf of a landlord under a residential site agreement, must be kept by the landlord or the landlord's agent for a period of not less than 12 months following the receipt of the rent.

Maximum penalty: 5 penalty units.

(4) A person must not knowingly make an entry which is false in a material particular in a record kept under this section.

30 Maximum penalty: 5 penalty units.

Penalty rent terms

50. A term of a residential site agreement is void to the extent that it provides that, if the tenant breaches the agreement or this or any other Act, the tenant is liable to pay:

- 35 (a) all or any part of the rent remaining payable under the agreement;
or
- (b) increased rent; or

Residential Tenancies (Relocatable Homes) 1994

- (c) any amount as a penalty; or
- (d) any amount as liquidated damages.

Premium rent terms

51. A term of a residential site agreement that provides that, if the tenant does not commit a breach of the agreement or of this or any other Act: 5

- (a) the rent must or may be reduced; or
- (b) the tenant must or may be granted or paid a rebate or refund of rent or other benefit,

is taken to have been varied from the commencement of the agreement so that the tenant is immediately entitled to the reduction, rebate, refund or other benefit. 10

Division 2—Rent increases and excessive rents

Increase of rent

52. (1) The rent payable by a tenant under a residential site agreement must not be increased except by notice in writing given to the tenant specifying the amount of the increased rent and the day from which the increased rent is payable. 15

(2) A day specified as the day from which increased rent is payable:

(a) must not be earlier than 90 days after the day on which the notice of the increase is given; and 20

(b) must not be earlier than 12 months after:

(i) the rent first became payable under the residential site agreement; or

(ii) the rent was last increased, 25

whichever is the later.

(3) A later notice may cancel a notice given under this section or may provide for a lesser increase than that specified in the earlier notice.

(4) A later notice has effect instead of the earlier notice and takes effect from the date on which the earlier notice was to take effect. 30

(5) A notice of increase of rent given in accordance with this section (and not cancelled by a later notice or affected by any order of the Tribunal) varies the residential site agreement so that the increased rent specified in the notice becomes payable under the agreement from the day specified in the notice. 35

Residential Tenancies (Relocatable Homes) 1994

(6) The rent payable by a tenant under a residential site agreement that creates a tenancy for a fixed term must not be increased during the currency of the term unless the amount of the increase, or a method for calculating the amount of the increase, is set out in the agreement.

5 (7) A rent increase is not payable by a tenant under a residential site agreement (including a rent increase permitted under subsection (6) or provided for in a proposed residential site agreement for a residential site already occupied by the tenant) unless the rent is increased in accordance with this section or by an order of the Tribunal.

10 (8) A landlord must not contravene this section.

Maximum penalty: 5 penalty units.

Tenant may apply for an order that a rent increase is excessive

53. (1) A tenant under a residential site agreement may apply to the Tribunal for an order declaring that a rent increase is excessive.

15 (2) The application must be made not later than 60 days after:

(a) the tenant is given notice of the rent increase; or

(b) the tenant is given notice of a rent increase payable under a proposed residential site agreement for a residential site already occupied by the tenant,

20 whichever is the later.

Tenant may apply for an order that rent is excessive

54. (1) A tenant under a residential site agreement may, at any time, apply to the Tribunal for an order declaring that the rent payable:

(a) under a residential site agreement; or

25 (b) under a proposed residential site agreement for a residential site already occupied by the tenant,

is excessive, having regard to the reduction or withdrawal by the landlord of any goods, services or facilities provided with the site.

30 (2) This section applies whether or not the goods, services or facilities are provided under the agreement or under a separate contract, agreement or arrangement or were provided under a previous contract, agreement or arrangement.

Matters to be considered in determining rent applications

35 55. In determining whether or not a rent increase or rent payable under a residential site agreement or a proposed residential site agreement for a

Residential Tenancies (Relocatable Homes) 1994

residential site is excessive, the Tribunal may have regard to any one or more of the following:

- (a) the general market level of rents for a comparable residential site in the locality or a similar locality;
- (b) the value of the residential site; 5
- (c) the amount of any outgoings in respect of the residential site required to be borne by the landlord under the agreement or proposed agreement;
- (d) the estimated cost of any services provided by the landlord or the tenant under the agreement or proposed agreement; 10
- (e) the value and nature of any goods, services or facilities provided with the residential site;
- (f) the amenities provided in the residential site and the general condition of the site;
- (g) any work done to the residential site, by or on behalf of the tenant, to which the landlord has consented; 15
- (h) any other relevant matter.

Orders as to excessive rent increases or rents

56. (1) The Tribunal may, on application by a tenant under this Division, determine that a rent increase or rent is excessive. 20

(2) If the Tribunal determines that a rent increase is excessive, the Tribunal may order that from a day specified by the Tribunal (not being earlier than the date from which the increased rent became payable) the rent must not exceed an amount specified by the Tribunal and may make such other orders as it thinks fit. 25

(3) If the Tribunal determines that a rent is excessive having regard to the reduction or withdrawal by the landlord of any goods, services or facilities provided with the site, the Tribunal may order that from a day specified by the Tribunal (not being earlier than the date of that reduction or withdrawal) the rent must not exceed an amount specified by the Tribunal and may make such other orders as it thinks fit. 30

(4) An order made by the Tribunal specifying a maximum amount of rent:

- (a) has effect for such period, not exceeding 12 months, as is specified by the Tribunal in the order; and 35
- (b) binds only the parties to the residential site agreement or the proposed residential site agreement under which the rent is payable.

Payments under separate agreements

57. If:

- (a) the residential site occupied by a tenant is held under a residential site agreement; and
- 5 (b) goods or fittings in, or connected with the tenant's occupation of, the site are let to the tenant by a separate agreement,
- the Tribunal may, in making any order under this Division, declare the separate agreement to be part of the residential site agreement and may make orders in respect of that agreement as if any amounts payable under
- 10 the separate agreement were payable under the residential site agreement.

Interim orders suspending rent increases or rent

58. If an application is made to the Tribunal for an order that a rent increase or rent is excessive, the Tribunal may, if it is of the opinion that the circumstances so require, make an order that has the effect of
- 15 suspending payment of the whole or part of the rent increase or the rent until such time as the Tribunal finally determines the application.

Contravention of rent order

59. (1) A landlord must not wilfully contravene an order that rent must not exceed an amount specified by the Tribunal.

20 Maximum penalty: 50 penalty units.

(2) A person (other than a landlord) must not demand, require or receive any rent from a tenant of an amount exceeding an amount specified by the Tribunal.

Maximum penalty: 50 penalty units.

- 25 (3) A court before which proceedings for an offence under this section have been brought or the Tribunal, on application by a tenant, may (in addition to any other penalty) order the person who committed the offence or any person on whose behalf that person acted to pay to the tenant against whom the offence was committed an amount equal to the
- 30 amount of any rent unlawfully received from the tenant.

PART 5—TERMINATION OF RESIDENTIAL SITE AGREEMENTS

Division 1—Termination generally

Termination of residential site agreements

- 35 60. A residential site agreement terminates only in one or more of the following circumstances:

Residential Tenancies (Relocatable Homes) 1994

- (a) if the landlord or the tenant gives notice of termination in accordance with this Part and the tenant delivers up vacant possession of the residential site on or after the day specified in the notice;
- (b) if the Tribunal makes an order terminating the agreement, whether or not the landlord or the tenant has given notice of termination in accordance with this Part; 5
- (c) if the tenant abandons the residential site;
- (d) if the tenant delivers up vacant possession of the residential site with the prior consent of the landlord, whether or not that consent is subsequently withdrawn; 10
- (e) by merger (that is, if the interests of the landlord and the tenant under the agreement become vested in the one person);
- (f) by disclaimer (for example, on repudiation of the agreement by the tenant accepted by the landlord). 15

Apportionment and recovery of rent on termination

61. The rent payable under a residential site agreement accrues from day to day and on termination the appropriate amount is payable or refundable, as the case requires.

Breach or notice of termination not waived by acceptance of rent 20

62. A demand for, any proceedings for the recovery of, or acceptance of, rent payable under a residential site agreement by a landlord:

- (a) does not operate as a waiver of:
 - (i) any breach of the agreement; or
 - (ii) any notice of termination on the ground of breach of the agreement given by the landlord; and 25
- (b) is not evidence of the creation of a new tenancy.

Division 2—Notices of termination

Notice of termination by landlord for non-payment of rent

63. (1) A landlord may give a tenant notice of termination of a residential site agreement on the ground that the tenant is in breach of the agreement for non-payment of rent. 30

(2) Such a notice may not be given unless:

- (a) the landlord has given the tenant at least 14 days' notice of the landlord's intention to terminate the agreement; and 35

Residential Tenancies (Relocatable Homes) 1994

(b) the tenant is still in breach of the agreement for non-payment of rent when the notice of termination is given.

(3) A notice of termination must not specify a termination date earlier than:

5 (a) 28 days after the day on which the tenant became in breach of the agreement for non-payment of rent; or

(b) 14 days after the day on which the notice is given, whichever is the later.

10 (4) A tenant to whom a notice of termination is given may, within 14 days after receiving the notice, apply to the Tribunal for an order rescinding the notice or postponing the termination date.

(5) For the purposes of this section, a tenant is not in breach of a residential site agreement for non-payment of rent unless at least 14 days' rent has remained unpaid for at least 14 days.

