

LEGISLATION NOTES

GOODS AND SERVICES TAX ACT 1985

Introduction

The 1984 Budget announced the Government's intention to implement a new form of taxation, which, it is suggested, heralds a change of emphasis in the raising of revenue in New Zealand. Set against a complex and unwieldy backdrop of personal income tax levying, the Goods and Services Tax Act 1985 is, in effect, a tax on expenditure. In being so, it is clearly part of a strategy to recover revenue from individuals and organisations who might otherwise avoid (or evade) taxes on income. In short, the rationale for the introduction of the Act can be explained as follows:

- it will change the tax mix, thereby providing a greater reliance upon indirect taxation.
- it will allow a lowering of marginal rates of personal taxation.
- it will be collected in small amounts at various stages of production and distribution, and will therefore be difficult to evade.

The Goods and Services Tax Act 1985 is a sales tax collected on behalf of the Government by businesses and persons registered with the Inland Revenue Department. By computing the tax owed to the Government, a 'registered person' may deduct any GST content which had been included in the purchase price of materials ("inputs") used in the production or distribution of that person's sales of goods and services. GST, therefore, is a 'value added' type tax which operates throughout the transition chain on a charge/credit mechanism, with the final consumer of the goods or services bearing the tax.

General Framework

The structure of the Act is refreshingly logical — a necessity if it is to be practically applied. Parts I and II are to be read conjunctively for they interpret and impose the tax itself. For the remainder, Parts III through XII, the mechanisms of the Act are listed. Of practical significance are the provisions relating to the returns and payment of the tax (Part III), compulsory and voluntary registration (Part VIII), and the transitional provisions under Part XII. Objections, penalties, recoveries and reliefs are also clearly enunciated by way of 'Part' division.

Imposition of the Tax

The general principles of the tax are encompassed in section 8 of the Act. This basic charging provision states:

... a tax, to be known as goods and services tax, shall be charged in accordance with the provisions of this Act at the rate of 10% on the supply (but not including an exempt supply) in New Zealand of goods and services, on or after the first day of October 1986, by a registered person in the course of furtherance of a taxable activity carried on or by that person by reference to the value of that supply.

For GST to be imposed, the following criteria must be met:

- 1) There must be a supply of goods and services — but not an exempt supply.
- 2) The supply must take place in New Zealand.
- 3) The supply must be by a registered person.
- 4) The supply must be in the course or furtherance of a taxable activity.

It is necessary to consider each in turn.

1) The Supply of Goods and Services

A “supply” is not specifically defined in the Act, other than to include “all forms of supply” (section 5). Its import is clear, though — a tax of 10% will be charged on any goods or services supplied, whether it be an outright sale, lease, bailment or other form of transfer.

There are, however, two important forms of supply which are not subject to the 10% GST charge. Importantly, owing to the relief that the two exceptions provide, it is envisaged that the sections invoking the deviation from section 8 will be construed very strictly indeed.

The first exception is that of *Zero-Rated Supplies*. Section 11 of the Act provides for a restricted class of supplied (otherwise taxable at 10% under section 8) to be taxed at a rate of 0%. Registered persons (per section 51), who make zero-rated supplies, do not charge the 10% GST on their supplies, but are still able to claim a credit for any GST paid on the purchase of those supplied. (In comparison, the second exception of exempt supplies are not afforded an input tax deduction).

Section 11 lists the zero-rated supplies; these are those supplies which are export related or relate to goods or property held outside New Zealand.

In general, then, exported goods and services are zero-rated supplies if they fall within the ambit of section 11.

The second important exception to the 10% taxable supply provision of section 8, is that of *Exempt Supplies*. Section 14 outlines supplies of goods and services which are wholly exempt from the GST. Like zero-rated supplies, a registered person may not charge the GST on the sale of the supply, but may not (unlike zero-rated supplies) recover input tax credits on purchases incurred in the production or distribution of exempt supplies.

The effect of ‘exempt supply’ status is therefore very significant. While the supplier of goods and services may be registered under the Act, he/she must nevertheless absorb any GST expense incurred in the pur-

chase of materials necessary to produce his/her supply.

