

First print



New South Wales

# Residential Tenancies Amendment Bill 1996

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to amend the *Residential Tenancies Act 1987* so as:

- (a) to facilitate the recovery of goods that have been left on residential premises by former tenants, and
  - (b) to facilitate the recovery of compensation for the costs incurred by former tenants under residential site agreements (within the meaning of Schedule 3 to that Act) as a result of the termination of those agreements.
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## Outline of provisions

**Clause 1** specifies the name (also known as the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Residential Tenancies Act 1987* contained in Schedule 1.

### Recovery of goods left on residential premises

**Schedule 1 [1]** inserts a new section 79A into the Act, so giving effect to the object referred to in paragraph (a) above. The new section enables a former tenant of residential premises, or any other person having an interest in goods that have been left on the premises, to apply to the Residential Tenancies Tribunal for the recovery of the goods. The new section allows the Tribunal to order that the goods be delivered into the possession of the applicant, and to order the applicant to pay any reasonable costs incurred by the landlord in connection with the removal, storage or delivery of the goods.

### Recovery of compensation for costs arising from termination of residential site agreements etc

Schedule 3 to the Act contains provisions with respect to certain moveable dwellings. The agreements under which such dwellings are accommodated in caravan parks and manufactured home estates are defined as *residential site agreements* for the purposes of that Schedule. Schedule 1 [2]–[4] amend Schedule 3 to the Act to give effect to the object referred to in paragraph (b) above.

**Schedule 1 [2]** and **[3]** amend clauses 9, 10, 11, 12 and 13 of Schedule 3 to the Act so as to make it clear that the compensation to which a former tenant is entitled under those clauses is payable by the landlord.

**Schedule 1 [4]** substitutes clause 14 of Schedule 3 to the Act. The new clause:

- (a) makes it clear that the amount of compensation to which a former tenant is entitled under clause 9, 10, 11, 12 or 13 of Schedule 3 to the Act is to be determined by the Tribunal, and
- (b) identifies the circumstances in which an application may be made to the Tribunal for compensation under those clauses, and
- (c) ensures that any financial or other assistance that the landlord has given to the tenant is taken into account in determining the amount of compensation payable to the tenant.

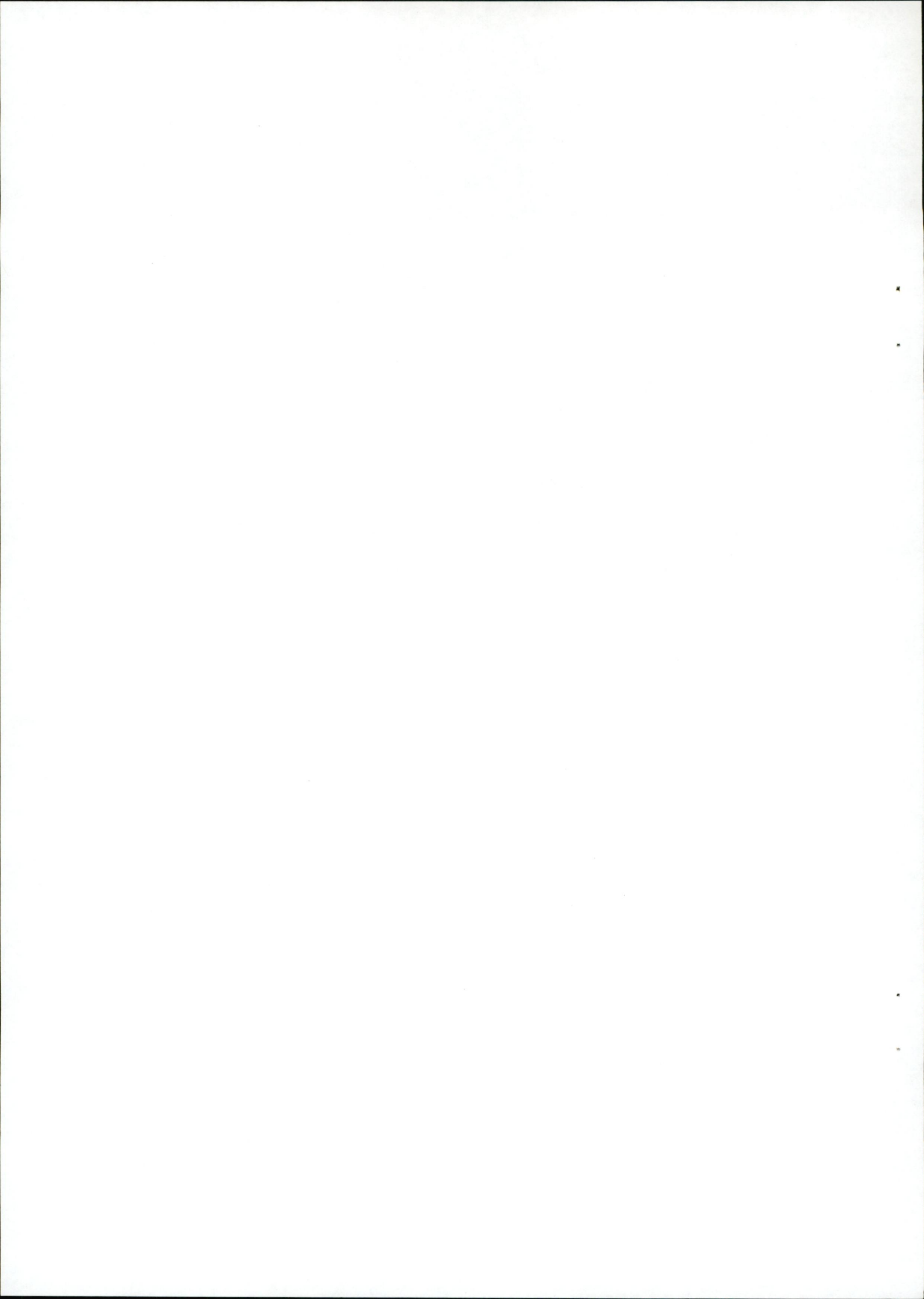
The new clause is otherwise the same as the clause it replaces.