15 **Notice of termination by landlord for other breaches of agreement**

64. (1) A landlord may give a tenant notice of termination of a residential site agreement on the ground that the tenant has breached the agreement otherwise than by non-payment of rent.

(2) Such a notice may not be given unless:

20 (a) the alleged breach is both serious and persistent; and

(b) the Tribunal makes an order permitting the landlord to give the notice.

(3) A notice of termination must not specify a termination date earlier than 30 days after the day on which the notice is given.

25 **Notice of termination by landlord otherwise than for breaches of agreement**

65. (1) A landlord may give notice of termination of a residential site agreement to a tenant without specifying any ground for the termination.

30 (2) Such a notice may not be given unless the Tribunal makes an order permitting the landlord to give the notice.

(3) The Tribunal may make such an order only if it is satisfied that the residential site is not the tenant's principal place of residence.

(4) A notice of termination must not specify a termination date earlier than 180 days after the day on which the notice is given.

Residential Tenancies (Relocatable Homes) 1994

(5) The tenant to whom such a notice is given may, within 60 days after receiving a notice under this section, apply to the Tribunal for an order rescinding the notice or postponing the termination date.

(6) The Tribunal may grant an order referred to in subsection (5) only if it is satisfied, in the circumstances of the case, that:

(a) failure to make such an order would impose undue hardship on the tenant; and

(b) such an order would not impose undue hardship on the landlord.

(7) A landlord may, at any time, apply to the Tribunal for an order advancing the termination date.

(8) The Tribunal may make an order referred to in subsection (7) only if it is satisfied that the tenant is guilty of a serious and persistent breach of the residential site agreement.

Notice of termination by landlord for the purpose of selling a residential site with vacant possession

66. (1) A landlord may give notice of termination of a residential site agreement to a tenant for the purpose of obtaining vacant possession of the site in accordance with the requirements of a contract for the sale of land that includes the site.

(2) Such a notice may not be given unless the Tribunal makes an order permitting the landlord to give the notice.

(3) The Tribunal may make such an order only if it is satisfied that the contract for sale has not been entered into merely for the purpose of enabling the residential site agreement to be terminated.

(4) An order under this section ceases to have effect at the expiry of 2 months after it is made.

(5) An order under this section must specify the compensation payable to the tenant in the event that the residential site agreement is terminated under the order.

(6) The amount of compensation to be specified in the order is to be an amount that, in the opinion of the Tribunal, will compensate the tenant for the hardship suffered by the tenant as a result of the termination of the residential site agreement.

(7) A notice of termination must not specify a termination date earlier than 180 days after the day on which the notice is given.

Notice of termination by tenant without any ground

67. (1) A tenant may give notice of termination of a residential site agreement without specifying any ground for the termination.

Residential Tenancies (Relocatable Homes) 1994

(2) Such a notice must not specify a termination date earlier than 30 days after the day on which the notice is given, unless it specifies an earlier day to which the landlord has consented.

5 (3) This section does not apply to a residential site agreement that creates a tenancy for a fixed term during the currency of the term.

Notice of termination by tenant if agreement frustrated

10 **68. (1)** If a residential site the subject of a residential site agreement is, otherwise than as a result of a breach of the agreement, rendered wholly or partly uninhabitable or ceases to be lawfully useable for the purpose of a residence or is acquired by any authority by compulsory process:

- (a) the rent abates accordingly; and
- (b) the tenant may give immediate notice of termination to the landlord.

(2) Such a notice may specify any date as the termination date.

15 **Form of notice of termination**

69. (1) A notice of termination of a residential site agreement given to a tenant by a landlord must comply with the following requirements:

- (a) it must be in writing;
- (b) it must be signed by the landlord or the landlord's agent;
- 20 (c) it must identify the residential site;
- (d) it must specify the termination date;
- (e) it must specify and give particulars of the ground (if applicable) on which the notice is given;
- 25 (f) it must include a statement which indicates that information regarding tenancy rights and obligations is contained in the residential site agreement.

(2) A notice of termination of a residential site agreement given to a landlord by a tenant must comply with the following requirements:

- (a) it must be in writing;
- 30 (b) it must be signed by the tenant or the tenant's agent;
- (c) it must identify the residential site;
- (d) it must specify the termination date;
- (e) it must specify and give particulars of the ground (if applicable) on which the notice is given.

Residential Tenancies (Relocatable Homes) 1994

Notices of termination unaffected by certain matters

70. (1) A notice of termination of a residential site agreement that creates a tenancy for a fixed term is not ineffective just because the termination date is earlier than the day on which the fixed term ends.

(2) A notice of termination of a residential site agreement that creates a periodic tenancy is not ineffective just because the termination date is not: 5

(a) the last day of a period of the tenancy; or

(b) any other day on which the tenancy would (for breach or any other reason) have ended if this Act had not been enacted.

(3) A notice of termination of a residential site agreement on the ground that the tenant is in breach of the agreement for non-payment of rent is not ineffective just because there has been no prior formal demand for payment of the rent. 10

Division 3—Termination of residential site agreements by Tribunal 15

Application to Tribunal by landlord for termination and order for possession

71. (1) If:

(a) a landlord or a tenant gives notice of termination of a residential site agreement in accordance with this Part; and 20

(b) the tenant fails to deliver up vacant possession of the residential site on the termination date,

the landlord may, not later than 30 days after that day, apply to the Tribunal for an order terminating the agreement and an order for possession of the residential site. 25

(2) The Tribunal must, on application by a landlord under this section, make an order terminating the agreement if it is satisfied:

(a) in the case of a notice given by the landlord on a specific ground:

(i) that the landlord has established the ground; and

(ii) if the ground is a breach of the residential site agreement, that the breach, in the circumstances of the case, is such as to justify termination of the agreement; or 30

(b) that the tenant has seriously or persistently breached the residential site agreement; or

(c) that, having considered the circumstances of the case, it is appropriate to do so. 35

(3) If the Tribunal makes an order terminating a residential site agreement under this section, the Tribunal must also make an order for possession of the residential site specifying the day on which the order for possession takes effect.

5 **Suspension or refusal of orders for termination**

72. (1) The Tribunal may suspend the operation of an order for possession of a residential site for a specified period if it is satisfied that it is desirable to do so, having regard to the relative hardship likely to be caused to the landlord and the tenant by the suspension.

10 (2) The Tribunal may, as a condition of the suspension of the operation of an order for possession, require the tenant to pay to the landlord an occupation fee specified by the Tribunal for the period for which the order for possession is suspended.

15 (3) The Tribunal may refuse to make an order terminating an agreement and an order for possession if it is satisfied:

(a) that the landlord was wholly or partly motivated to give notice of termination by the fact that:

(i) the tenant had applied or proposed to apply to the Tribunal for an order; or

20 (ii) the tenant had complained to a public authority or had taken some other action to secure or enforce his or her rights as a tenant; or

(iii) an order of the Tribunal was in force in relation to the landlord and the tenant; or

25 (b) in the case of a notice given by the landlord on the ground of a breach of the residential site agreement by the tenant, that the tenant has remedied the breach.

30 (4) In this section, a reference to a tenant includes a reference to a person who has applied to the Tribunal for an order under section 34 (which relates to the recognition of certain persons as tenants).

Tribunal may waive defect in notice of termination

35 73. The Tribunal may, if it thinks it appropriate to do so in the circumstances of the case, make an order terminating a residential site agreement and an order for possession of the residential site even though there is a defect in any notice of termination of the agreement.

Residential Tenancies (Relocatable Homes) 1994

Tribunal may terminate residential site agreement if tenant causes serious damage or injury

74. (1) The Tribunal may, on application by a landlord under a residential site agreement, make an order terminating the agreement if it is satisfied that the tenant has intentionally or recklessly caused or permitted, or is likely to intentionally or recklessly cause or permit: 5

(a) serious damage to the residential site; or

(b) injury to the landlord, the landlord's agent or any person in occupation of or permitted on an adjoining or adjacent site.

(2) If the Tribunal makes an order terminating a residential site agreement under this section, the Tribunal must also make an order for possession of the residential site taking effect immediately. 10

(3) An application under this section may be made whether or not notice of termination has been given.

Tribunal may terminate residential site agreement for breach by landlord 15

75. (1) The Tribunal may, on application by a tenant under a residential site agreement, make an order terminating the agreement if it is satisfied:

(a) that the landlord has breached the agreement; and 20

(b) that the breach, in the circumstances of the case, is such as to justify termination of the agreement under this section.

(2) If the Tribunal makes an order terminating a residential site agreement under this section, the Tribunal must also make an order for possession of the residential site specifying the day on which the order takes effect. 25

(3) An application under this section may be made whether or not notice of termination has been given.

Division 4—Recovery of possession of residential site

Prohibition on certain recovery proceedings in courts 30

76. No proceedings in the Supreme Court, the District Court or a Local Court to obtain recovery of possession of a residential site the subject of a residential site agreement may be commenced by a landlord against a tenant or former tenant of the landlord.

Recovery of possession of residential site prohibited except by order

5 77. (1) A person must not, except in accordance with a judgment, warrant or order of a court or an order of the Tribunal, enter a residential site or any part of a residential site of which another person has possession:

- (a) under a residential site agreement; or
- (b) as a former tenant holding over after termination of a residential site agreement,

for the purpose of recovering possession of the site or part of the site.