Principally, the supplies affected are those of financial services and rental accommodation. Here, the breadth of the definition of 'financial service' (per section 3) has created much concern amongst the business community and the professions. Because 'the issuing, payment, and collection of cheques, the issuing of securities, the provisions of superannuation and life assurance schemes, the formation of futures contracts, and the provision of credit under a credit contract' are exempt supplies, the banks and finance houses will not be able to recover any GST content in inputs that they have purchased in order to create financial supplies. Such 'inputs' would ordinarily include office rental, and stationery costs. To further complicate the position of such financial institutions (and one might include accountants and lawyers here) section 3 also provides that the "agreeing to do, or arranging, any of (the above categories)" is included as a 'financial service'. The effect of such a provision, to take the example of a simple provision of credit, is to make not only the lender a supplier of a financial service, but also any other person who might have 'arranged' the loan a supplier. Thus to complicate the scenario, if the arranging of the loan is provided in conjunction with another activity — an accountant providing management consultancy, a lawyer rendering legal services — then the 'supplier' of those services provides not only exempt supplies (financial services for arranging the loan) but also taxable supplies on which a GST content must be charged.

In short, the ramifications of section 14 upon suppliers who predominantly provide exempt supplies (banks) are that incurred input GST costs will have to be built into their overheads. More realistically though, such suppliers of financial services will be forced to absorb the GST costs that incur, or attempt to recover them by increasing the price of their services.

Registration

Perhaps the most important **practical** requirement of the GST legislation, is that of Registration. The reason is twofold:

- 1) Registration identified the persons who are required to charge and account for GST.
- 2) Registration enables the Government to efficiently collect the tax levied on consumers.

With respect to the former view, it is clear from the section 8 requirements that the GST can only be levied by 'registered persons'. This means that to recover input tax credits on supplies purchased, the registration requirements of the Act be fulfilled.

The latter point reflects the fundamental operations of the tax — namely, that the tax is collected on behalf of the Government by businesses and organisations that are registered with the Inland Revenue Department. The need then for an efficient system of collection is critical, and the registration of persons under the Act is paramount to this.

Section 51 provides that anyone who conducts a taxable activity and who supplies goods and services in excess of \$24,000 in any 12 month

period, must register and account for GST. Voluntary registration is available to those whose value of supplies do not exceed the \$24,000 threshold, but deem it beneficial to do so.

Once registered, returns are required to be furnished on a regular basis. Section 15(1) determines that returns shall be bi-monthly, yet election to revert to a six monthly basis is available on request of the Commissioner (section 15(2)) provided taxable supplies are unlikely to exceed \$250,000 per annum. Similarly, the option of monthly returns is available upon request, a benefit to those who would regularly be entitled to a return of GST.

Taxable Activity

Like registration, the term 'taxable activity' must be analysed because its import is fundamental to the concept of GST. Because section 8 only imposes a tax on supplies made 'in the course or furtherance of a taxable activity', it follows that supplies which go beyond the scope of such activities will not be subject to GST provisions.

Section 6 states that a 'taxable activity' is any activity which is carried on continuously or regularly, whether or not for profit, and involves a supply of goods or services to any other person for consideration. It includes — but is not limited to — activities conducted as a business, trade, profession, association, club, or public and local authorities.

The term then, is defined to encompass the widest possible range of activities. Activities beyond those of a business nature are closely included, hence marking a clear departure from the normal view of taxability — one which requires some recognition of a profit motive. Opposition to this exception was voiced by many clubs, charities and religious organisations in the hearing of submission, but was rejected on the basis that it was necessary to depart from a 'commercial motive' for taxability to provide the concept of a tax on supply and consumption. Subsection 3 covers exclusions which notably include recreational pursuits and hobbies, salaries and wages, company directorships, private transactions, and of course exempt supplies.

Conclusion

The Goods and Service Tax Act 1985 is an attempt to distribute more fairly the burden of taxes. By imposing a tax on supply and consumption, the tax is borne by the final consumer of the goods, and is therefore difficult to evade.

— Robert Clark

**The preceding discussion is based on the New Zealand Society of Accountant's GST Seminar Paper, delivered in March 1986. This paper provides an excellent detailed analysis on the Act, with an especially useful practical approach to this complex piece of legislation.*

RAPE LAW REFORM (No. 2) ACT 1985

The Rape Law Reform (No. 2) Act as amended and passed by Parliament in December 1985 actually comprises amendments to three Acts, the Crimes Act 1961, the Evidence Act 1908 and the Summary Proceedings Act 1957.