### **Savings and transitional provisions**

**Schedule 1 [5]** amends clause 1 of Schedule 4 to the Act so as to provide for the making of savings and transitional regulations in connection with the proposed Act.

**Schedule 1 [6]** adds a new Part 3 to Schedule 4 to the Act. The new Part contains the following provisions:

- (a) a definition clause (proposed clause 3),
- (b) a clause that applies proposed section 79A to goods left on residential premises before the commencement of the proposed Act in the same way as it applies to goods left on residential premises after that commencement (proposed clause 4),
- (c) a clause that applies the proposed amendments to Schedule 3 to compensation arising from a notice or order given or made before the commencement of the proposed Act in the same way as they apply to compensation arising from a notice or order given or made after that commencement (proposed clause 5).



First print



New South Wales

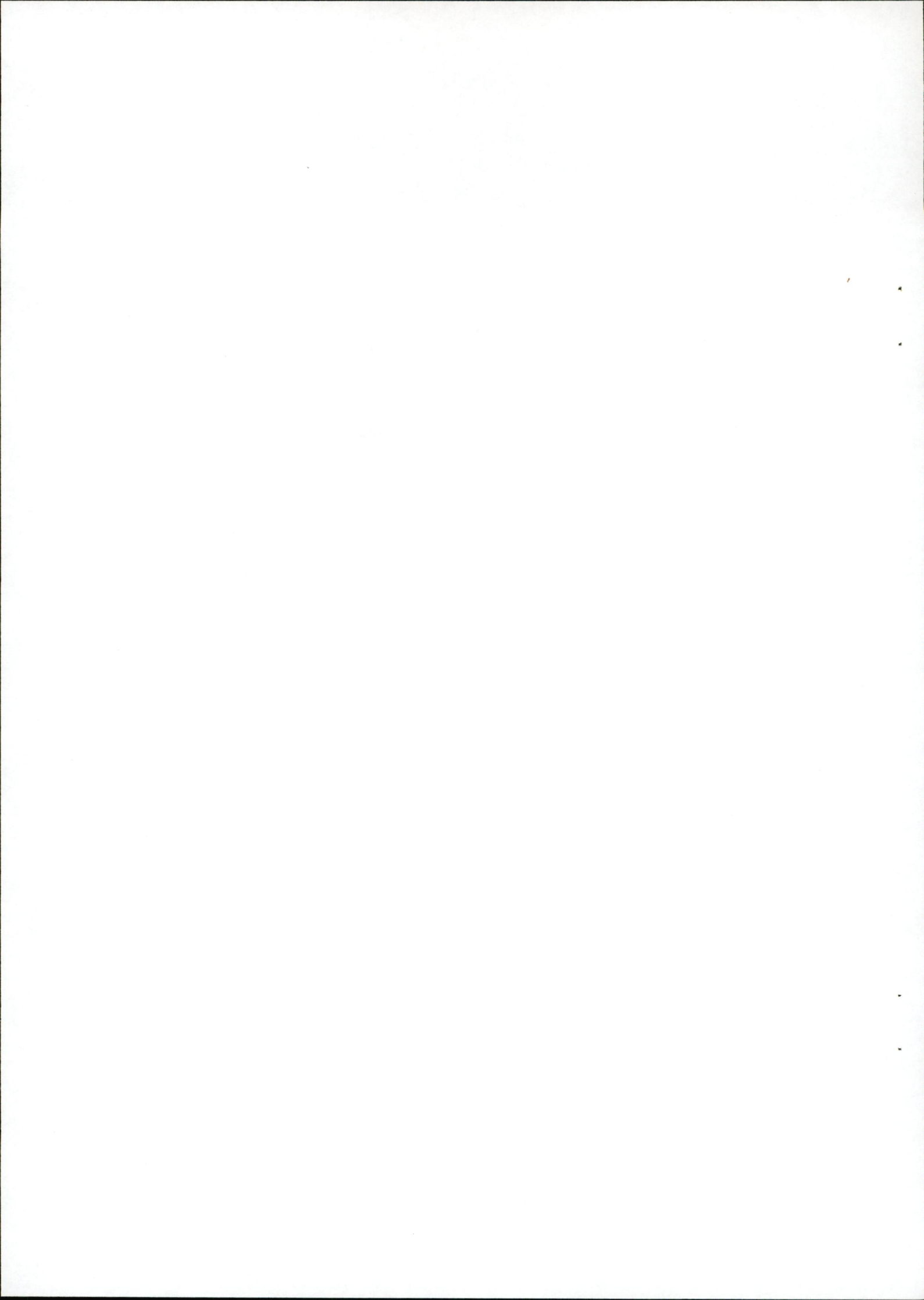
# Residential Tenancies Amendment Bill 1996

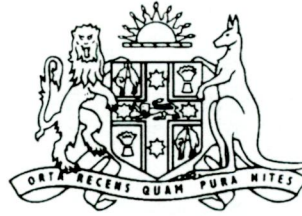
## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Residential Tenancies Act 1987 No 26	2
 Schedule 1 Amendments	 3

---





New South Wales

# Residential Tenancies Amendment Bill 1996

No. , 1996

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## **A Bill for**

An Act to amend the *Residential Tenancies Act 1987* in relation to the recovery of tenants' goods and the payment of compensation as a result of the termination of residential site agreements.

