



## ANALYSIS

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1996, No. 7

**An Act to amend the Residential Tenancies Act 1986**

[13 March 1996]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Residential Tenancies Amendment Act 1996, and shall be read together with and deemed part of the Residential Tenancies Act 1986 (hereinafter referred to as the principal Act).

(2) Except as provided in sections 3, 4, 6, 7, and 17 of this Act, this Act shall come into force on the 1st day of May 1996.

**2. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “accommodation broker”, the following definition:

“‘Address for service’ means the address given by the landlord or tenant under this Act as the address at which notices and other documents relating to the tenancy will be accepted by or on behalf of the landlord or tenant, as the case may be.”.

(2) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “commercial premises”, the following definition:

“‘Contact address’,—

“(a) In relation to a landlord, means an address or addresses (which may include telephone numbers) where the landlord or the landlord’s agent is reasonably contactable by the tenant; and in addition

“(b) In relation to a landlord that is a company, includes (if the information is different from that given under paragraph (a) of this definition)—

“(i) The full name of the officer responsible to the company for the administration of the tenancy; and

“(ii) An address or addresses (which may include telephone numbers) where that officer or the landlord’s agent is reasonably contactable by the tenant; and

“(iii) The address of the company’s registered office.”.

(3) Section 2 (1) of the principal Act is hereby further amended by omitting from the definition of the term "Deputy Principal Tenancy Adjudicator" the expression "section 67 (2) (b)", and substituting the expression "section 67 (2A)".

(4) Section 2 (1) of the principal Act is hereby further amended by inserting in the definition of the term "key money", after the word "foregift," the words "reimbursement of expenses, administration charges,".

(5) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term "protected tenancy".

(6) Section 2 (1) of the principal Act is hereby further amended by omitting from the definition of the term "Tenancy Mediator", the words "; and includes the Principal Tenancy Mediator appointed under that section".

**3. Act excluded in certain cases**—(1) Section 5 of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

"(b) Where the whole or a substantial part of the tenant's income is derived from the use of the premises for agricultural, pastoral, horticultural, or other similar purposes:".

(2) Section 5 of the principal Act is hereby further amended by inserting, after paragraph (b), the following paragraph:

"(ba) Where the premises are let for a fixed-term tenancy of at least 5 years and the tenancy agreement expressly provides that this Act shall not apply:".

(3) Subsection (2) of this section shall come into force on the 1st day of December 1996, and shall not apply to any tenancy that commenced before that date.

**4. Long fixed-term tenancies**—(1) The principal Act is hereby amended by repealing section 6.

(2) Section 6 of the principal Act shall, notwithstanding its repeal by subsection (1) of this section, continue to apply to any tenancy that commenced before the 1st day of December 1996.

(3) This section shall come into force on the 1st day of December 1996.

**5. New sections relating to discrimination substituted**—(1) The principal Act is hereby amended by repealing section 12 (as amended by section 145 of the Human Rights Act 1993), and substituting the following sections:

**“12. Discrimination to be unlawful act—**(1) Each of the following is hereby declared to be an unlawful act:

“(a) Discrimination against any person in respect of the grant, continuance, extension, variation, termination, or renewal of a tenancy agreement in contravention of the Human Rights Act 1993; and

“(b) The giving of an instruction or the stating of an intention in contravention of subsection (2) of this section.

“(2) A landlord shall not, in respect of the grant, continuance, extension, variation, termination, or renewal of a tenancy agreement,—

“(a) Instruct any person to discriminate against any other person in contravention of the Human Rights Act 1993; or

“(b) State an intention (whether by advertisement or otherwise) to discriminate against any person in contravention of that Act.

“(3) Nothing in section 21 (1) (k) of the Human Rights Act 1993 shall apply to the termination of a service tenancy on the ground that the tenant has ceased to be, or is about to cease to be, employed by the landlord or (where the landlord is a company) by an associated company (within the meaning of section 2 (2) of this Act).

“(4) In this section ‘tenancy agreement’ includes a prospective tenancy agreement, regardless of whether or not a tenancy is granted.

**“12A. Choice of procedures—**(1) Where the circumstances are such that any person would be entitled to make an application to the Tribunal and also a complaint under the Human Rights Act 1993, that person may take one, but not both, of the following steps:

“(a) The person may invoke, in relation to those circumstances, the procedures under this Act:

“(b) The person may make, in relation to those circumstances, a complaint under the Human Rights Act 1993.

“(2) For the purpose of subsection (1) of this section, a person makes a complaint when the Complaints Division referred to in section 12 (1) of the Human Rights Act 1993 accepts the complaint for investigation or conciliation.”