The Crimes Amendment Act (No. 3) 1985

Section 128 of the Crimes Act 1961 now provides that the crime, formerly known as rape, will be known as 'sexual violation'. This change represents statutory recognition of the premise that rape is an act of violence, not sex, and also reflects the wider definitions of what acts constitute rape under section 128.

First, the act of rape was formerly regarded as something which happened only to women. However, unlawful sexual connection, or sexual violation, may now be committed by any person on any other person (section 128(1)(b)).

Secondly, sexual violation includes anal penetration, or penetration by an object other than the penis, which formerly were not included in the definition. The maximum sentence of 14 years imprisonment for sexual violation remains unchanged by the reforms.

Thirdly, the criminal intent to commit rape formerly stopped short of including "recklessness". Recklessness was a state of mind whereby an accused's indifference as to whether the complainant consented or not was sufficient to negate criminal intent (see *DPP v Morgan* [1975] AC 182). The criminal intent necessary to commit sexual violation now includes that state of mind.

Fourthly, spousal immunity is expressly removed by the reforms, refuting the presumption that a husband cannot rape his wife.

Fifthly, section 128(5) (c) provides that a continuation of sexual connection as described in either paragraphs (a) or (b) of sub-section (5) can be a new sexual connection. This puts into statutory effect the decision in *R v Kaitamaki* [1981] 1 NZLR 527 which held that rape can be committed following penetration with consent, if the accused persists with intercourse after realising the complainant is no longer consenting.

Having defined the accused's state of mind in section 128, section 128A elaborates on the complainant's state of mind. Following ordinary evidentiary rules, the accused still has only to raise a *reasonable doubt* as to his state of mind at the time of offence, but the complainant's refusal to consent must be proved as a fact. The credibility of the complainant is the most important thing in any sexual violation trial. Because of the nature of the offence, it is harder to prove the complainant's state of mind, for the complainant may be passive, whereas the accused must do something. The major hurdle for reversing the legal burden of proof in rape cases is therefore still to be cleared. Nevertheless, sec-

tions 128A and 129A confront the problem of consent to some extent. The following now do *not* constitute consent to sexual connection:

1. Lack of protest or physical resistance.
2. Submission through fear of physical violence or violence to another person.
3. Consent through mistake as to the rapist's identity.
4. Consent through mistake as to the nature and quality of the act.

Section 129A introduces the new offence of "Inducing sexual consent by coercion" which cover the situations where consent is obtained by threats, blackmail, abuses of power or authority arising from the occupational or vocational positions, or the commercial relationships between the accused and the complainant.

The Evidence Amendment Act (No. 2) 1985

Evidentiary changes are significant as noted above, although *Woolmington v DPP* [1935] AC 462, remains relevant so far as the legal burden of proof and sexual violation cases are concerned. Before section 23AB of the *Evidence Amendment Act (No. 2) 1985*, the judge was obliged to tell the jury that they could not convict on the uncorroborated evidence of a complainant and that it was "unwise and dangerous to convict" without corroboration. Section 23AB(1) provides that no corroboration of the complainant's evidence shall be necessary for a conviction, and the judge shall not be required to give any warning to the jury relating to the absence of corroboration. It should be noted that section 23AB applies to an offence under sections 128 through 144 of the *Crimes Act* "or for any other offence against the person of a sexual nature" so, theoretically, it also extends to incest in sexual assault cases.

Section 23AC provides that when a complainant is asked in court why there was a delay in complaining about the sexual offence to the police, the judge may tell the jury that there may be good reasons why the victim of such an offence may refrain from or delay in making such a complaint.

Both these sections recognise the power of the myth that rape is a charge easy to make and hard to refute.

With regard to unethical questioning of a complainant about previous sexual experience with persons other than the accused, the new section 23A is similar to the section brought in by the 1977 *Evidence Amendment Act*.

Section 23AA provides that the complainant's name, address and occupation is not to be disclosed in open court except with the leave of the judge. It is submitted that the judge's discretion to give leave was not necessary because it would be preferable in every case to deal with any problems of this type in Chambers. It was not included in the Rape Law Reform (No. 2) Bill before it went to the select committee.

The Summary Proceedings Amendment Act (No. 4) 1985

Section 185C(1) provides that at preliminary hearings the complainant's evidence *shall* be given in a form of a written statement. The judge has a discretion to let oral evidence be given if satisfied that:

- (a) the complainant wants to give a statement orally despite knowing there was no need to, or
- (b) the written statement is insufficient, or
- (c) it is necessary in the interests of justice that evidence be given orally.