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

**1 Name of Act**

This Act is the *Residential Tenancies Amendment Act 1996*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation. 5

**3 Amendment of Residential Tenancies Act 1987 No 26**

The *Residential Tenancies Act 1987* is amended as set out in Schedule 1.



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## Schedule 1 Amendments

(Section 3)

### [1] Section 79A

Insert after section 79:

- 79A Goods left by tenant, but not abandoned, after residential tenancy agreement is terminated** 5
- (1) If a residential tenancy agreement is terminated and goods are left by the tenant on the residential premises:
- (a) the tenant, or
  - (b) any other person having an interest in the goods, 10
- may apply to the Tribunal for an order for the delivery of the goods into the tenant's or other person's possession.
- (2) The Tribunal may, on application under this section, make any one or more of the following orders:
- (a) an order for the delivery of the goods into the tenant's or other person's possession, 15
  - (b) an order requiring the tenant or other person to pay any reasonable costs incurred by the landlord in connection with the removal, storage or delivery of the goods, 20
  - (c) any ancillary order that the Tribunal, in the circumstances, thinks appropriate.
- (3) A former landlord does not incur any liability in respect of the disposal of goods in accordance with an order of the Tribunal under this section. 25

### [2] Schedule 3, clauses 9, 10, 11, 12

Omit "to compensation", wherever occurring, from clauses 9 (3), 10 (5), 11 (4) and 12 (4).

Insert instead "to be paid compensation by the landlord".

**[3] Schedule 3, clause 13**

Omit clause 13 (3). Insert instead:

- (3) A tenant who relocates in accordance with the requirements of a notice under this clause is entitled to be paid compensation by the landlord in accordance with clause 14. 5

**[4] Schedule 3, clause 14**

Omit the clause. Insert instead:

**14 Compensation for termination or relocation**

- (1) The amount of compensation that a tenant is entitled to be paid by a landlord under this Division is to be fixed by the Tribunal by order under section 85. 10
- (2) An application for such an order may be made, by the landlord or by the tenant:
- (a) in any proceedings on an application under section 64, being an application made on a ground referred to in clause 9, 10 or 11, or 15
- (b) in any proceedings on an application referred to in clause 12, or
- (c) in any proceedings commenced within 6 months after the tenant vacates a residential site in compliance with a notice or order referred to in clause 9, 10, 11, 12 or 13. 20
- (3) In fixing the amount of compensation to which a tenant is entitled in connection with the relocation of a dwelling to a new residential site, whether in accordance with the requirements of a notice under clause 13 or otherwise, the Tribunal must have regard to the following matters: 25
- (a) the reasonable costs of removing the dwelling from the old residential site (including the costs of disconnecting any services), 30

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- (b) the reasonable costs of transporting the dwelling and the possessions of its residents to the new residential site,
- (c) the reasonable costs of installing the dwelling at the new residential site (including the costs of connecting to the available services), 5
- (d) the reasonable costs of repairing any damage to the dwelling arising from its relocation,
- (e) the reasonable costs of landscaping the new residential site so as to bring it up to the condition of the old residential site, 10
- (f) the value of any financial or other assistance that the landlord has given to the tenant in connection with the relocation.
- (4) In fixing the amount of compensation to which a tenant is entitled otherwise than in connection with the relocation of a dwelling to a new residential site, the Tribunal must have regard to the following matters: 15
- (a) the reasonable costs of removing the dwelling from the old residential site (including the costs of disconnecting any services), 20
- (b) the reasonable costs of transporting the dwelling to its new location or disposing of the dwelling,
- (c) the reasonable costs of transporting the possessions of the dwelling's residents to their new place of residence (whether at the dwelling's new location or some other location), 25
- (d) the reasonable costs of repairing any damage to the dwelling arising from its relocation,
- (e) the value of any financial or other assistance that the landlord has given to the tenant in connection with the relocation. 30

Residential Tenancies Amendment Bill 1996

Schedule 1 Amendments

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- (5) Compensation is not payable under subclause (3) (d) or (4) (d) for an amount in excess of the value of the dwelling.
- (6) Compensation is not payable under subclause (4) (b) or (c) for a distance of travel of more than 300 kilometres. 5
- (7) Section 85 (3) does not apply to compensation to which a person is entitled under this clause.

**[5] Schedule 4 Savings, transitional and other provisions consequent on enactment of amending legislation**

Insert at the end of clause 1 (1): 10

*Residential Tenancies Amendment Act 1996*

**[6] Schedule 4, Part 3**

Insert at the end of the Schedule:

**Part 3 Provisions consequent on enactment of Residential Tenancies Amendment Act 1996** 15

**3 Definition**

In this Part, *amending Act* means the *Residential Tenancies Amendment Act 1996*.