Cf. 1991, No. 22, s. 39; 1993, No. 82, s. 145

(2) Section 44 of the principal Act is hereby consequentially amended by repealing subsection (4), and substituting the following subsection:

“(4) Without limiting subsection (3) of this section, a landlord’s consent shall be taken to have been withheld unreasonably if the withholding of the consent is an unlawful act under section 12 of this Act.”

(3) The Human Rights Act 1993 is hereby consequentially amended by repealing so much of the Second Schedule as relates to the Residential Tenancies Act 1986.

**6. New sections relating to tenancy agreements substituted**—(1) The principal Act is hereby amended by repealing section 13, and substituting the following sections:

“**13. Form of tenancy agreement**—(1) Every tenancy agreement shall be in writing and signed by both the landlord and the tenant.

“(2) The landlord shall, before the tenancy commences, provide the tenant with a copy of the tenancy agreement.

“**13A. Contents of tenancy agreement**—(1) Every tenancy agreement shall include the following minimum information:

“(a) The full name and contact address of the landlord; and

“(b) The full name and contact address (where that is different from the address of the premises to which the agreement relates) of the tenant; and

“(c) The address of the premises; and

“(d) The date of the tenancy agreement; and

“(e) The date of commencement of the tenancy (where that is different from the date of the tenancy agreement); and

“(f) The landlord’s address for service; and

“(g) The tenant’s address for service; and

“(h) Whether the tenant is under the age of 18; and

“(i) The amount of any bond; and

“(j) The rent payable; and

“(k) The frequency of the rent payments; and

“(l) The place or bank account number where the rent is to be paid; and

“(m) A statement (if applicable) that the tenant shall pay any fee or other charge for services rendered by any solicitor or real estate agent relating to the grant or assignment of the tenancy; and

“(n) A statement (if applicable) that the tenant shall pay for any metered water provided to the premises; and

“(o) A list of any chattels provided by the landlord; and

“(p) If the tenancy is a fixed-term tenancy, the date on which the tenancy will terminate.

“(2) A Post Office box number or other similar postal address shall not be a sufficient address for the purposes of subsection (1) of this section.

**“13B. Variations and renewals of tenancy agreements—**  
(1) Every variation of a tenancy agreement, and every renewal of a tenancy agreement, shall be in writing and signed by both the landlord and the tenant.

“(2) The landlord shall, before the date on which the variation or renewal of the tenancy is to take effect, provide the tenant with a copy of the variation or renewal.

**“13C. Tenancy agreements not unenforceable on grounds not in writing—**Notwithstanding anything to the contrary in any other enactment, no tenancy agreement, or variation or renewal of a tenancy agreement, shall be unenforceable on the grounds that it is not in writing.

**“13D. Exceptions to requirements relating to tenancy agreements—**Sections 13 to 13B of this Act do not apply to any of the following:

“(a) A tenancy at will created on or immediately after the determination or expiry of a tenancy:

“(b) A tenancy agreement that was in force immediately before the date of commencement of this Act:

“(c) Any variation of a tenancy agreement made by, or at the direction of, the Tribunal.”

(2) Section 13 of the principal Act (as in force immediately before the commencement of this section) shall, notwithstanding its repeal by subsection (1) of this section, continue to apply, as if this section had not been enacted, to any tenancy that commenced before the 1st day of December 1996 until the termination or renewal of the tenancy.

(3) Sections 13 to 13D of the principal Act (as substituted by subsection (1) of this section) shall apply to any grant, variation, or renewal of a tenancy on or after the 1st day of December 1996.

(4) This section shall come into force on the 1st day of December 1996.

**7. New sections relating to notification of new particulars—**(1) The principal Act is hereby amended by repealing sections 15 and 16, and substituting the following sections:

**“15. Notification of successor to landlord or tenant—**  
(1) Where, during the term of any tenancy, the landlord’s or

tenant's interest passes to some other person, that other person shall, within 10 working days thereafter, cause the other party to the tenancy to be notified of—

“(a) The full name and contact address of that person; and

“(b) An address for service, being the address at which notices and other documents relating to the tenancy will be accepted by or on behalf of the person.

“(2) A Post Office box number or other similar postal address shall not be a sufficient address for the purposes of subsection (1) of this section.

“**16. Change of name or address—**(1) Where the name and contact address, or address for service, of any person has been notified to the other party to the tenancy in accordance with this Act and that name or address subsequently changes (otherwise than in circumstances to which section 15 of this Act applies), the person shall, within 10 working days thereafter, cause notice of the new particulars to be given to the other party to the tenancy.