Section 185C(3) makes provision for a closed court hearing where the complainant does give oral evidence. The complainant must be advised of her right to request the presence of any person to be with her at this stage. This section applies to the depositions or preliminary hearing. A parallel provision exists for High Court trials (see section 375A of the Crimes Act).

The court has the power to suppress publication of the criminal act alleged to have been performed, if the interests of the complainant requires it (section 185D(1)). Additionally the court has its ordinary powers under section 138 of the *Criminal Justice Act 1985* or section 206 of the *Summary Proceedings Act 1957* to exclude any person or forbid any report or account of any evidence.

Section 185B now provides that a district court judge shall preside over the preliminary hearing. This is because the conclusions of the Rape Study 1982 indicated that section 23A of the Evidence Act was not being well enough applied because 92% of cases at depositions were heard by justices of the peace.

Reasons For Reforms

Previously rape complainants were thought to have a lot of power in the courtroom. An analysis of the complainant's experience before the courts by the Institute of Criminology in 1982, published as the Rape Study, showed however that complainants felt disempowered by defence counsel in court. The credibility of the complainant is an essential issue in a rape trial. The new laws attempt to check the power of defence counsel to erode a complainant's credibility in the eyes of the jury and the new laws reflect a legislative intention "to reduce the trial of the complainant's experience in court" (Hansard, 13 August 1985 p. 6274 Ann Hercus).

Progress

A recent article in the New Zealand Law Journal explores the argument for and against the Law Reforms. ("Standing in the shoes of the raped victim", Rosemary Barrington [1986] NZLJ 408.) One of the conclusions is the prediction that there will be cause for these protective legal procedures to be extended to all sexual offenders. Certainly, we

are in an invidious position at the moment in New Zealand, insofar as an adult sexual violation complainant is afforded more protection from harsh cross-examination than a child sexual assault or incest victim.

Some cases since the reforms came into effect on 1 February 1986 should be noted. On the issue of the judge's discretion under section 185C(1) of the *Summary Proceedings Act* to order a complainant to give evidence orally instead of by written statement, the first reported case is *Police v W.* (1987) 3 DCR 432. In that case the defendant's application to require the complainant to give evidence orally was turned down. The purpose of the cross-examination, it was submitted, would be to assist the defence psychiatrist, by providing background material to the defence of insanity. Applying the test that it had to be shown to be "necessary", not just desirable, in the interest of justice that complainants should give oral evidence, the judge held that the burden on the defendant was not discharged in this case.

The judge's discretion in respect of allowing people into the "Closed Court" during the complainant's evidence has been exercised in the spirit of the reforms. One Christchurch judge asked the woman complainant whom she wanted to be with her while she gave her evidence. This was an empowering gesture. Defence counsel asked that the person who happened to be the officer in charge of the case be excluded. A compromise was reached in this instance (*R. v McCreath* and *R. v McClintock*, reported in the *Dominion* 11/2/86). See also *R. v Daniels and Tihi* (1986) 2 CRNZ 164).

In assessing the impact of the reforms it is necessary to present the practical difficulties as well as the theoretical improvements. Although the concept of rape as an assault, rather than a property crime against the woman's father or husband, is now acknowledged and the last vestige of the concept of women as chattels (spousal immunity) has gone, there is still a great disparity between the theory and the social reality of the courtroom politics of rape. There are still significant problems with establishing a woman's credibility in court. Although the rule as to corroboration is gone, medical evidence at trial is considered crucial. If the medical evidence is clear, it is very good for the prosecution, but in the majority of sexual violation cases the medical evidence is useless. The presence of semen in the vagina of the complainant is seen by some to be silly and trivial to the establishment of the facts. However, in evidential terms, most prosecutors would agree that juries react better to scientific evidence than to the complainant's evidence. Frequently however, the complainant is unable to make a complaint swiftly enough for the medical evidence to be conclusive.