10 Maximum penalty: 200 penalty units.

(2) This section applies to a person who enters a residential site or any part of a residential site, whether on his or her own behalf or on behalf of another person.

15 (3) A court before which proceedings for an offence under this section are brought may (in addition to any other penalty) order the person who committed the offence or any person on whose behalf that person acted to pay to the person against whom the offence was committed such compensation as it thinks fit.

Enforcement of orders for possession

20 78. (1) If an order for possession of a residential site is made by the Tribunal, then the Chairperson or any other member of the Tribunal, the Registrar or a Deputy Registrar of the Tribunal may:

- (a) on the application of the person in whose favour the order was made; and
- 25 (b) if satisfied that the order for possession or a condition of suspension of the order has not been complied with,

issue a warrant authorising a sheriff's officer to enter the residential site and to give possession to the person in whose favour the order was made.

30 (2) A sheriff's officer enforcing an order for possession of a residential site may enter the site and take all such steps as are reasonably necessary to enforce the order and must produce the warrant authorising the enforcement.

(3) A police officer may, at the request of a sheriff's officer, assist the sheriff's officer to enforce the order for possession.

35 (4) A sheriff's officer enforcing an order for possession may use such force as is reasonably necessary for that purpose.

Residential Tenancies (Relocatable Homes) 1994

(5) A person must not hinder or obstruct a sheriff's officer in the exercise of the functions conferred by this section.

Maximum penalty: 5 penalty units.

(6) No matter or thing done by a sheriff's officer or police officer, in the exercise or purported exercise of functions conferred by this section subjects a sheriff's officer or police officer personally to any action, liability, claim or demand if the matter or thing was done in good faith for the purposes of enforcing an order for possession.

5

Liability of tenant remaining in possession

79. (1) If a tenant fails to comply with an order for possession of a residential site made by the Tribunal, the tenant is liable:

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(a) to pay compensation to the landlord for any loss caused to the landlord by that failure; and

(b) to pay an occupation fee to the landlord equal to the amount of rent that would have been payable by the tenant for the residential site for the period the tenant remains in possession after termination of the residential site agreement.

15

(2) The Tribunal may, on application by a landlord under this section made not later than 30 days after the day on which the order for possession took effect, order a tenant to pay to the landlord such compensation or an amount equal to an occupation fee, or both, as it thinks fit.

20

Division 5—Abandoned residential site and goods

Abandoned residential site

80. (1) The Tribunal may, on application by a landlord under a residential site agreement, make an order that declares that the residential site was abandoned by the tenant on a day specified by the Tribunal.

25

(2) The tenant is taken for the purposes of this Act to have abandoned the residential site on that day.

Right of landlord to compensation if tenant abandons residential site

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81. (1) If a tenant under a residential site agreement abandons the residential site, the tenant is liable to pay compensation to the landlord for any loss (including loss of rent) caused by the abandonment.

(2) The landlord must take all reasonable steps to mitigate the loss and is not entitled to compensation for any loss that could have been avoided by taking those steps.

35

Residential Tenancies (Relocatable Homes) 1994

(3) The Tribunal may, on application by the landlord, order a tenant to pay to the landlord such compensation (including compensation for loss of rent) as it thinks fit.

5 **Goods abandoned by tenant after residential site agreement is terminated**

82. (1) If a residential site agreement is terminated and goods are left by the tenant on the residential site, the former landlord may:

- 10 (a) apply to the Tribunal for an order under this section; or
 (b) dispose of the goods in accordance with the regulations under the Residential Tenancies Act 1987,

or both.

(2) The Tribunal may, on application by a former landlord under this section, make any one or more of the following orders:

- 15 (a) an order authorising the removal, destruction or disposal of abandoned goods;
 (b) an order authorising the sale of abandoned goods;
 (c) an order directing that notice of any action or proposed action in relation to abandoned goods be given to the former tenant or any other person;
 20 (d) an order as to the manner of sale of abandoned goods;
 (e) an order as to the proceeds of sale of abandoned goods;
 (f) any ancillary order which the Tribunal, in the circumstances, thinks appropriate.

25 (3) A purchaser of goods sold by a landlord in accordance with this section acquires a good title to the goods in defeasance of the interest of the former tenant or any other person who has an interest in the goods.

(4) A former landlord does not incur any liability in respect of the removal, destruction, disposal or sale of goods in accordance with this section.

30 **PART 6—MISCELLANEOUS**

Contracting out prohibited

35 83. (1) The provisions of this Act and the regulations have effect despite any stipulation to the contrary in any agreement, contract or arrangement and no residential site agreement, contract or other agreement or arrangement:

- (a) whether oral or wholly or partly in writing; and

Residential Tenancies (Relocatable Homes) 1994

(b) whether made or entered into before or after the commencement of this Act,

operates to annul, vary or exclude any of the provisions of this Act or the regulations.

(2) A person must not enter into any agreement, contract or arrangement with the intention, either directly or indirectly, of defeating, evading or preventing the operation of this Act or the regulations. 5

Maximum penalty: 20 penalty units.

Costs in court proceedings

84. If a court in any proceedings is of the opinion that, having regard to the subject-matter of the proceedings, the taking of the proceedings was not warranted in the circumstances of the case because the provisions of this Act or the regulations make adequate provision for the enforcement by the Tribunal of the rights concerned, the court may order the plaintiff to pay the defendant's costs in such amount as the court determines. 10
15

Disclosure of information

85. A person must not disclose any information obtained in connection with the administration or execution of this Act or the regulations, unless that disclosure is made: 20

(a) with the consent of the person from whom the information was obtained; or

(b) in connection with the administration or execution of this Act or the regulations; or

(c) for the purposes of any legal proceedings arising out of this Act or the regulations or of any report of any such proceedings; or 25

(d) in accordance with a requirement imposed under the Freedom of Information Act 1989 or the Ombudsman Act 1974; or

(e) with other lawful excuse.

Maximum penalty: 5 penalty units. 30

Proceedings for offences

86. (1) Proceedings for an offence against this Act (other than section 77 (1)) or the regulations must be dealt with summarily by a Local Court constituted by a Magistrate sitting alone.

(2) Proceedings for an offence against section 77 (1) must be dealt with: 35

(a) by a Local Court constituted by a Magistrate sitting alone; or

Residential Tenancies (Relocatable Homes) 1994

(b) with the consent of the Minister, by the Supreme Court in its summary jurisdiction.

5 (3) The maximum penalty that may be imposed by a Local Court in proceedings for an offence against this Act or the regulations is 50 penalty units or such other amount as may be prescribed by the regulations.

10 (4) Proceedings for an offence against this Act or the regulations may be brought within the period of 3 years that next succeeds the commission of the offence or, only with the consent of the Attorney General, at any time.

Contracts Review Act 1980

87. (1) A tenant may, but a landlord may not, be granted relief under the Contracts Review Act 1980 in relation to a residential site agreement.

15 (2) The Tribunal may exercise the jurisdiction of the Court, within the meaning of the Contracts Review Act 1980, in relation to a residential site agreement.

Offences by corporations

20 88. (1) If a corporation contravenes, whether by act or omission, 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 is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

25 (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.

30 (4) This section does not apply to or in respect of a person who is a director, or who is concerned in the management, of a statutory corporation.

Offences against this Act

89. (1) A person who:

- 35 (a) aids, abets, counsels or procures a person to contravene; or
(b) induces, or attempts to induce, a person, whether by threats or promises or otherwise, to contravene; or

Residential Tenancies (Relocatable Homes) 1994

- (c) is in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of; or
- (d) conspires with others to contravene,
- a provision of this Act (being a provision whose contravention constitutes an offence) is guilty of an offence against this Act and liable to the same penalty as a person who contravenes the provision. 5
- (2) A contravention of a provision of this Act does not give rise to an offence unless the provision imposes a monetary penalty in respect of such a contravention.
- Service of documents** 10
- 90. (1)** A notice or other document (other than a notice of termination) required to be given to a tenant under this Act or the regulations may be given:
- (a) by delivering it personally to the tenant or a person apparently of or above the age of 16 years by whom the rent payable by the tenant is ordinarily paid; or 15
- (b) by delivering it to the residential site occupied by the tenant and by leaving it there with some person apparently of or above the age of 16 years for the tenant; or
- (c) by sending it by post to the postal address of the tenant; or 20
- (d) in such other manner as may be prescribed by the regulations for the purposes of this section or approved by the Tribunal.
- (2) A notice or other document (other than a notice of termination) required to be given to a landlord under this Act or the regulations may be given: 25
- (a) by delivering it personally to the landlord, the landlord's agent under a residential site agreement or a person apparently of or above the age of 16 years to whom the rent payable to the landlord is ordinarily paid; or
- (b) by sending it by post to the landlord's usual place of residence, business or employment; or 30
- (c) by sending it by facsimile transmission to the landlord's usual place of residence, business or employment; or
- (d) in such other manner as may be prescribed by the regulations for the purposes of this section or approved by the Tribunal. 35

Residential Tenancies (Relocatable Homes) 1994

(3) A document given or an application made to the Tribunal may be given or made to the Tribunal or lodged with the Registrar of the Tribunal by leaving it at, by sending it by facsimile transmission or by sending it by post to:

- 5 (a) the office of the Tribunal; or
(b) if it has more than one office, any one of its offices; or
(c) any other place prescribed by the regulations.