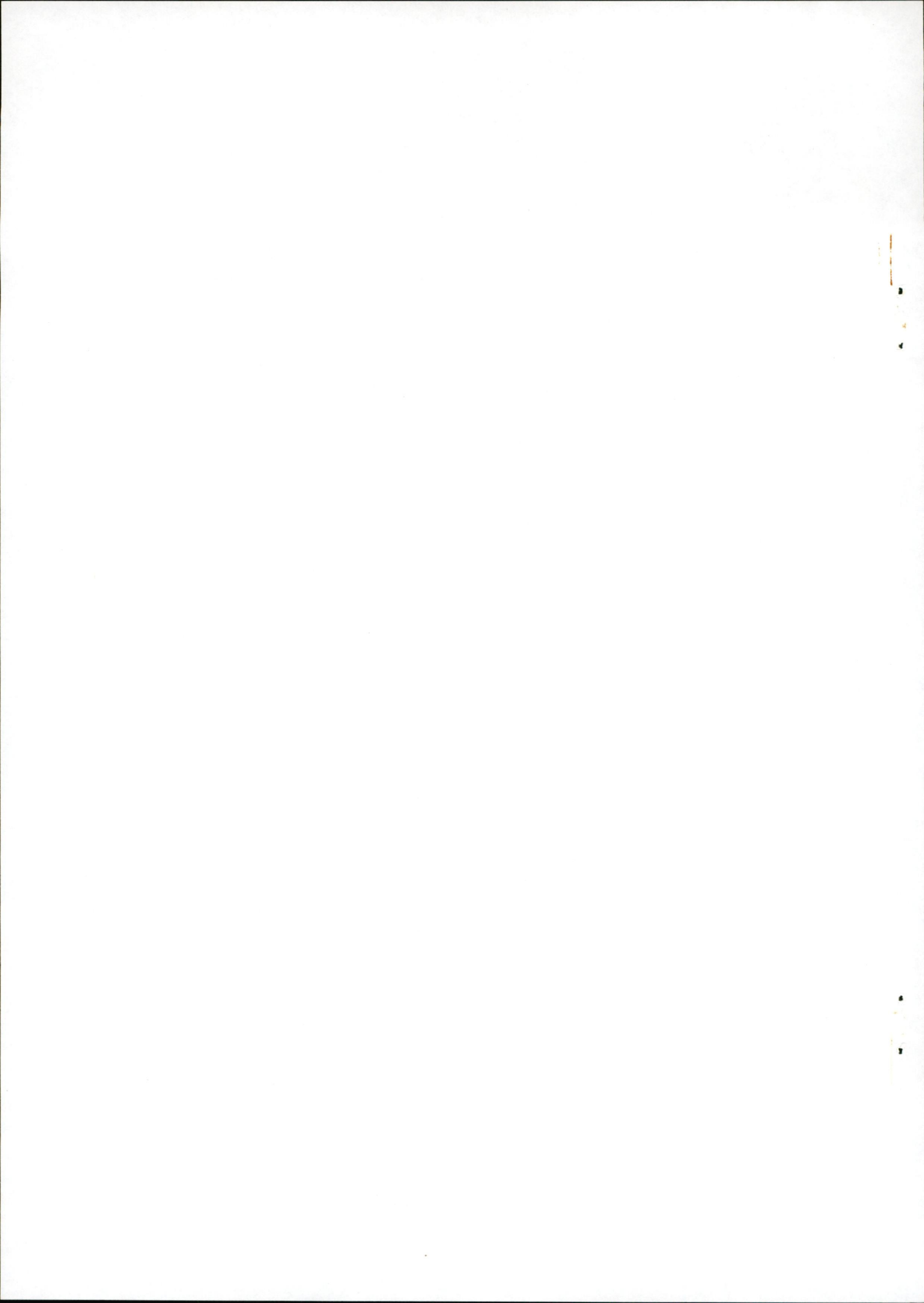
**4 Application of section 79A to existing circumstances**

Section 79A applies to goods left on residential premises 20  
by a tenant under a residential tenancy agreement  
terminated before the commencement of the amending  
Act in the same way as it applies to goods left on  
residential premises by a tenant under a residential  
tenancy agreement terminated after that commencement. 25

**5 Application of amendments to Schedule 3 to existing circumstances**

Schedule 3, as amended by the amending Act, applies to compensation arising from a notice or order referred to in clause 9, 10, 11, 12 or 13 of Schedule 3, being a notice given or made before the commencement of the amending Act, in the same way as it applies to compensation arising from such a notice or order given or made after that commencement.