Monitoring change is a complex task because complainants move through police, support agencies, prosecutors, courts, defence counsel and juries. Although the complainant has procedural protection, there is no particular agency is accountable for any breach of any procedures. For example, complainants should be able to rely on being told why they need a medical examination at the police station, yet they are not always told. Another example comes from a trial which was aborted

because of a problem with the impartiality of a juror. (He knew one of the workers at the late-night takeaway which was the first place the woman reached after the attack.) The problem became apparent only after the complainant had taken the stand. Messages were passed between the judge and the jury. Inevitably the evidence was halted. The judge and jury simply walked out. No one in the room told the complainant why. Afterwards, of course, the prosecutor explained to her what had happened. It is *hoped* that people will keep the complainant informed. But it is submitted that what is needed is some kind of monitoring of the system to ensure the complainant is kept informed thereby giving her more power within the system.

This inevitably requires the allocation of more resources to support agencies and to refresher courses for those who are involved with complainants on the way through the system. It is clear that money and resources well-directed, and accompanied by the political will to make change, can achieve change. In the wake of the Law Reforms, it is suggested that it is appropriate to call for more resources to nurture these developments in practice.

Leigh Simpkin

RESIDENTIAL TENANCIES ACT 1986

Introduction

On the first day of February 1987, the Residential Tenancies Act 1986 came into force in New Zealand.

Modelled upon the South Australian statute of the same name, the Act aims to:

- (i) reform and restate the law relating to residential tenancies,
- (ii) define the rights and obligations of landlords and tenants of residential properties,
- (iii) establish a tribunal to determine expeditiously disputes arising between such landlords and tenants,
- (iv) establish a fund in which bonds payable by such tenants are to be held, and
- (v) repeal the Tenancy Act 1955 and the Rent Appeal Act 1973.

General Framework of the Act

The Residential Tenancies Act is divided into five Parts. Part I is straightforward. Its concern is the general application of the Act. Parts II and III contain the substantive provisions. The rights and obligations of parties to a tenancy agreement, and the circumstances in which tenancies may be terminated and possession recovered are dealt with in Part III of the Act i.e. the creation of a Tenancy Tribunal and the appointment of Tenancy Mediators. The remaining Parts IV and V deal respectively with matters of administration and miscellanea.

Tenancies To Which The Act Applies

Virtually all residential tenancies are within the ambit of the Act (section 4). There are however, a number of premises the subject of tenancies which are expressly excluded and these are noted in section 5. They include, inter alia, commercial premises, small farmlets over one hectare, rest homes, hostels and caravan parks. Also excluded are long-term tenancies over five years and short-term fixed tenancies of less than 120 days (sections 6 and 7).

Main Features Of The Act*

(A) Tenancy Tribunal

A Tenancy Tribunal which forms part of the Tenancy Bond Division of the Housing Corporation is constituted under section 67 of the Act. It has jurisdiction to determine all residential tenancy disputes covered by the Act, except those exceeding \$12,000 in value (section 77).

The jurisdiction and powers of the tribunal are exercisable by Tenancy Adjudicators (section 84) who must possess the requisite legal qualification (section 67(9)) or similar experience.

Generally, the jurisdiction is to be exercised in a manner that is 'most likely to ensure the fair and expeditious resolution of disputes' (section 85(1)). Moreover, the tribunal is to have regard to the 'general principles of law relating to the matter and the substantial merits and justice of the case' without necessarily being bound by legal technicalities (section 85(2)).

(B) Tenancy Mediators

The Act contemplates two categories of Tenancy Mediators:

- (i) Those appointed under the State Services Act 1962, being officers of the Housing Corporation (section 76(1) and 76(2)), and
- (ii) Others who are not State servants but are appointed to act in cases where the Crown or Corporation is a party i.e. State Rentals (section 76(3)).

A Tenancy Mediator's primary function is to bring the parties to a dispute to an agreed settlement (section 88(1)). However, no Mediator has the power to determine any disputed matter (section 76(6)); where a settlement is reached a Mediator may make any order which the Tribunal may have made in exercise of its jurisdiction (section 88(2)). Where a dispute cannot be solved by a mediation, Tenancy Tribunals can hear evidence and make legally enforceable orders in relation to any tenancy to which the Act applies.

(C) Residential Tenancies

Section 127 establishes a fund to be known as the 'Residential Tenancies Fund'. The Fund is divided into two parts, Part A and Part B.

Into Part A is paid all bond money (see section 19-21 and 34) and any other money which the Act requires to be credited to this section of the Fund (section 128). The proceeds of the sale of abandoned property (section 62(2) (c)), application fees, interest and other funds appropriated by Parliament are paid into Part B.