10 (4) A notice of termination given under this Act or the regulations may be given in such manner as may be prescribed by the regulations for the purposes of this section.

(5) Nothing in subsection (3) affects the operation of any provision of a law or of the rules of a court authorising a document to be given to or lodged with the Tribunal in a manner not provided for by subsection (3).

15 (6) In subsection (1), a reference to a tenant is to be read as including a reference to the tenant's agent.

Regulations

20 **91. (1)** The Governor may make regulations, not 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 and, in particular, for or with respect to the following:

- 25 (a) the provision of information to the tenant by the landlord at the time of entering into a residential site agreement;
(b) any matter connected with the preparation of a residential site agreement;
(c) the execution of a residential site agreement by a tenant or prospective tenant;
(d) fees to be paid under this Act.

30 (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

(3) A provision of a regulation may exempt from the operation of this Act or any specified provision of this Act:

- 35 (a) any specified person, residential site agreement or residential site;
or
(b) any specified class of persons, residential site agreements or residential sites,

either unconditionally or subject to conditions.

Residential Tenancies (Relocatable Homes) 1994

(4) The provisions of Schedule 1 are taken to be regulations under this Act and may be repealed and amended accordingly.

Amendment of other Acts

92. Each Act referred to in Schedule 2 is amended as set out in that Schedule.

5

Savings, transitional and other provisions

93. Schedule 3 has effect.

Residential Tenancies (Relocatable Homes) 1994

**SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995**

(Sec. 91)

PART 1—PRELIMINARY

5 **Citation**

1. This Regulation may be cited as the Residential Tenancies (Relocatable Homes) Regulation 1995.

Commencement

2. This Regulation commences on 1 January 1995.

10 **Definitions**

3. In this Regulation:

“the Act” means the Residential Tenancies (Relocatable Homes) Act 1994.

PART 2—RESIDENTIAL TENANCY AGREEMENTS

Standard forms of residential tenancy agreements

15 4. (1) The standard lease agreement is the agreement set out in Schedule 1.

(2) A residential site agreement must comply with the requirements of the regulations in force under the Conveyancing Act 1919 and the Real Property Act 1900 relating to the registration of documents in the office of the Registrar-General.

20 (3) If this Regulation is amended by altering, adding or substituting the standard lease agreement, the amendment does not apply to a residential site agreement entered into before the commencement of the amendment.

Prescribed charges not payable by landlord

5. For the purposes of section 19 of the Act, the prescribed charges are:

25 (a) any charges for pumping out an on-site septic system used in connection with the residential site, other than charges included in rates made under the Local Government Act 1993; and

(b) any excess garbage or sanitary charges relating to the tenant's use of the residential site,

30 being charges which are payable by a tenant under the terms of a residential site agreement for the residential site.

Maximum costs and charges payable by tenants

6. For the purposes of section 31 of the Act, the maximum amount payable by a tenant for the costs of preparation of a residential site agreement and for any other charges (other than stamp duty) payable by a tenant in respect of the agreement is \$15.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

Additional amount payable for agreement

7. For the purposes of section 45 (3) of the Act, a total amount of not more than \$15 is prescribed if it is required or received, by or with the consent of the landlord, for or towards payment of either or both of the following: 5

- (a) the costs (if any) of preparation of the residential site agreement;
- (b) the fee (if any) payable by the landlord to a licensee (within the meaning of the Property, Stock and Business Agents Act 1941) for the provision of any one or more of the following services provided in connection with effecting the residential site agreement: 10
 - (i) inspecting the site for the purpose of preparing a report on the condition of the site;
 - (ii) checking the credentials of prospective tenants.

Tenant can be required to pay for registration if tenancy for more than 3 years 15

8. The fee for registration, under the Real Property Act 1900, of a lease arising under a residential site agreement is prescribed for the purposes of section 45 (3) of the Act if the lease is for a term exceeding 3 years.

PART 3—GENERAL

Park rules 20

9. The rules set out in Schedule 2 are prescribed as model rules for the purposes of section 35 of the Act.

Additional fees which may be charged to residential park or manufactured home estate tenants

10. For the purposes of section 45 (3) of the Act, the following fees may be required or received from the tenant of a site in a residential park, or manufactured home estate, on which a moveable dwelling is situated, but only if the residential site agreement specifies that such fees are payable by the tenant and the amount of any such fees: 25

- (a) refundable deposits for boom gate keys issued to the tenant, not exceeding \$15 for each key issued; 30
- (b) security deposits or rent in advance, as the case may be, for the supply of any gas, electricity or telephone service by the landlord, not exceeding the amount which could have been charged if the service was supplied directly to the tenant by the relevant authority.

Service of notices generally 35

11. (1) For the purposes of section 90 (1) of the Act, a notice or other document (including a summons) required to be given to a tenant under the Act or this Regulation may be given by sending it by post to the tenant's usual place of business or employment.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

5 (2) For the purposes of section 90 (2) of the Act, a notice or other document (including a summons) required to be given to a landlord under the Act or this Regulation may be given by sending it by post to the landlord's agent's usual place of business.

(3) A notice or other document (including a summons) required to be given to a person (other than a landlord or tenant) under the Act or this Regulation may be given:

10 (a) by delivering it personally to the person; or

(b) by sending it by post or facsimile transmission to the person's usual place of residence, business or employment; or

(c) in such other manner as may be approved by the Tribunal.

Service of notices of termination

15 12. (1) For the purposes of section 90 (4) of the Act, a notice of termination given under the Act to a tenant may be given:

(a) by delivering it personally to the tenant or a person apparently of or above the age of 16 years by whom the rent payable by the tenant is ordinarily paid; or

20 (b) by delivering it to the residential site occupied by the tenant and by leaving it there with some person apparently of or above the age of 16 years for the tenant; or

(c) by sending it by post to the postal address of the tenant.

(2) For the purposes of section 90 (4) of the Act, a notice of termination given under the Act to a landlord may be given:

25 (a) by delivering it personally to the landlord, the landlord's agent under the residential site agreement or a person apparently of or above the age of 16 years to whom the rent payable to the landlord is ordinarily paid; or

(b) by sending it by post or facsimile transmission to the landlord's usual place of residence, business or employment; or

30 (c) by sending it by post or facsimile transmission to the usual place of business of the landlord's agent under the residential site agreement.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

SCHEDULE 1—STANDARD LEASE AGREEMENT

(Cl. 4)

PARK NAME	5
THIS AGREEMENT is made on AT in the State of New South Wales.	
BETWEEN: (“the Landlord”)	
WHOSE AGENT IS:	
AND: (“the Tenant”)	
IN RELATION TO THE FOLLOWING RESIDENTIAL SITE:	
The landlord gives the tenant the right to place a dwelling and associated structures, as specified in Annexure “A” to this agreement, upon the residential site.	
SITE RENT: The site rent is \$..... payable every starting on/...../.....	
PAYMENT: The tenant pays in advance on of every to the landlord or to the agent at or at any other reasonable place the landlord names in writing or into an account in the name of the landlord.	
SITE RESERVATION: The landlord will reserve the residential site for a period of (....) from the date of this agreement.	
SITE RESERVATION DEPOSIT: The deposit for reservation of the residential site is \$.....	
TERM: The term of this agreement is months (the period must be 3 months or more) commencing on/...../.....	
CONTINUATION: At the end of the term, the tenant can remain in the site at the same rent and under the same terms unless the agreement is ended in accordance with the Residential Tenancies (Relocatable Homes) Act 1994.	
RENTAL BOND: No rental bond is payable by the tenant.	
Definitions	
1. In this Agreement:	
“dwelling” means a moveable dwelling within the meaning of the Local Government Act 1993, but does not include:	
(a) a caravan (other than a caravan that is attached to a building or structure, other than a tent, designed to extend the livable area of the caravan); or	
(b) a campervan or tent;	
“landlord’s agent” means a person who acts as the agent of the landlord and who (whether or not the person carries on any other business) carries on business as an agent for:	
(a) the letting of residential sites; or	
(b) the collection of rents payable for any tenancy of a residential site;	

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

- 5 “**park rules**” means the model park rules prescribed by the regulations under the Residential Tenancies (Relocatable Homes) Act 1994, as modified for the purposes of the Park in accordance with that Act;
- “**rent**” means an amount payable by the tenant under this agreement in respect of a period of the tenancy;
- 10 “**residents’ association**” means an association of persons formed for the purpose of advancing or protecting the interests of the tenants of residential parks, whether formed with respect to residential parks generally or with respect to one or more specific residential parks;
- “**Tenancy Commissioner**” means the Tenancy Commissioner referred to in section 117A of the Residential Tenancies Act 1987;
- 15 “**tenant**” means the person who has the right to install a dwelling on a residential site and to use the dwelling as a residence under this agreement, and includes the person’s heirs, executors, administrators and assigns;
- “**tenant’s agent**” means an agent appointed by the tenant under section 42 of the Residential Tenancies (Relocatable Homes) Act 1994;
- 20 “**Tribunal**” means the Residential Tenancies Tribunal of New South Wales constituted by the Residential Tenancies Act 1987.