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New South Wales

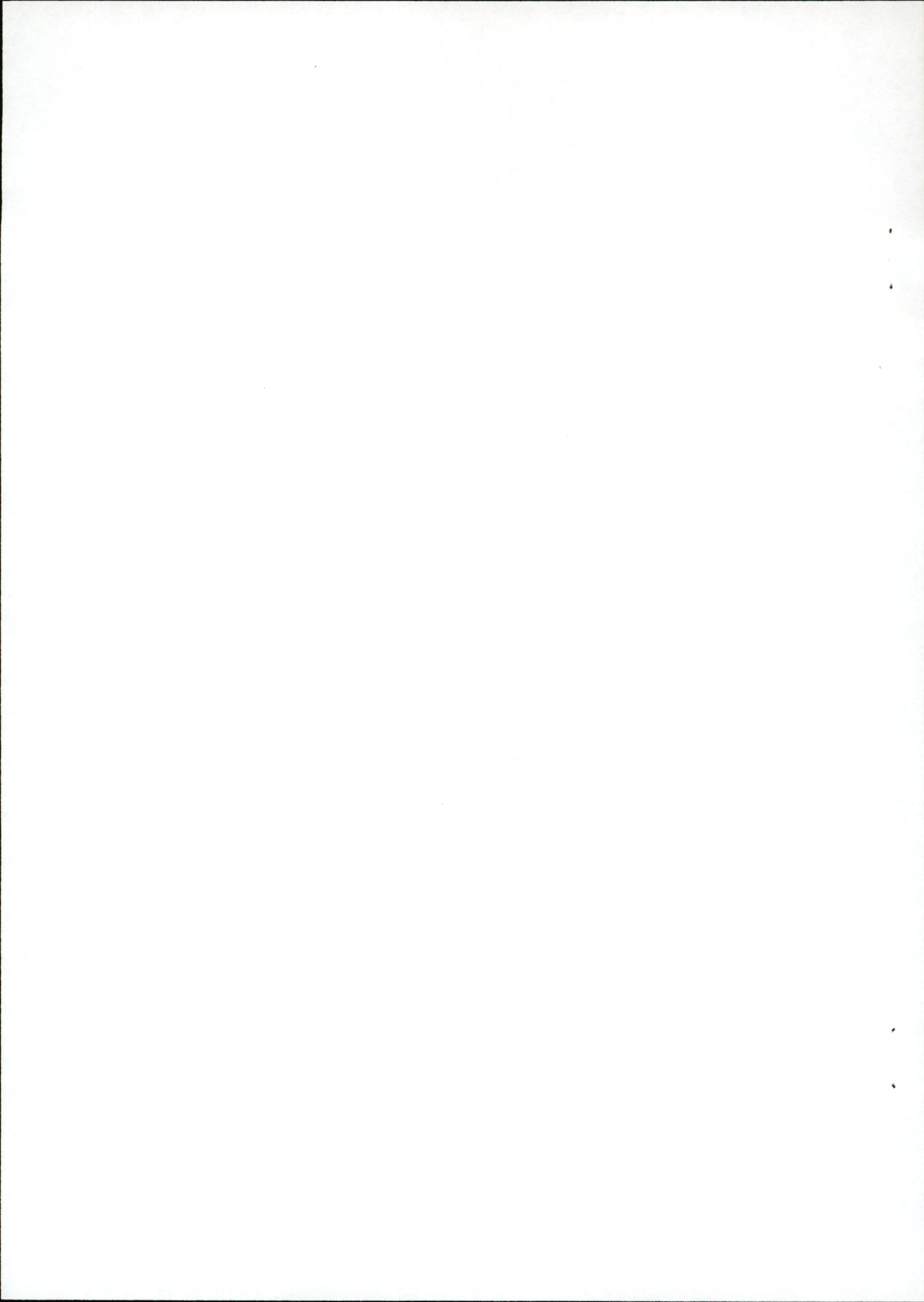
# Residential Tenancies Amendment Bill 1996

## Contents

---

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Residential Tenancies Act 1987 No 26	2
 Schedule 1 Amendments	 3

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Clerk of the Legislative Assembly.  
Legislative Assembly*



New South Wales

## **Residential Tenancies Amendment Bill 1996**

Act No     , 1996

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An Act to amend the *Residential Tenancies Act 1987* in relation to the recovery of tenants' goods and the payment of compensation as a result of the termination of residential site agreements.

---

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

**1 Name of Act**

This Act is the *Residential Tenancies Amendment Act 1996*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation. 5

**3 Amendment of Residential Tenancies Act 1987 No 26**

The *Residential Tenancies Act 1987* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Section 3)

### [1] Sections 79A, 79B

Insert after section 79:

#### **79A Goods left by tenant, but not abandoned, after residential tenancy agreement is terminated**

- (1) If a residential tenancy agreement is terminated and goods are left by the tenant on the residential premises:
  - (a) the tenant, or
  - (b) any other person having an interest in the goods,may apply to the Tribunal for an order for the delivery of the goods into the tenant's or other person's possession.
- (2) The Tribunal may, on application under this section, make any one or more of the following orders:
  - (a) an order for the delivery of the goods into the tenant's or other person's possession,
  - (b) an order requiring the tenant or other person to pay any reasonable costs incurred by the landlord in connection with the removal, storage or delivery of the goods,
  - (c) any ancillary order that the Tribunal, in the circumstances, thinks appropriate.
- (3) A former landlord does not incur any liability in respect of the disposal of goods in accordance with an order of the Tribunal under this section.

#### **79B General provisions concerning proceedings for disposal or recovery of goods left by tenant**

An application under section 79 or 79A may not be made more than 28 days after the date on which the relevant residential tenancy agreement is terminated.

Residential Tenancies Amendment Bill 1996

Schedule 1 Amendments

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**[2] Schedule 3, clauses 9, 10, 11, 12**

Omit "to compensation", wherever occurring, from clauses 9 (3), 10 (5), 11 (4) and 12 (4).

Insert instead "to be paid compensation by the landlord".

**[3] Schedule 3, clause 13**

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Omit clause 13 (3). Insert instead:

- (3) A tenant who relocates in accordance with the requirements of a notice under this clause is entitled to be paid compensation by the landlord in accordance with clause 14.

10

**[4] Schedule 3, clause 14**

Omit the clause. Insert instead:

**14 Compensation for termination or relocation**

- (1) The amount of compensation that a tenant is entitled to be paid by a landlord under this Division is to be fixed by the Tribunal by order under section 85. 15
- (2) An application for such an order may be made, by the landlord or by the tenant:
- (a) in any proceedings on an application under section 64, being an application made on a ground referred to in clause 9, 10 or 11, or 20
- (b) in any proceedings on an application referred to in clause 12, or
- (c) in any proceedings commenced within 6 months after the tenant vacates a residential site in compliance with a notice or order referred to in clause 9, 10, 11, 12 or 13. 25