“(2) A Post Office box number or other similar postal address shall not be a sufficient address for the purposes of subsection (1) of this section.”

(2) Sections 15 and 16 of the principal Act (as in force immediately before the commencement of this section) shall, notwithstanding their repeal by subsection (1) of this section, continue to apply, as if this section had not been enacted, to any tenancy that commenced before the 1st day of December 1996.

(3) Sections 15 and 16 of the principal Act (as substituted by subsection (1) of this section) shall apply to any tenancy that was granted on or after the 1st day of December 1996.

(4) This section shall come into force on the 1st day of December 1996.

**8. Duties of landlord on receipt of bond—**(1) Section 19 (1) of the principal Act is hereby amended by repealing paragraph (b) (as substituted by section 3 of the Residential Tenancies Amendment Act 1992), and substituting the following paragraph:

“(b) The landlord shall, within 23 working days after the payment is made, forward the amount received to the chief executive, together with a statement of particulars in the prescribed form signed by the landlord and the tenant.”

(2) Section 3 of the Residential Tenancies Amendment Act 1992 is hereby consequentially repealed.

**9. Tenant may pay bond direct to chief executive with landlord's consent**—Section 21 of the principal Act (as substituted by section 4 of the Residential Tenancies Amendment Act 1992) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Every such payment shall be accompanied by a statement of particulars in the prescribed form signed by the landlord and the tenant.”

**10. Notification of changes of address to chief executive**—(1) The principal Act is hereby amended by inserting, after section 21, the following section:

“21A. (1) Where a bond is being held in the Residential Tenancies Trust Account in respect of a tenancy agreement and the landlord or tenant changes his or her name or contact address or address for service, the landlord or the tenant, as the case may be, shall, within 10 working days thereafter, cause notice of the new particulars to be sent to the chief executive.

“(2) Where a bond is being held in the Residential Tenancies Trust Account in respect of a tenancy agreement and the landlord's or the tenant's interest under the tenancy agreement passes to some other person, that other person shall, within 10 working days thereafter, cause notice of the new particulars to be sent to the chief executive.”

(2) The principal Act is hereby consequentially amended by inserting in section 57 (3) (b), and also in section 58 (1) (b), after the expression “sections 15”, the expression “, 21A,”.

**11. Claims against bonds**—Section 22 of the principal Act (as substituted by section 4 of the Residential Tenancies Amendment Act 1992) is hereby amended by repealing subsections (6) to (9), and substituting the following subsections:

“(6) On receipt of an application made under subsection (5) of this section, the chief executive shall notify the other party of the application, inviting that other party to indicate to the chief executive, within 10 working days after being notified, whether or not that other party wishes to contest the application.

“(6A) Every notification pursuant to subsection (6) of this section by the chief executive may be given in such manner as the chief executive, in his or her discretion, determines.

“(6B) Every indication pursuant to subsection (6) of this section as to whether or not a party wishes to contest an application shall be in writing unless the chief executive, in his or her discretion, waives that requirement.

“(7) If the chief executive receives from the other party an indication that that other party does not wish to contest the application, the chief executive shall pay the bond in accordance with the terms of the application.

“(8) If the chief executive does not receive from the other party, within the time allowed and in the required manner, an indication whether or not that other party wishes to contest the application, the chief executive shall either—

“(a) Pay the bond in accordance with the terms of the application; or

“(b) Refer the matter to the Tribunal for determination.

“(9) If the chief executive receives from the other party, within the time allowed and in the required manner, an indication that that other party wishes to contest the application, the chief executive shall refer the matter to the Tribunal for determination.”

**12. Rent increases**—The principal Act is hereby amended by repealing section 24, and substituting the following section:

“24. (1) The rent payable in respect of any tenancy may be increased by the landlord provided all of the following conditions are complied with:

“(a) The landlord shall give the tenant notice in writing of the increase; and

“(b) That notice shall specify the amount of the increased rent and the day upon which the increased rent shall become payable; and

“(c) The day upon which the increased rent shall become payable shall be not less than 60 days after the date on which that notice is given; and

“(d) The rent shall not be increased within 180 days after the date on which the last increase took effect; and

“(e) In the case of a tenancy which is not subject to annual rent adjustment, the rent shall not be increased within 180 days after the date of the commencement of the tenancy; and

“(f) In the case of a tenancy which is subject to annual rent adjustment, no rent increase shall take effect—

“(i) Less than 60 days after the notice required by paragraph (a) of this subsection is given; and

“(ii) Other than on the specified date in any year or with effect on the next day on which any rent is to be paid within 28 days after the specified date in any year; and

“(g) A landlord under a fixed-term tenancy shall not increase the rent otherwise than as permitted by the agreement; and

“(h) Where the Tribunal has made an order under section 25 of this Act and that order is still in force, the rent shall not be increased to an amount in excess of the amount specified in the order.