Rent

2. The tenant agrees to pay rent on time.

Payment of council rates, water rates, land tax and other charges

- 25 3. (1) The landlord agrees to pay:
- (a) local council rates; and
- (b) water rates; and
- (c) land taxes; and
- (d) rates, taxes and charges under any other Act for the residential site, other than those for which the tenant agrees to pay under subclause (2).
- 30 (2) The tenant agrees to pay:
- (a) for water, electricity and gas actually supplied to the residential site, at a rate not greater than the published domestic tariff of the water, electricity or gas distributor; and
- 35 (b) any other charges set out in the additional terms of this agreement (but only if the charges are listed in the Residential Tenancies (Relocatable Homes) Act 1994, or any regulations under that Act, as charges that are not payable by the landlord if the tenant agrees to pay them).

Landlord’s warranty that site may be used for a dwelling

- 40 4. The landlord guarantees that there is no legal reason that the landlord knows about, or should know about when signing the agreement, why the residential site cannot be used as the site of a dwelling for the term of this agreement.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

Vacant possession of the residential site

5. The landlord agrees:
- (a) if applicable, to make sure the residential site is vacant so the tenant can locate the dwelling upon the site during the period of the site reservation and thereafter on the date agreed by the landlord, if any; and 5
 - (b) to permit the tenant to occupy the dwelling located on the residential site during the period of the residential site reservation and thereafter on the date agreed by the landlord, if any. 10

Tenant's right to quiet enjoyment

6. The landlord agrees:
- (a) that the tenant will have quiet enjoyment of the residential site without interruption by the landlord or any person claiming by, through, or under the landlord or having superior title to that of the landlord; and 15
 - (b) that the landlord or the landlord's agent will not interfere, or cause or permit any interference, with the reasonable peace, comfort or privacy of the tenant in using the residential site.

Use of the residential site by the tenant

7. The tenant agrees: 20
- (a) not to use the residential site, or cause or permit the residential site to be used, for any illegal purpose; and
 - (b) not to cause or permit a nuisance; and
 - (c) not to interfere, or cause or permit interference, with the reasonable peace, comfort or privacy of other tenants in the Park. 25

Membership of residents' associations

8. The landlord agrees that the tenant is entitled to belong to, and to participate in the activities of, any residents' association.

Landlord's access to the residential site

9. (1) The landlord, the landlord's agent or any person authorised in writing by the landlord, during the currency of this agreement, may only enter the residential site in the following circumstances: 30
- (a) in an emergency (including entry for the purpose of carrying out urgent repairs); or
 - (b) if the tenant agrees; or 35
 - (c) if the Tribunal so orders; or
 - (d) if there is good reason for the landlord to believe the site is abandoned; or
 - (e) if electricity, water or gas is supplied to the tenant by the landlord, to inspect an electricity, water or gas meter situated on the site or in the site.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

- 5 (2) Except in an emergency (including to carry out urgent repairs), a person other than the landlord or the landlord's agent, must produce to the tenant the landlord's or landlord's agent's written permission to enter the residential site.

Landlord to provide the residential site in a clean and useable condition

10. The landlord agrees to provide the residential site in a clean condition and fit for occupation.

Tenant to keep the residential site clean etc.

- 10 11. The tenant agrees to keep the residential site clean, to notify the landlord if the residential site becomes damaged and to refrain from causing or permitting the residential site to become damaged.

Alterations to the residential site

- 15 12. (1) The landlord agrees that:
- 20 (a) the tenant may make alterations or additions to the residential site or to the dwelling, including carports, garages, verandahs, decks, pergolas, garden sheds, all-weather hard surfaced driveways, landscaping, clotheslines, television aerials and other fixtures including connections to Park utilities provided they conform with the relevant regulations under the Local Government Act 1993 and where applicable, building permission is obtained from the local council; and
- 25 (b) the landlord will approve, in a timely fashion, applications made by the tenant to make alterations and additions to the residential site or to the dwelling provided that the proposed works:
- 30 (i) are located within the site boundaries; and
- (ii) do not exceed the area allowed for occupation of the site; and
- (iii) do not interfere with the amenity of the Park or other tenants; and
- (iv) do not detract from the aesthetics of the Park; and
- (v) are undertaken by the tenant or a tradesperson to a standard agreed to in advance by the landlord; and
- (c) the landlord will not unreasonably withhold or refuse consent for the making of any alterations and additions by the tenant; and
- 35 (d) the landlord will not require, or in any way direct, the tenant to use any particular source, brand or type of goods and services which will be required to complete the works.
- (2) The tenant agrees that:
- (a) the tenant will seek the approval of the landlord to make any alterations or additions to the residential site or the dwelling; and
- 40 (b) the tenant will not make an application to the local council before the alteration or addition is approved by the landlord; and

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

- (c) the tenant will not commence any works at the residential site until building permission is obtained from the local council, if required; and
- (d) the tenant will remove all alterations and additions to the residential site or to the dwelling, if the dwelling is moved, or will otherwise effect their disposal by inclusion in the sale contract and sale price of the dwelling. 5

Urgent repairs

13. (1) The landlord agrees to pay the tenant, within 14 days after receiving written notice from the tenant, any reasonable costs (not exceeding \$500 or any other amount set out in the regulations under the Residential Tenancies (Relocatable Homes) Act 1994) the tenant has incurred for making urgent repairs (of the type set out below) so long as: 10

- (a) the damage was not caused as a result of a breach of this agreement by the tenant; and 15
- (b) the tenant gives or makes a reasonable attempt to give the landlord notice of the damage; and
- (c) the tenant gives the landlord a reasonable opportunity to make the repairs; and
- (d) the repairs are carried out, where appropriate, by duly qualified persons; and
- (e) the tenant as soon as possible gives or tries to give the landlord written details of the repairs, including the cost and the receipts for anything the tenant pays for. 20

(2) The type of urgent repairs to the residential site for which the landlord agrees to make payment are repairs to:

- (a) a burst water service; or 25
- (b) a blocked or broken sewage service; or
- (c) a leaking gas service; or
- (d) a dangerous electrical service; or
- (e) flooding or serious flood damage; or
- (f) a failure or breakdown of the gas, electricity or water supply to the residential site; or 30
- (g) any fault or damage that causes the residential site to be unsafe or not secure.

Tenant's responsibility for the actions of others

14. The tenant agrees to be responsible to the landlord for any act or omission by any person the tenant allows on the residential site or in the residential site who breaks any of the terms of this agreement. 35

Right to assign or sub-let

15. (1) The landlord agrees:

- (a) that the tenant may with the landlord's prior permission assign the remainder of the tenant's interest under this agreement or sub-let the residential site; and 40

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

- 5 (b) that the landlord will not unreasonably withhold consent to an assignment of the tenant's interest under this agreement; and
- (c) not to charge for giving permission other than for the landlord's reasonable expenses in giving permission.
- (2) The tenant agrees:
- 10 (a) that where the landlord consents to the sub-letting of the residential site, the tenant will issue a lease agreement to the sub-tenant which complies with and is governed by the Residential Tenancies Act 1987; and
- (b) that the lease agreement issued to the sub-tenant will contain a clause that the sub-tenant is bound by the park rules for the Park during the period of the lease; and
- 15 (c) that during the period of the sub-lease, the tenant will be responsible for the compliance by the sub-tenant of the park rules for the Park and the provisions of the Residential Tenancies Act 1987.
- (3) Subclause (2) (b) and (c) apply only if the tenant under this agreement is bound to comply with park rules for the Park.

Additional terms

- 20 16. (1) The landlord and the tenant may agree to additional terms which are not otherwise contained in this agreement.
- (2) Additional terms may be included in this agreement if they do not conflict with the park rules for the Park, the Residential Tenancies (Relocatable Homes) Act 1994 or any standard terms of this agreement.
- 25 (3) Additional terms of this agreement must be attached to this agreement as Annexure "B" in the form specified under the Residential Tenancies (Relocatable Homes) Act 1994.
- (4) Additional terms must be written in clear, concise and plain English avoiding vague or ambiguous statements.

30 **Rent increases**

17. (1) The landlord agrees:
- (a) not to increase the site rental fees and other user-pays fees at intervals of less than 12 months, commencing from the date of this agreement; and
- 35 (b) to give the tenant written notice of the fee increase at least 90 days prior to the date upon which the fee increase is to take effect; and
- (c) not to increase the site rental and other user-pays fees by an unreasonable or excessive amount having regard to the percentage increase in the costs of running the Park and the Consumer Price Index over the relevant period.
- 40 (2) The tenant agrees to pay the increased site rental fees and user-pays fees from the date specified in the written notice from the landlord.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

Sale of the dwelling

- 18. (1) The landlord agrees that the tenant may:
 - (a) sell or otherwise dispose of the dwelling together with any associated structures without the approval of the landlord and without the payment of any fee or commission to the landlord; and 5
 - (b) enter into a commission-based agency agreement with the landlord, a real estate agent or other person to sell the dwelling on behalf of the tenant; and
 - (c) erect a "For Sale" sign, as specified in the park rules for the Park, or in the absence of such a specification, of reasonable size and in a reasonable location on the residential site or on the dwelling. 10
- (2) The landlord agrees:
 - (a) not to unreasonably withhold or refuse consent to assign this agreement to the purchaser of the dwelling; and 15
 - (b) not to unreasonably refuse access to the residential site for the agent of the tenant and for prospective purchasers of the dwelling.
- (3) The tenant agrees:
 - (a) not to engage in, or permit others acting on behalf of the tenant, or the agent of the tenant, to engage in acts which adversely affect the safety and environment of the residential site or the quiet enjoyment of the Park by other tenants; and 20
 - (b) prior to the erection of any "For Sale" signs, to advise the landlord in writing of the intention of the tenant to sell the dwelling.