- 
- (3) In fixing the amount of compensation to which a tenant is entitled in connection with the relocation of a dwelling to a new residential site, whether in accordance with the requirements of a notice under clause 13 or otherwise, the Tribunal must have regard to the following matters: 5
- (a) the reasonable costs of removing the dwelling from the old residential site (including the costs of disconnecting any services),
  - (b) the reasonable costs of transporting the dwelling and the possessions of its residents to the new residential site, 10
  - (c) the reasonable costs of installing the dwelling at the new residential site (including the costs of connecting to the available services),
  - (d) the reasonable costs of repairing any damage to the dwelling arising from its relocation, 15
  - (e) the reasonable costs of landscaping the new residential site so as to bring it up to the condition of the old residential site,
  - (f) the value of any financial or other assistance that the landlord has given to the tenant in connection with the relocation. 20
- (4) In fixing the amount of compensation to which a tenant is entitled otherwise than in connection with the relocation of a dwelling to a new residential site, the Tribunal must have regard to the following matters: 25
- (a) the reasonable costs of removing the dwelling from the old residential site (including the costs of disconnecting any services),
  - (b) the reasonable costs of transporting the dwelling to its new location or disposing of the dwelling, 30
  - (c) the reasonable costs of transporting the possessions of the dwelling's residents to their new place of residence (whether at the dwelling's new location or some other location), 35
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Residential Tenancies Amendment Bill 1996

Schedule 1 Amendments

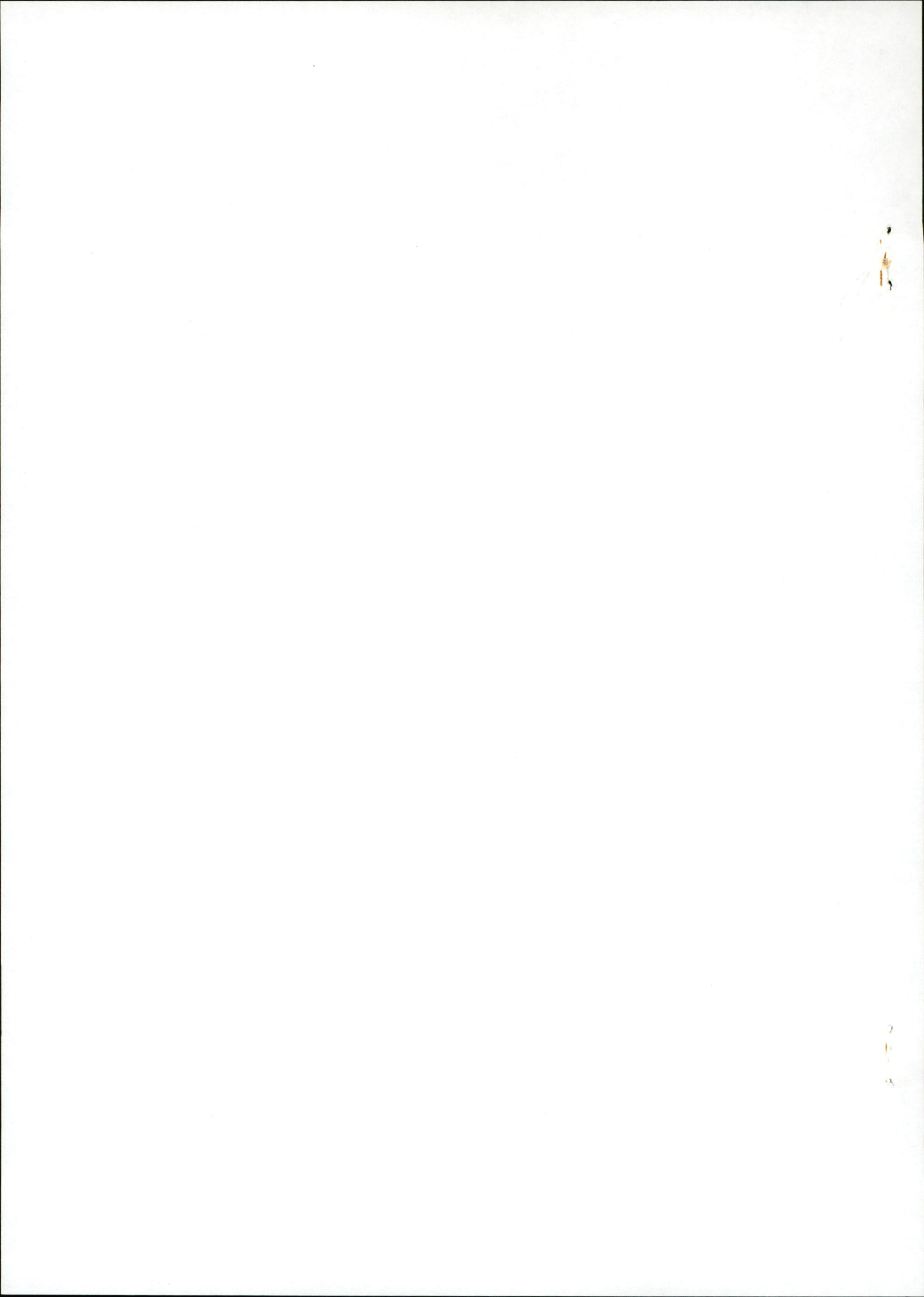
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- (d) the reasonable costs of repairing any damage to the dwelling arising from its relocation,
  - (e) the value of any financial or other assistance that the landlord has given to the tenant in connection with the relocation. 5
- (5) Compensation is not payable under subclause (3) (d) or (4) (d) for an amount in excess of the value of the dwelling.
- (6) Compensation is not payable under subclause (4) (b) or (c) for a distance of travel of more than 300 kilometres. 10
- (7) Section 85 (3) does not apply to compensation to which a person is entitled under this clause.
- [5] Schedule 4 Savings, transitional and other provisions consequent on enactment of amending legislation**
- Insert at the end of clause 1 (1): 15
- Residential Tenancies Amendment Act 1996*
- [6] Schedule 4, Part 3**
- Insert at the end of the Schedule:
- Part 3 Provisions consequent on enactment of Residential Tenancies Amendment Act 1996** 20
- 3 Definition**
- In this Part, *amending Act* means the *Residential Tenancies Amendment Act 1996*.
- 4 Application of section 79A to existing circumstances**
- Section 79A applies to goods left on residential premises by a tenant under a residential tenancy agreement terminated before the commencement of the amending Act in the same way as it applies to goods left on residential premises by a tenant under a residential tenancy agreement terminated after that commencement. 25
- 30