“(2) For the purposes of subsection (1) of this section, a tenancy is subject to annual rent adjustment where—

“(a) It is the landlord’s practice (the proof of which shall lie on the landlord)—

“(i) To review the rent annually; and

“(ii) To adjust the rent on a specified day in each year; and

“(b) Provision to that effect is included in the tenancy agreement or the tenant is otherwise informed of the practice in writing before the commencement of the tenancy.

“(3) A notice of an increase in rent lawfully given under this section shall, unless it is withdrawn by the landlord, have the effect of varying the tenancy agreement in accordance with the terms of the notice.

“(4) Where a landlord has given a notice to increase the rent and subsequently realises that, because of—

“(a) Some error in calculating the day on which the increased rent is to become payable or in the manner in which that day is expressed in the notice; or

“(b) Some delay in serving the notice,—  
the day fixed in the notice for the increased rent to become payable is in contravention of subsection (1) of this section, the landlord may, with the agreement of the tenant or (failing such agreement) with the consent of the Tribunal, give to the tenant a further notice varying the original notice so as to bring the terms of the original notice into accord with the provisions of that subsection.

“(5) Every notice given under subsection (4) of this section shall be in writing, specifying the amount of the increased rent and the day upon which the increased rent shall become payable.

“(6) The Tribunal shall not give its consent under subsection (4) of this section unless it is satisfied—

- “(a) That the error or the delay was inadvertent; and
- “(b) That the landlord has sought to correct the matter as soon as practicable; and
- “(c) That it would not be unfair to the tenant to allow the original notice to be varied in the manner proposed.”

**13. Receipts for rent**—Section 29 (4) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

- “(b) To any rent paid by the tenant into any account nominated by the landlord and operated by the landlord exclusively in respect of the tenancy, or exclusively in respect of the tenancy and any other tenancies of the landlord; or”.

**14. Landlord to keep records**—Section 30 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Every landlord under a tenancy to which this Act applies shall keep or cause to be kept proper business records showing—

- “(a) All payments of rent paid by or on behalf of the tenant, sufficient to enable the landlord to comply within a reasonable time with any request made by the tenant under section 29 (3) of this Act; and
- “(b) Any amount by way of bond paid by or on behalf of the tenant on or after the 1st day of May 1996.”

**15. Tenant's goods not to be seized**—The principal Act is hereby amended by repealing section 33, and substituting the following section:

“33. (1) The landlord shall not be entitled to seize or dispose of any of the tenant's goods—

- “(a) As security for or in payment of any amount owing by way of rent; or
- “(b) For any other reason arising from the tenancy.

“(2) Seizing or disposing of any goods in contravention of subsection (1) of this section is hereby declared to be an unlawful act.

“(3) Nothing in this section shall limit or affect the way in which any order of the Tribunal, or of any court on appeal from the Tribunal, may be enforced.

“(4) Nothing in this section applies to—

- “(a) Goods disposed of under section 62 (1) of this Act; or

“(b) Foodstuffs and other perishable goods if the landlord has reasonable cause to believe that the premises have been abandoned by the tenant.”

**16. Repeal of transitional provisions relating to bonds, fair rents, and equitable rents**—The principal Act is hereby amended by repealing sections 34 and 35.

**17. Outgoings**—(1) The principal Act is hereby amended by repealing section 39, and substituting the following section:

“39. (1) Subject to subsection (2) of this section, all outgoings (including rates, insurance premiums, and water charges) from time to time payable in respect of the premises shall, as between the landlord and the tenant, be payable by the landlord.

“(2) Subject to subsection (3) of this section, the following outgoings incurred during the tenancy shall, as between the landlord and the tenant, be payable by the tenant:

“(a) All charges for electricity or gas supplied to the premises:

“(b) Water charges in respect of the premises (including the cost of charges for standard meter readings) if—

“(i) The premises have a separate water meter; and

“(ii) The tenancy agreement stated, at the commencement of the tenancy, that the tenant shall pay for any metered water provided to the premises; and

“(iii) The water supplier charges for water provided to the premises on the basis of metered usage:

“(c) All charges in respect of any telephone connected to the premises.

“(3) Subsection (2) of this section does not apply in respect of any outgoing which the parties have agreed in writing (whether in the tenancy agreement or otherwise) shall, as between the landlord and the tenant, be payable by the landlord.