The landlord and the tenant enter into this agreement and agree to all its terms.

SIGNED BY THE LANDLORD 25
in the presence of

.....
Name of Witness

.....
Signature of Landlord

.....
Signature of Witness

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

ANNEXURE “B” TO STANDARD LEASE AGREEMENT
ADDITIONAL TERMS

PARK NAME:

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SCHEDULE 2—MODEL PARK RULES

(Cl. 9)

General

- 1. (1) All residents, their resident dependents and visiting guests will have freedom from harassment, intimidation and discrimination and have the right to peaceful enjoyment of the Park. 10
- (2) All residents must ensure that at all times they, their resident dependents and visiting guests safeguard the amenity and lifestyle of the Park and avoid any encroachment upon the rights of the proprietor or other residents of the Park.
- (3) All residents, their resident dependents and visiting guests must refrain from conduct, behaviour and leisure activities which cause undue noise or other undue disturbance to other residents. 15

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

5 (4) These Rules, together with any amendments to them, are binding on a resident after they have been registered by the Tenancy Commissioner, but only if the resident has agreed to be bound by them, whether under a residential site agreement or otherwise.

Dwellings

10 2. (1) The dwelling must be oriented and placed on the residential site in accordance with any specifications contained in the standard lease agreement and in the absence of any such specifications, in accordance with the reasonable directions of the proprietor.

(2) Prior to occupation, the dwelling must be complete, inclusive of structures, fixtures, utility connections and landscaping to the standard specified in the standard lease agreement, if any.

Connection of utilities

15 3. (1) The incoming resident is responsible for the connection of water, gas, electricity and plumbing works from the residential site to the dwelling and all such connections must be made and certified by a licensed tradesperson.

20 (2) Connections made to Park utilities remain the property of the resident and must be removed, if the dwelling is moved, or their disposal effected by inclusion in the sale contract and sale price of the dwelling.

Driveways

4. (1) Driveways must be of an all-weather hard surfaced material structurally suitable to bear the weight of motor vehicles intended to be driven upon the driveway.

25 (2) The dimensions of the driveway must accord with the specifications specified in the standard lease agreement or, in the absence of specifications, of reasonable dimensions and proportions compared to the dwelling.

Storage

30 5. In order to preserve the appearance of the Park and the residential site, equipment and other chattels belonging to the resident must be stored in a manner that prevents such items from being visible from the roadways or pathways of the Park.

Garbage disposal

6. Garbage must be wrapped and placed in a rigid bin of reasonable dimensions. The bin should then be placed in the position designated by the proprietor at the collection times specified by the proprietor.

35 **Waste disposal**

7. (1) Disposable nappies and other personal hygiene items must be wrapped in plastic and placed in the garbage bin and must not be flushed down toilets or drains.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

(2) Cooking fat must be collected in a suitable container and disposed of in the garbage bin. If not recycled, tea leaves must also be placed in the garbage bin.

(3) Under no circumstances is such material to be flushed down toilets or drains. 5

Public liability insurance

8. (1) The residents of each dwelling must effect and keep current at all times, a public risk insurance policy, for a minimum amount of \$5 million, against liability for injury and property damage arising from the occupation of the dwelling.

(2) The proprietor may request the production of a current insurance certificate and may take copies of it for inclusion in the Park records. 10

Repairs and maintenance

9. (1) The resident must adhere to the minimum standard of maintenance and any other conditions specified in the standard lease agreement relating to maintenance, if any. 15

(2) The minimum standard required of a resident is for the dwelling to have no flaking paint, other than in minor and isolated locations, clean and tidy sidings, verandahs and roofs and no torn external screens, broken windows or other damaged external sections.

(3) Gardens must be kept reasonably weed free and lawns must be regularly mowed. Gardens may be established on the residential site, provided that any plant does not exceed a final height greater than 5 metres or is not a defined noxious weed. 20

(4) Vegetable gardens must be placed at the rear of the dwelling or as otherwise agreed by the proprietor.

Alterations 25

10. (1) A resident may make alterations or additions to the dwelling, including carports, garages, verandahs, decks, pergolas, garden sheds, all-weather hard surfaced driveways, landscaping, clotheslines, television aerials and other fixtures including connections to Park utilities provided they conform with the relevant regulations under the Local Government Act 1993, and where applicable, building permission is obtained from the local council. 30

(2) All applications to the local council must be signed by the proprietor and work must not commence on the residential site until building permission is obtained from the local council.

(3) All alterations and additions to the dwelling or to the residential site will require the prior approval of the proprietor, and such approval must not be unreasonably withheld. 35

(4) The proprietor will approve applications:

(a) if the proposed construction is located within the site boundaries; and

(b) if it does not exceed the area allowed for occupation of the residential site; and 40

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

- (c) if it does not interfere with the amenity of the Park or other residents; and
 (d) if it does not detract from the aesthetics of the Park; and
 5 (e) if it is undertaken by the resident or a tradesperson to a standard agreed to in advance by the proprietor.

(5) All alterations and additions remain the property of the resident and must be removed, if the dwelling is moved, or their disposal must be effected by inclusion in the sale price of the dwelling.

10 **Sale of dwellings**

11. (1) A "For Sale" sign may be erected by the resident or the agent of the resident after the resident has notified the proprietor of the intention to sell the dwelling.

12 (2) The size of the sign is to be of reasonable dimensions and sited on the dwelling in a position which is clearly visible from the roadways and pathways of the Park but not so as to detract from the amenity of the Park or the residential site.

(3) The proprietor may not unreasonably refuse access to the residential site for the agent of the resident or for any prospective private purchasers.

Site fees

20 12. (1) The proprietor will not require a resident or a prospective resident to purchase, rent or lease goods or services for site preservation, maintenance or landscaping from any person or corporation.

(2) The proprietor will provide an itemised account to the resident for all charges and fees levied upon the resident by the proprietor.

25 (3) The statement of account will show the date from and the date to, and in the case of power, gas and water, the meter reading from, the meter reading to, the cost per unit and the total amount due.

"User-pays" fees

30 13. The rental fee for a residential site will include the access to and use of all public, community and leisure facilities located within the Park, unless otherwise specified in these Rules.

Functions of the proprietor

14. (1) The functions of the proprietor are:

- 35 (a) to maintain the facilities and amenities provided; and
 (b) to ensure reasonable compliance with the Residential Tenancies (Relocatable Homes) Act 1994, these Rules and other relevant legislation; and
 (c) to administer the business of the Park.

(2) The functions of the proprietor do not include judging or settling disputes between residents otherwise than is specifically required by the Residential Tenancies (Relocatable Homes) Act 1994, these Rules and other relevant legislation.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

Public notice board

15. (1) The proprietor will provide a public notice board having a minimum dimension of at least one square metre. 5

(2) Half of the notice board is for the use of the proprietor and the remainder for the use of the residents.

(3) The notice board will be waterproof and located in a prominent position within the Park and easily accessible by residents at all hours.

Office hours 10

16. The proprietor will provide an office within the confines of the Park and be available at that office to assist residents during the hours of business displayed on the notice board. In the case of an emergency, the proprietor will be available at call.

Mail

17. The proprietor will accept all mail delivered by Australia Post at the office and residents may collect their mail from the office during normal office hours. 15

Security

18. The proprietor will provide adequate security for residents at all times.

Boom gate keys

19. (1) Where boom gates are installed, all motor vehicles whether owned by residents or otherwise, must enter the Park only through the boom gates. 20

(2) Where such gates are not installed, entry to the Park must only be in accordance with the directions of the proprietor as sign-posted in a prominent position at the entrances to the Park.

(3) The proprietor will supply an appropriate number of boom gate keys to residents upon receipt of a refundable deposit, the amount of which will not be unreasonable and will be determined and amended from time to time by the proprietor. 25

(4) Unless expressly agreed to in writing by the proprietor and subject to any restrictions imposed by the proprietor for granting consent, residents must not allow boom gate keys to be used by any third parties. 30

Visitors

20. (1) In order to ensure that only bona fide visitors are permitted entry into the Park, residents must advise the proprietor at the office of the names and duration of all overnight and short-stay visitors to their residential site.

(2) The proprietor will not unreasonably refuse visitors of residents access to the Park or restrict their length of stay in the dwelling. 35

(3) The number of visitors staying overnight must not exceed the capacity of the dwelling to accommodate such visitors in reasonable comfort.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

(4) A resident must neither receive any payment from a visitor for staying in the dwelling nor permit any person to become a boarder for any financial consideration.

5 (5) The proprietor will not charge any fee for granting visitors, or their motor vehicles, entrance to the Park.

(6) However, visitors will be required to pay for any "user-pays" facilities located within the Park as specified under that heading in these Rules.

10 (7) Where visitors reside with the resident for a period in excess of one calendar month, the proprietor may restrict the use of "user-pays" and other communal and recreational facilities by the visitor where, in the reasonable opinion of the proprietor, such facilities are being used to the detriment of the facilities or the annoyance of other residents.