**5 Application of amendments to Schedule 3 to existing circumstances**

Schedule 3, as amended by the amending Act, applies to compensation arising from a notice or order referred to in clause 9, 10, 11, 12 or 13 of Schedule 3, being a notice given or made before the commencement of the amending Act, in the same way as it applies to compensation arising from such a notice or order given or made after that commencement.

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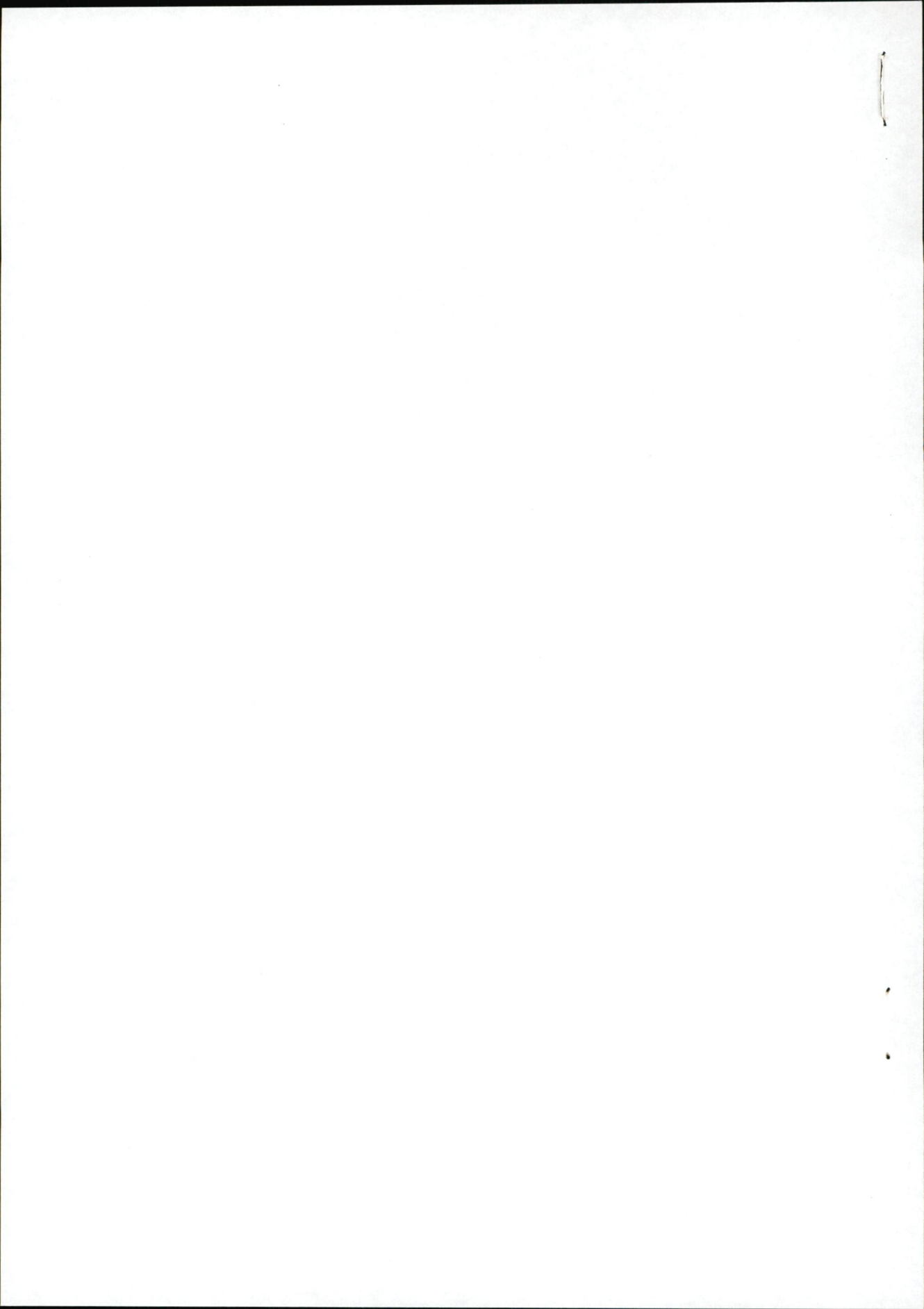
New South Wales

# Residential Tenancies Amendment Act 1996 No 79

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Residential Tenancies Act 1987 No 26	2
 Schedule 1 Amendments	 3





New South Wales

# Residential Tenancies Amendment Act 1996 No 79

Act No 79, 1996

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An Act to amend the *Residential Tenancies Act 1987* in relation to the recovery of tenants' goods and the payment of compensation as a result of the termination of residential site agreements. [Assented to 1 November 1996]

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

**1 Name of Act**

This Act is the *Residential Tenancies Amendment Act 1996*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Residential Tenancies Act 1987 No 26**

The *Residential Tenancies Act 1987* is amended as set out in Schedule 1.