“(4) In this section ‘standard meter readings’ means all meter readings other than meter readings requested by the landlord.

“(5) In this section ‘premises’ includes facilities that are exclusively for the use of the tenant.”

(2) Section 39 of the principal Act (as in force immediately before the commencement of this section) shall, notwithstanding its repeal by subsection (1) of this section, continue to apply, as if this section had not been enacted, to

any tenancy that commenced before the 1st day of December 1996 until the termination of the tenancy.

(3) Section 39 of the principal Act (as substituted by subsection (1) of this section) shall apply to any tenancy that is granted on or after the 1st day of December 1996.

(4) This section shall come into force on the 1st day of December 1996.

**18. Tenant's responsibilities**—Section 40 (1) (e) of the principal Act is hereby amended by adding the following subparagraphs:

“(iv) Return to the landlord all keys, and security or pass cards or other such devices, provided by the landlord for the use of the tenant; and

“(v) Leave in or at the premises all other chattels provided by the landlord for the use of the tenant.”

**19. Disposition of landlord's interest**—(1) Section 43 (1) (a) of the principal Act is hereby amended by omitting the words “, address, and occupation”, and substituting the words “and contact address”.

(2) Section 43 (1) of the principal Act is hereby further amended by adding the following paragraph:

“(d) Subject to any lawful claim made to the Tribunal before the date of settlement, the landlord's interest in any bond paid by the tenant shall pass to the purchaser on the earlier of the date of settlement or the date of possession.”

(3) Section 43 (2) of the principal Act is hereby amended by omitting the expression “section 15 (3)”, and substituting the expression “section 15”.

**20. Landlord to give notice to tenant of intention to sell**—Section 47 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) When a landlord is offering residential premises as available for letting, the landlord shall inform prospective tenants if the premises are on the market for the purposes of sale or other disposition.”

**21. Landlord's right of entry**—(1) Section 48 (2) of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

“(c) For the purpose of determining whether or not—

“(i) The tenant has, within the period allowed by the landlord, completed satisfactorily any work required by the landlord to be done by the tenant to remedy any breach by the tenant of any of the provisions of the tenancy agreement or of this Act; or

“(ii) The tenant has, within the agreed period, completed satisfactorily any work agreed to be done by the tenant,—

at any time between 8 o’clock in the morning and 7 o’clock in the evening on any day (after the expiry of the period allowed for the work) specified in a notice given to the tenant not less than 48 hours nor more than 14 days before the intended entry; or”.

(2) Section 48 (2) of the principal Act is hereby amended by adding the following:

“; or

“(e) Pursuant to an order of the Tribunal.”

(3) Section 48 (3) of the principal Act is hereby amended by inserting, after the words “prospective purchasers,” the words “or to a registered valuer engaged in the preparation of a report,”.

(4) Section 48 of the principal Act is hereby further amended by repealing subsection (4), and substituting the following subsection:

“(4) The following are each hereby declared to be unlawful acts:

“(a) Entry upon the premises by the landlord other than as permitted by or under any of subsections (1) to (3) of this section:

“(b) Failure by the tenant, without reasonable excuse, to allow the landlord to enter upon the premises in any circumstances in which the landlord is entitled to enter under subsection (2) or subsection (3) of this section.”

**22. Termination on non-payment of rent, damage, or assault**—(1) Section 55 of the principal Act is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) Notwithstanding section 78 (3) of this Act, the Tribunal may, instead of making a final termination order for the non-payment of rent under this section, make a conditional order if, but only if, it is satisfied that—

“(a) The tenant will pay any rent in arrear within a period specified by the Tribunal; and

“(b) It is unlikely that the tenant will commit any further breach of a kind to which this section applies.

“(1B) Any conditional order referred to in subsection (1A) of this section—

“(a) Shall set out the terms of repayment of any rent in arrear or any other conditions attaching to the order; and

“(b) Shall automatically take effect as a final termination order if the conditions are not complied with; and

“(c) Shall lapse if the conditions are complied with.”

(2) Section 55 of the principal Act is hereby further amended by adding the following subsection:

“(4) In this section ‘premises’ includes facilities.”

**23. Termination for other breach**—Section 56 of the principal Act is hereby amended by adding the following subsection:

“(2) Where an application is made by a landlord under this section and the Tribunal is satisfied that at the time of determining the matter the landlord could have made an application under section 55 of this Act, the Tribunal shall determine the matter as if an application had been made under that section.”