Where a tenant has abandoned premises leaving goods behind, the landlord may recover out of Part B (section 62(1)):

- (a) the bond money paid in respect of the premises, or
- (b) all costs and expenses reasonably incurred in respect of the goods' storage and disposition.

The Act has no provision requiring the Housing Corporation or the Crown to guarantee the recovery of rent in arrears from the Fund.

(D) Obligations Of Landlord And Tenant Regarding Condition Of Property

The substance of the former obligations regarding the condition in which landlord and tenant were to keep the rental property remain intact under the new Act but in more general terms.

The provisions of the Property Law Act 1952 and Amendments no longer apply to tenancies caught by the new Act. The basic obligations of the tenant are to keep the premises clean and tidy and free from intentional damage.

The basic obligations of the landlord are to let the premises in a clean and tidy condition; provide such repairs as are necessary, having regard to the age and character of the premises; and to comply with health and safety requirements.

(E) Landlord's New Obligations

The landlord has a number of new obligations under the Act (aside from forwarding bond money to the Corporation (section 19)). These obligations relate principally to taking reasonable steps to protect the privacy and security of the tenant and giving notice of intention to sell and subsequent disposition of the property.

(F) Notice

The Act has quite comprehensive notice provisions. Section 51 provides that the landlord must give the tenant 90 days notice of termination, except where the premises are required for occupation by the landlord or members of his/her family or an agreement for sale has been entered into and that agreement requires vacant possession. If any exception applies the period of notice is reduced to 42 days.

The minimum period of notice to be given by the tenant is 21 days.

Under section 54 the Tribunal can issue an order declaring that notice of termination is of no effect, even though it complies with time limits, if it is given in retaliation for the exercise by the tenant of his/her rights under the agreement or the Act.

The Tenancy Tribunal has power to make an order terminating the tenancy if the rent is at least 21 days in arrears; or, the tenant has caused, or permitted any other person to cause, intentional damage to the premises; or, the tenant has assaulted the landlord or an agent or family member of the landlord or another occupier of the building or neighbour.

(G) Landlord's Right Of Entry

The Act limits the landlord's right of entry under the former law (see section 116 (g) of the Property Law Act 1952).

Section 48 of the new Act requires notice of at least 48 hours, and no more than 14 days, to be given in any case of entry for the purposes of:

- (i) inspection (section 48(2) (b)), or

- (ii) determining whether a tenant has satisfactorily completed any required work (section 48(2) (c)).

Only one inspection 'in any period of 4 weeks' is permitted. Entry for the purpose of either (i) or (ii) must occur between the hours of 8 a.m. and 7 p.m.

Where repairs or maintenance are necessary only 24 hours notice is required (section 48(2) (d)). A landlord may enter freely in any case of emergency (section 48(2) (a)).

The Act regards forcible entry as an offence punishable by 3 months imprisonment or a fine not exceeding \$500 (section 48(6)).

(H) Recovering Possession

Generally, possession could be recovered by peaceable re-entry or by court order provided appropriate notice was given.

Section 63 of the Residential Tenancies Act effectively abolishes the peaceable re-entry method of recovering possession. The landlord must now enter into possession either with consent or by means of an order from the Tribunal filed in the local District Court (section 106).

Conclusion

Some landlords consider the new tenancy legislation excessively bureaucratic and a disincentive to investment in the rental sector.

Metropolitan cities such as Auckland are presently experiencing a drastic shortage of rental accommodation. Whether this fact is directly attributable to the Act's introduction is a moot point. It is clear that some landlords have left the rental market deterred by the Act, but it is equally true that many more have left simply to obtain a better return on their investment.

Landlords have also criticised the Act for not making any provision for the recovery or guarantee of rent in arrears; this is a valid criticism, especially when one considers the difficulty of tracing a "vanishing" tenant.

On the positive side, the Act affords tenants considerable protection from overbearing landlords. More importantly it provides a new mechanism for resolving tenancy disputes.

Kelvin McDonald

*This article does not attempt to do more than briefly examine some of the more obvious features of the Act. Much of the work is based on the materials by Dr K. Palmer, D. Mather, W. Eyre and I. Potter of the Auckland District Law Society Continuing Legal Education Programme, *Residential Tenancies Seminar* (24 March 1987). The materials provide an excellent commentary on the Act and deal with a number of features not considered in this article.