15 (8) Upon the arrival of visitors, each resident should clearly inform them of the requirements of these Rules and any other matters relating to the operation of the Park as posted on the notice board from time to time by the proprietor.

(9) During the entire period of stay by visitors, the respective resident will be responsible for the conduct and actions of all visitors invited into the Park by the resident.

20 (10) For the purposes of these Rules covering the operation of motor vehicles, the motor vehicles of visitors who are granted entry to the Park are deemed to be under the control of the resident at all times whilst inside the Park.

25 (11) Where the proprietor has established a visitors car park, all visitors must only park their vehicles in that location, unless the proprietor expressly approves an alternative location.

Deliveries and tradespersons

30 21. (1) The proprietor will not unreasonably refuse access to the residential site of a resident for tradespersons or other goods and services providers engaged by the resident to supply goods or services to the resident.

(2) Unless otherwise expressly agreed to by the proprietor, residents must arrange to have goods and service providers, including doctors and ambulances, met at the boom gates or other designated entrance to the Park and escort such persons to their residential site.

35 (3) Unless otherwise expressly agreed to by the proprietor, residents must notify the proprietor of the intending entrance to the Park of goods and services providers, prior to their entry to the Park.

Access to and within the park

40 22. (1) All residents, their resident dependents, visitors and goods and service providers must enter the Park only through the designated entrance roads or where applicable, through the footpath connecting the visitors' car park to the Park.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

(2) All residents, their resident dependents, visitors and goods and service providers must use the pathways and roadways within the Park and not move between dwellings or front and back gardens. 5

Restricted areas

23. (1) In order to facilitate the smooth functioning of the Park and to isolate potential danger zones within the Park, especially with respect to children, the proprietor may declare certain areas of the Park as restricted areas.

(2) Where an area within the Park has been designated and sign-posted by the proprietor as a restricted area, all residents, their resident dependents, visitors and goods and service providers must not attempt to gain access to such areas without the express approval of the proprietor. 10

Vandalism

24. (1) All residents, their resident dependents, visitors and goods and service providers must refrain from any act or omission that would constitute vandalism to any lands, gardens, structures or dwellings located within the Park. 15

(2) In the event of a resident or other person being caught in the act of vandalism, the proprietor reserves the right to report the matter to the police for appropriate action, including the charging of the perpetrator. 20

(3) In the event of any person other than the resident, or the resident dependents of the resident, being suspected, on reasonable evidence, of committing, or about to commit, any act of vandalism, the proprietor reserves the right to immediately expel such offenders or potential offenders from the Park.

Motor and other vehicles 25

25. Unless sign-posted within the Park to the contrary, all vehicles must not exceed 8 kilometres per hour whilst within the confines of the Park.

Residents' parking

26. (1) Unless otherwise expressly agreed to by the proprietor, residents may only park their vehicles on the hard surfaced driveways of their residential site. 30

(2) Unless otherwise expressly agreed to by the proprietor, residents must not park vehicles on the internal Park roads or elsewhere on the residential site other than the driveway.

(3) Residents may park as many vehicles as the length and width of their driveway permits but not on the first metre of the driveway where it adjoins to a Park access road. 35

(4) In order to ensure that sufficient parking spaces are always available for visitors, residents should refrain from parking in the spaces designated for visitors' parking.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

Visitors' parking

5 27. (1) Where the proprietor has designated a specific area of the Park, or an area adjacent to the Park, for visitors' parking, residents should request their visitors to park their vehicles in that location.

(2) Where the residential site has sufficient hard surfaced driveway space to accommodate the vehicles of visitors, the proprietor will not unreasonably refuse entry to the Park for such vehicles.

10 (3) If the proprietor grants access to the Park for the vehicle of a visitor, the vehicle will be deemed to be under the control of the resident at all times whilst inside the Park.

Motor vehicle repairs

15 28. Unless otherwise expressly agreed to by the proprietor, residents, their resident dependents, visitors and goods and service providers must not carry out any repairs to vehicles, other than those of a minor nature, within the Park.

Motor vehicle washing

29. (1) Where the proprietor has designated a specific location within the Park for the washing of vehicles, residents must use that location unless the proprietor expressly agrees to another location.

20 (2) Where no specific location has been set aside for the washing of vehicles, residents may wash their vehicles at their residential site, provided that at all times no damage or inconvenience is caused, or is likely to be caused, to the Park or to any other residents.

Heavy vehicles

25 30. (1) Unless otherwise expressly agreed to by the proprietor, vehicles having a gross weight in excess of 3 tonnes, or a length exceeding 6 metres, will not be permitted entry to the Park.

30 (2) Where a vehicle exceeding the weight and length specification contains goods for a resident, or is required to provide services to a resident, the proprietor will not unreasonably refuse entry to the residential site for that vehicle.

Bicycles, skateboards, roller-skates etc.

35 31. (1) Residents, their dependents and visitors may ride bicycles within the precincts of the Park but must at all times ensure that they do so in a manner that does not endanger themselves, other persons within the Park, the facilities of the Park or the property of any resident.

(2) Bicycle riders must at all times not exceed the speed limit on roadways and pathways and bicycles must not be used in areas that have been designated by sign-posting as prohibited for bicycles.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

(3) Unless otherwise expressly agreed to by the proprietor, the riding of skateboards or roller-skates on roadways and pathways within the Park is prohibited. The proprietor may designate specific locations within the Park for the use of such equipment and in that event, those locations must only be used for such recreational purposes. 5

(4) Bicycles and other recreational equipment must not be used within the Park after dusk unless such equipment is fitted with lights or other illuminating devices such that the vehicle or equipment can be sighted, both from both the front and rear, by approaching vehicles and pedestrians. 10

(5) When not in use, bicycles and recreational equipment should be stored neatly at the residential site and must not be left to obstruct the roadways or pathways of the Park.

Learner drivers

32. Due to the potential risk to pedestrians, other vehicles, Park facilities and the property of residents, only persons holding a valid driving licence from the relevant licensing authority are permitted to drive motor vehicles within the Park. 15

Swimming pools

33. (1) Where a swimming pool has been installed within the Park, all persons who are entitled to have access to the facility must at all times conduct themselves in a manner that will not endanger themselves or other users of the facility. 20

(2) The pool enclosure is required by law to remain secure at all times. Gate catches must not be wedged or tampered with so as to prevent the gates closing immediately upon the entry or exit of any person.

(3) Residents are responsible for the behaviour of their resident dependents and visitors and must ensure that such persons using the facility are at all times supervised by a responsible adult. 25

(4) A child under the age of 10 years or any person who is unable to swim a reasonable distance must not be allowed by the resident to enter the pool enclosure without being accompanied by a responsible adult who is able to swim a reasonable distance. 30

(5) The proprietor may alter the age limit from time to time.

(6) Users of the pool facility must not recklessly run around the pool perimeter, "bomb" other users of the pool, splash water or in any other similar manner cause danger or inconvenience to other users of the facility. 35

(7) Due to the risk of bodily injury and contamination of the pool, no glass containers, including bottles or glasses, are permitted to be taken inside the pool enclosure. The proprietor may however specify designated areas adjacent to the pool where glass containers may be used, provided that the safety of pool users is not compromised in any manner. 40

(8) In the interests of health, all persons using the pool should ensure that they are clean and not suffering from any contagious diseases or skin eruptions prior to entering the pool.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

(9) Under no circumstances is any person to access the pool filter room without the express approval of the proprietor.

5 (10) The hours of use of the pool facility will be either placed on the notice board or otherwise sign-posted in a prominent way and may be altered from time to time by the proprietor.

Halls and other recreational facilities

10 34. The proprietor will place on the notice board or in such other place within the Park that is readily accessible to all residents, the hours of use of each recreational facility, any requirements for reservation of each such facility, any requirements for the supervision of minors using each facility and any other conditions which it sees fit to impose upon users of each facility to ensure the safety and peaceful enjoyment by all residents.

15 **Laundry**

35. (1) Children under the age of 12 years are neither permitted to use the laundry facilities nor be seated upon equipment by users of the facility.

(2) The proprietor may vary the age limit from time to time.

20 (3) Soiled nappies and other contaminated clothing must be pre-rinsed prior to washing.

Clotheslines

36. In order to permit maximum use of the facility and not inconvenience other users, clothing items must be removed within a reasonable period of them becoming dry.

25 **Telephone**

37. For the convenience of all users, calls on the public telephone should be kept to a reasonable length of time, particularly if another person is waiting to use the facility.

Noise and behaviour

30 38. (1) Residents are required to act at all times in a manner which does not impinge upon the rights of other residents to peaceful enjoyment of the Park or the residential site.

(2) Residents are at all times responsible for noise created by, and the behaviour of, their resident dependents, their visitors and the dependents of their visitors.

35 (3) The proprietor may request visitors to leave the Park if they fail to observe these Rules or act in a manner which constitutes offensive behaviour or results in excessive noise, of sufficient extent and duration, so as to disturb the peaceful enjoyment of the Park by other residents.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 1—RESIDENTIAL TENANCIES (RELOCATABLE HOMES)
REGULATION 1995—*continued*

Pets

39. (1) Residents may keep small caged and glass-enclosed animals inside their dwelling provided that any noise generated by such animals does not disturb other residents and provided that the hygiene arrangements for such animals does not constitute a health hazard to other residents. 5

(2) The proprietor may, in its absolute discretion, grant permission and subsequently revoke such permission, for the keeping of other animals.