**24. Abandoned goods**—(1) Section 62 of the principal Act is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) Where the Tribunal makes an order for the sale or other disposition of goods under this section, the order shall state the amount (if any) owing to the landlord out of the proceeds of sale.

“(1B) That amount shall be the amount payable to the landlord by the tenant in excess of any bond held in the Residential Tenancies Trust Account in respect of the tenancy.”

(2) Section 62 (2) of the principal Act is hereby further amended by repealing paragraphs (c), (d), and (e) (as substituted by section 5 (2) of the Residential Tenancies Amendment Act 1992), and substituting the following paragraphs:

“(c) The proceeds of sale shall be paid to the chief executive, and the chief executive shall—

“(i) Pay the proceeds of sale into the Residential Tenancies Trust Account; and

“(ii) Pay to the landlord any amount or amounts ordered by the Tribunal to be owing to the landlord,

or the amount of the proceeds of sale, whichever is the lesser:

“(d) At any time within 1 year after the date of the sale, the tenant may apply to the chief executive for the payment to the tenant of so much of the proceeds of sale that remain in the Residential Tenancies Trust Account following any payment made by the chief executive under paragraph (c) (ii) of this subsection, and the chief executive shall either make the payment to the tenant accordingly or, if there are reasonable grounds to do so, refer the matter to the Tribunal for determination.”

(3) Section 62 of the principal Act is hereby further amended by adding the following subsections:

“(4) Any amount paid to the landlord by the chief executive pursuant to subsection (2) (c) of this section shall reduce the amount of any debt payable to the landlord by the tenant.

“(5) In this section ‘premises’ includes facilities.”

(4) Section 5 (2) of the Residential Tenancies Amendment Act 1992 is hereby consequentially repealed.

**25. Possession orders**—Section 64 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) No possession order (including an order of a kind referred to in subsection (3) of this section) shall be capable of being filed under section 106 of this Act more than 3 months after—

“(a) The date of the order; or

“(b) In the case of a conditional order under section 55 (1A) or section 78 (3) or section 88 (2) of this Act which states that it is an order to which this paragraph applies, the date on which the conditional order takes effect as a final termination order.”

**26. Repeal of transitional provisions relating to protected tenancies**—The principal Act is hereby amended by repealing section 66.

**27. Reduction of fixed-term tenancy**—The principal Act is hereby amended by inserting, after section 65, the following section:

“66. (1) On application by a party to a fixed-term tenancy, the Tribunal may make an order reducing the term of the tenancy by a period stated in the order, and making such

variations in the terms of the tenancy as are necessary because of the reduction of the term, where it is satisfied that, because of an unforeseen change in the applicant's circumstances, the severe hardship which the applicant would suffer if the term of the tenancy were not reduced would be greater than the hardship which the other party to the tenancy would suffer if the term were reduced.

“(2) Where the Tribunal makes an order under this section, the Tribunal may order that the applicant pay to the other party an amount determined by the Tribunal by way of reasonable compensation for any loss or damage to the other party which would result from the reduction in the term of the tenancy.”

Cf. Residential Tenancies Act 1980 (Victoria), s. 113

**28. Constitution of Tribunal**—(1) Section 67 (2) of the principal Act is hereby amended by repealing paragraph (b).

(2) Section 67 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections:

“(2A) One Tenancy Adjudicator, being a person who has held a required qualification for at least 5 years, may be appointed to be the Deputy Principal Tenancy Adjudicator.

“(3) Every Tenancy Adjudicator shall be appointed by the Governor-General on the joint recommendation of the Minister of Justice and the Minister of Housing.”

(3) Section 67 (5) (b) is hereby amended by inserting, after the words “Minister of Justice”, the words “and the Minister of Housing”.

(4) Section 67 (6) is hereby amended by inserting, after the words “Minister of Justice”, the words “and the Minister of Housing”.

(5) Section 67 (7) is hereby amended by inserting, after the words “Minister of Justice”, the words “and the Minister of Housing”.

**29. Term of office of Tenancy Adjudicators**—Section 68 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection:

“(5) Where the term of office of any Tenancy Adjudicator expires, that Adjudicator shall, unless sooner vacating office under subsection (3) or subsection (4) of this section, continue in office until—

“(a) That person is reappointed; or

“(b) A successor to that person is appointed; or

“(c) That person is informed in writing by the Minister of Justice and the Minister of Housing that that person is not to be reappointed and that a successor to that person is not to be appointed.”

**30. Offices and Tenancy Officers**—Section 75 (3) of the principal Act is hereby amended by deleting the word “District”.