---

## Schedule 1 Amendments

(Section 3)

### [1] Sections 79A, 79B

Insert after section 79:

#### **79A Goods left by tenant, but not abandoned, after residential tenancy agreement is terminated**

- (1) If a residential tenancy agreement is terminated and goods are left by the tenant on the residential premises:
  - (a) the tenant, or
  - (b) any other person having an interest in the goods,may apply to the Tribunal for an order for the delivery of the goods into the tenant's or other person's possession.
- (2) The Tribunal may, on application under this section, make any one or more of the following orders:
  - (a) an order for the delivery of the goods into the tenant's or other person's possession,
  - (b) an order requiring the tenant or other person to pay any reasonable costs incurred by the landlord in connection with the removal, storage or delivery of the goods,
  - (c) any ancillary order that the Tribunal, in the circumstances, thinks appropriate.
- (3) A former landlord does not incur any liability in respect of the disposal of goods in accordance with an order of the Tribunal under this section.

#### **79B Time within which application under section 79 or 79A to be made**

An application under section 79 or 79A may not be made more than 28 days after the date on which the landlord gains possession of the residential premises concerned,

whether as a result of the tenant delivering up vacant possession of the premises to the landlord, the tenant abandoning the premises, the landlord recovering possession of the premises under an order for possession or otherwise.

**[2] Schedule 3, clauses 9, 10, 11, 12**

Omit "to compensation", wherever occurring, from clauses 9 (3), 10 (5), 11 (4) and 12 (4).

Insert instead "to be paid compensation by the landlord".

**[3] Schedule 3, clause 13**

Omit clause 13 (3). Insert instead:

- (3) A tenant who relocates in accordance with the requirements of a notice under this clause is entitled to be paid compensation by the landlord in accordance with clause 14.

**[4] Schedule 3, clause 14**

Omit the clause. Insert instead:

**14 Compensation for termination or relocation**

- (1) The amount of compensation that a tenant is entitled to be paid by a landlord under this Division is to be fixed by the Tribunal by order under section 85.
- (2) An application for such an order may be made, by the landlord or by the tenant:
  - (a) in any proceedings on an application under section 64, being an application made on a ground referred to in clause 9, 10 or 11, or
  - (b) in any proceedings on an application referred to in clause 12, or
  - (c) in any proceedings commenced within 6 months after the tenant vacates a residential site in compliance with a notice or order referred to in clause 9, 10, 11, 12 or 13.

- (3) In fixing the amount of compensation to which a tenant is entitled in connection with the relocation of a dwelling to a new residential site, whether in accordance with the requirements of a notice under clause 13 or otherwise, the Tribunal must have regard to the following matters:
- (a) the reasonable costs of removing the dwelling from the old residential site (including the costs of disconnecting any services),
  - (b) the reasonable costs of transporting the dwelling and the possessions of its residents to the new residential site,
  - (c) the reasonable costs of installing the dwelling at the new residential site (including the costs of connecting to the available services),
  - (d) the reasonable costs of repairing any damage to the dwelling arising from its relocation,
  - (e) the reasonable costs of landscaping the new residential site so as to bring it up to the condition of the old residential site,
  - (f) the value of any financial or other assistance that the landlord has given to the tenant in connection with the relocation.
- (4) In fixing the amount of compensation to which a tenant is entitled otherwise than in connection with the relocation of a dwelling to a new residential site, the Tribunal must have regard to the following matters:
- (a) the reasonable costs of removing the dwelling from the old residential site (including the costs of disconnecting any services),
  - (b) the reasonable costs of transporting the dwelling to its new location or disposing of the dwelling,
  - (c) the reasonable costs of transporting the possessions of the dwelling's residents to their new place of residence (whether at the dwelling's new location or some other location),

- (d) the reasonable costs of repairing any damage to the dwelling arising from its relocation,
  - (e) the value of any financial or other assistance that the landlord has given to the tenant in connection with the relocation.
- (5) Compensation is not payable under subclause (3) (d) or (4) (d) for an amount in excess of the value of the dwelling.
  - (6) Compensation is not payable under subclause (4) (b) or (c) for a distance of travel of more than 300 kilometres.
  - (7) Section 85 (3) does not apply to compensation to which a person is entitled under this clause.

**[5] Schedule 4 Savings, transitional and other provisions consequent on enactment of amending legislation**

Insert at the end of clause 1 (1):

*Residential Tenancies Amendment Act 1996*

**[6] Schedule 4, Part 3**

Insert at the end of the Schedule:

**Part 3 Provisions consequent on enactment of Residential Tenancies Amendment Act 1996**

**3 Definition**

In this Part, *amending Act* means the *Residential Tenancies Amendment Act 1996*.

**4 Application of section 79A to existing circumstances**

Section 79A applies to goods left on residential premises by a tenant under a residential tenancy agreement terminated before the commencement of the amending Act in the same way as it applies to goods left on residential premises by a tenant under a residential tenancy agreement terminated after that commencement.



**5 Application of amendments to Schedule 3 to existing circumstances**

Schedule 3, as amended by the amending Act, applies to compensation arising from a notice or order referred to in clause 9, 10, 11, 12 or 13 of Schedule 3, being a notice given or made before the commencement of the amending Act, in the same way as it applies to compensation arising from such a notice or order given or made after that commencement.

[Minister's second reading speech made in—  
Legislative Assembly on 18 September 1996  
Legislative Council on 16 October 1996]

BY AUTHORITY