(3) Visually impaired residents are permitted to keep an approved guide dog. 10

(4) At the time of registration of the first set of Rules by the Tenancy Commissioner, residents who had previously been allowed to maintain non-caged animals will be permitted to continue to maintain them until their demise.

(5) In such instances, replacement animals will not be permitted unless expressly agreed to by the proprietor. 15

Acknowledgment of rules

40. Prior to the execution of the standard lease agreement, the resident or prospective resident and, where applicable, any other person who intends to reside in the dwelling must sign the attached acknowledgment form (Annexure "A") in duplicate and provide one signed copy thereof to the proprietor. 20

ANNEXURE "A"—FORM OF ACKNOWLEDGMENT

PARK NAME:

I acknowledge that I have read (or had read to me) and understood these Rules and I understand that these Rules may be amended from time to time.

I agree to be bound by and to observe these Rules, together with any amendments made to them, while I am a tenant of a residential site in the residential park to which they relate. 25

I undertake to explain the effect of these Rules to, and to make a copy of them available to, all members of my household and to all visitors to my dwelling.

I accept responsibility for any non-compliance with these Rules, whether by myself, by members of my household or by visitors to my dwelling. 30

Signed, this day of 19

Tenant:

[Note: A separate acknowledgment must be signed by each tenant under the residential site agreement.] 35

SCHEDULE 2—AMENDMENT OF OTHER ACTS

(Sec. 92)

Residential Tenancies Act 1987 No. 26(1) Section 3 (**Definitions**):

5 (a) After “assigns” in the definition of “landlord” in section 3 (1), insert “, and (in Parts 6 and 7) includes a landlord within the meaning of the Residential Tenancies (Relocatable Homes) Act 1994”.

10 (b) After “assigns” in the definition of “tenant” in section 3 (1), insert “, and (in Parts 6 and 7) includes a tenant within the meaning of the Residential Tenancies (Relocatable Homes) Act 1994”.

(2) Section 6 (**Agreements and premises to which Act does not apply**):

15 After section 6 (3), insert:

(4) This Act (Parts 6 and 7 excepted) does not apply to a residential site agreement to which the Residential Tenancies (Relocatable Homes) Act 1994 applies.

(3) Section 23A:

20 After section 23, insert:

Compliance with park rules for certain residential sites

23A. (1) This section applies to:

25 (a) a residential site agreement that adopts the park rules for the residential park in which the residential site is located; and

30 (b) a residential site agreement under which a tenant under some other residential site agreement (being a residential site agreement that adopts the park rules for the residential park in which the residential site is located) grants a sub-lease of the residential site to a sub-tenant.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

(2) It is a term of every residential site agreement to which this section applies that:

(a) the tenant (in the case of an agreement referred to in subsection (1) (a)); or 5

(b) the sub-tenant (in the case of an agreement referred to in subsection (1) (b)),

will comply with the park rules for the residential park in which the residential site is located.

(3) In this section, “**park rules**”, “**residential park**”, “**residential site**” and “**residential site agreement**” have the same meanings as they have in the Residential Tenancies (Relocatable Homes) Act 1994. 10

(4) Section 85 (**Orders of the Tribunal**):

After section 85 (3), insert: 15

(4) Subsection (3) does not apply to matters arising under the Residential Tenancies (Relocatable Homes) Act 1994.

(5) Section 94 (**Presentation of cases under this Act**):

After section 94 (6), insert: 20

(7) This section does not apply to proceedings arising under the Residential Tenancies (Relocatable Homes) Act 1994.

(6) Section 94A:

After section 94, insert: 25

Presentation of cases under the Residential Tenancies (Relocatable Homes) Act 1994

94A. (1) This section applies to proceedings arising under the Residential Tenancies (Relocatable Homes) Act 1994. 30

(2) A party to proceedings before the Tribunal has the carriage of the party’s own case.

(3) A party to proceedings before the Tribunal or a person who applies to be made a party to the proceedings is not entitled to be represented by any other person unless: 35

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

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- (a) the party is a corporation within the meaning of the Corporations Law and the corporation is represented by one of the corporation's officers; or
- (b) the party is a firm and the firm is represented by one of its partners; or
- 10
- (c) the party is an incorporated association registered under the Associations Incorporation Act 1984 and the association is represented by one of its officers; or
- (d) the party is an unincorporated body of persons and the body is represented by:
- 15
- (i) a secretary or treasurer of the body; or
- (ii) a member of the executive or management committee of the body who was duly elected at a general meeting of members of the body; or
- 20
- (e) any other party to the claim is, or is represented by a person who is, entitled by law to practise as a legal practitioner, either in New South Wales or elsewhere; or
- (f) the Tribunal, of its own motion, decides that the party would be placed at a disadvantage if not represented at the hearing; or
- 25
- (g) in any other case, the representation is, on determination of an application made by or on behalf of the party, approved by the Tribunal.
- 30
- (4) The Tribunal must not give an approval to an application referred to in subsection (2) (g) unless the Tribunal is satisfied that:
- (a) the representation should be permitted as a matter of necessity; or
- (b) the party by whom or on whose behalf the application was made would otherwise be placed at a disadvantage.
- 35
- (5) In dealing with an application for the representation of a party to proceedings before the Tribunal, the Tribunal:

*Residential Tenancies (Relocatable Homes) 1994*SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

- (a) must not approve the application unless it is satisfied that the representative concerned:
- (i) has sufficient personal knowledge of the issues in dispute to enable that representative to represent the applicant effectively at the hearing by the Tribunal of the matter to which the proceedings relate; and 5
 - (ii) is vested with sufficient authority to bind the applicant; and 10
- (b) may make its approval of the application subject to such conditions as it considers necessary to ensure that any other party to the proceedings is not placed at a disadvantage by the representative of the applicant at the hearing of the proceedings by the Tribunal. 15
- (6) Whenever the Tribunal makes its approval of such an application subject to conditions, the right of the representative concerned to represent the applicant at a hearing of proceedings before the Tribunal is subject to compliance with those conditions by the applicant and the applicant's representative. 20
- (7) Contravention of any provision of this section or a condition imposed by the Tribunal does not of itself invalidate the Tribunal's hearing of proceedings before the Tribunal, nor does it invalidate any order made by the Tribunal in respect of those proceedings. 25
- (7) Section 95A:
- After section 95, insert: 30
- Residents' association may appear in proceedings under the Residential Tenancies (Relocatable Homes) Act 1994**
- 95A. With the leave of the Tribunal granted on the application of a tenant, a residents' association, within the meaning of the Residential Tenancies (Relocatable Homes) Act 1994, may appear and be represented, by a barrister, solicitor or agent, at any proceedings arising under that Act. 35

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

(8) Section 99 (**Extension of time**):

In section 99 (1), after “under this”, insert “or any other”.

5 (9) Section 107 (**Appeal against decision of Tribunal with respect to matter of law**):

After section 107 (8), insert:

(9) This section does not apply to any matter arising under the Residential Tenancies (Relocatable Homes) Act 1994.

10 (10) Section 107A:

After section 107, insert:

Appeal to the Supreme Court under the Residential Tenancies (Relocatable Homes) Act 1994

15 107A. (1) An appeal lies to the Supreme Court, on a question of law, against any determination of the Tribunal on a matter arising under the Residential Tenancies (Relocatable Homes) Act 1994.

(2) Such an appeal may be made only with the leave of the Supreme Court.

20 (3) Application for leave to appeal must be made to the Supreme Court within 28 days after the determination is made or within such further time as the Supreme Court may allow in a particular case.

25 (4) The parties to the appeal are the Tenancy Commissioner and each of the parties to the determination against which the appeal is made.

30 (5) Subject to any direction of the Supreme Court to the contrary, the making of an application for leave to appeal operates to stay the determination to which the application relates.

(6) The Supreme Court is not to award costs to or against any party to an appeal.

(11) Section 111 (**No appeal from order of Tribunal**):

35 From section 111 (1) omit “(which relates to appeals against decisions of the Tribunal with respect to matters of law)”, insert instead “, 107A”.

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 2—AMENDMENT OF OTHER ACTS—*continued*

- (12) Section 119 (**Delegation by Tenancy Commissioner**):
 In section 119 (1), after “under this”, insert “or any other”.
- (13) Section 119B (**Power of investigator to obtain information, documents and evidence**): 5
 After “this Act” wherever occurring, insert “or the Residential Tenancies (Relocatable Homes) Act 1994”.
- (14) Section 119D (**Exclusion of personal liability**): 10
 After “this Act”, insert “or the Residential Tenancies (Relocatable Homes) Act 1994”.

Subordinate Legislation Act 1989 No. 146

- Section 12 (**Machinery provisions regarding repeal**):
 After section 12 (6), insert:
 (7) The Residential Tenancies (Relocatable Homes) Regulation 1995 under the Residential Tenancies (Relocatable Homes) Act 1994 is, for the purposes of this Act, taken to have been originally published on 1 January 1995. 15

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS 20

(Sec. 93)

Savings and transitional regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act. 25
- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to this Act or a later date.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as: 30
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication in the Gazette; or

Residential Tenancies (Relocatable Homes) 1994

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS—*continued*

- 5 (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication in the Gazette.
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