**31. Tenancy Mediators**—(1) Section 76 of the principal Act (as amended by section 19 of the Residential Tenancies Amendment Act 1992) is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) There shall from time to time be appointed under the State Sector Act 1988 such number of Tenancy Mediators as may be required for the purposes of this Act.

“(2) Every Tenancy Mediator appointed pursuant to subsection (1) of this section shall be an officer of the Ministry.”

(2) Section 76 of the principal Act is hereby further amended by repealing subsection (4).

(3) Section 76 (9) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Shall be subject to the directions of, and responsible to, the Tribunal irrespective of whether or not they are officers or employees of any of the State services, provided that in all other respects Tenancy Mediators shall be subject to the terms and conditions, whether express or implied, of their employment contract or appointment; and”.

**32. Orders of Tribunal**—Section 78 of the principal Act is hereby amended by inserting, after subsection (2), the following subsections:

“(2A) Where the Tribunal makes an order under any of paragraphs (b), (c), or (h) of subsection (1) of this section, the Tribunal may at the same time make an order under subsection (1) (d) of this section to be complied with as an alternative to compliance with the first-mentioned order.

“(2B) Where the Tribunal makes any 2 orders under subsection (2) or subsection (2A) of this section, it is the right of the person in whose favour the order is made to choose which order to enforce under section 107 of this Act.”

**33. Transfer of proceedings to District Court**—Section 83 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The Tribunal may order that any proceedings be transferred to a District Court in its ordinary civil jurisdiction if the Tribunal is satisfied that the proceedings would be more properly determined in that Court.”

**34. Duties of Tenancy Officer on receipt of application**—Section 87 of the principal Act is hereby amended by omitting from subsection (1), and also from subsection (2), the words “of the Tribunal” in both places where they occur.

**35. Tenancy Mediator to observe confidentiality**—Section 90 (2) of the principal Act is hereby amended by adding the following:

“; or

“(e) The disclosure is made to the Tribunal in good faith.”

**36. Non-attendance at hearing after due notice**—(1) Section 92 of the principal Act is hereby amended by inserting, after the word “determine”, the words “, or dismiss or adjourn,”.

(2) Section 91 (2) (d) of the principal Act is hereby consequentially amended by inserting, after the word “determine”, the words “, dismiss, or adjourn”.

**37. Right of audience**—Section 93 (7) of the principal Act is hereby amended by adding the following:

“; or

“(c) The person proposed for approval is a person—

“(i) Who is managing; and

“(ii) Who was, before the proceedings were commenced before the Tribunal, managing—  
the party’s affairs because of the party’s absence, age, or disability.”

**38. Minors and persons under disability**—Section 94 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) In any proceedings before the Tribunal, any manager or person appointed to administer another’s affairs under the Protection of Personal and Property Rights Act 1988 shall,

subject to that Act, control the conduct of the case of the person whose affairs they manage or administer.”

**39. Other witness expenses**—The principal Act is hereby amended by inserting, after section 98, the following section:

“98A. (1) The Tribunal may order that a witness attending a hearing of the Tribunal (other than a witness attending pursuant to a witness summons) shall be entitled to a sum for that witness’s travelling allowances, travelling expenses, and fees as prescribed by any rules made under section 116 of this Act.

“(2) The allowances, travelling expenses, and fees payable to a witness pursuant to subsection (1) of this section shall be paid by such party or parties to the proceedings as the Tribunal shall order or, if the Tribunal so decides, shall be met from any appropriation by Parliament for that purpose.”

**40. Tenancy Mediator or Tribunal may require valuer’s report in certain proceedings**—(1) The principal Act is hereby amended by repealing section 100 (as substituted by section 7 of the Residential Tenancies Amendment Act 1992), and substituting the following section:

“100. (1) A Tenancy Mediator or the Tribunal may, at any stage of any proceedings under section 25 of this Act, require the chief executive to obtain and submit to the Tenancy Mediator or the Tribunal a report by a registered valuer.

“(2) In any case where the Crown or any instrument of the Crown is a party, the registered valuer shall not be an employee of the Crown.”

(2) Section 7 of the Residential Tenancies Amendment Act 1992 is hereby consequentially repealed.

**41. Costs**—(1) Section 102 (2) (a) of the principal Act is hereby amended by adding the words “or ought not to have been brought”.

(2) Section 102 (2) of the principal Act is hereby further amended by adding the following paragraph:

“(d) Where any applicant to the Tribunal, after receiving notice of the hearing, fails to attend the hearing without good cause.”

(3) Section 102 (3) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) To the Crown, any one or more of the following:

“(i) The reasonable costs of the Tribunal hearing:

“(ii) The fees and expenses of any witness that have been paid or are payable by the Crown:

“(iii) The reasonable fees and expenses of any Tenancy Mediator in relation to the preparation of a report under section 99 of this Act:

“(iv) The reasonable fees and expenses of any valuer in relation to the preparation of a report under section 100 of this Act; or”.

**42. Enforcement of orders other than possession orders and work orders**—Section 107 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Where application is made to a District Court for the issue of any process to enforce an order provided for by subsection (2) or subsection (2A) of section 78 of this Act (requiring a party to pay money to another as an alternative to compliance with a work order or an order other than a monetary order), the Registrar shall give written notice of the application to the party against whom enforcement is sought.”

**43. Unlawful acts**—(1) Section 109 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) No application may be made under subsection (1) of this section later than—

“(a) 12 months after the termination of the tenancy in the case of—

“(i) An unlawful act to which section 19 (2) of this Act refers; or

“(ii) A failure to keep records in respect of bonds that is an unlawful act to which section 30 (2) of this Act refers; or

“(b) 12 months after the date of commission of the unlawful act in the case of any other unlawful act.”

(2) Section 109 of the principal Act is hereby further amended by repealing subsection (4), and substituting the following subsection:

“(4) The maximum amount that a person may be ordered to pay under this section shall be as follows:

“(a) In the case of any unlawful act to which section 12 (1) of this Act refers, \$3,000:

“(b) In the case of any unlawful act to which section 33 (2) or section 38 (3) of this Act refers, \$1,500:

“(c) In the case of any unlawful act to which section 17 (3) or section 18 (4) or section 19 (2) or section 23 (4) or section 46 (3) or section 48 (4) or section 137 (2) of this Act refers, \$750:

“(d) In the case of any unlawful act to which section 27 (2) or section 29 (5) or section 30 (2) of this Act refers, \$150.”

(3) Section 109 of the principal Act is hereby further amended by adding the following subsection:

“(7) Notwithstanding subsection (5) of this section and section 124 (4) (d) of this Act, if the chief executive is acting under section 124 (3) (b) of this Act, any amount ordered by the Tribunal to be paid under this section on the application of the chief executive shall be paid to the chief executive and retained by the Crown.”

**44. Contempt**—The principal Act is hereby amended by repealing section 112, and substituting the following section:

“112. (1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who—

“(a) Wilfully assaults, insults, or obstructs a Tenancy Adjudicator, or any witness or any officer of the Tribunal during a sitting of the Tribunal or while a Tenancy Adjudicator, a witness, or an officer of the Tribunal is going to, or returning from, a sitting of the Tribunal; or

“(b) Wilfully assaults, insults, or obstructs any person in attendance at a sitting of the Tribunal; or

“(c) Wilfully interrupts, or otherwise misbehaves at, a sitting of a Tribunal; or

“(d) Wilfully and without lawful excuse disobeys any order or direction of the Tribunal (other than an order mentioned in section 78 or section 108 (2) of this Act) in the course of any hearing of any proceedings.

“(2) A Tenancy Adjudicator may order the exclusion from a sitting of the Tribunal of any person whose behaviour, in the opinion of the Tenancy Adjudicator, constitutes an offence against subsection (1) of this section, whether or not such person is charged with the offence; and any Registrar, or other officer under a Registrar’s control, or constable may take such steps as are reasonably necessary to enforce such exclusion.

“(3) Notwithstanding anything in section 93 of this Act, where any party to the proceedings is removed under this

section the proceedings may be continued in the absence of that party.”

Cf. 1988, No. 110, s. 56

**45. Appeals to District Court**—Section 117 (2) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraphs:

“(b) Against an order, or the failure to make an order, for the payment of money where the amount that would be in dispute on appeal is less than \$1,000; or

“(c) Against a work order, or the failure to make a work order, where the value of the work that would be in dispute on appeal is less than \$1,000.”

**46. Chief executive may take or defend proceedings on behalf of any party**—(1) Section 124 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) The chief executive shall not exercise the powers conferred by subsection (1) or subsection (2) of this section—

“(a) Unless the written consent of the party concerned has first been obtained which, once given, shall be irrevocable except with the chief executive’s written consent; or

“(b) Unless—

“(i) The chief executive determines that it is in the public interest to exercise the power without the party’s consent; and

“(ii) The written consent of the party concerned has not been refused and cannot reasonably be obtained.”

(2) Section 124 (7) of the principal Act is hereby amended by omitting the expression “12 weeks”, and substituting the expression “12 months”.

**47. Annual report**—Section 126 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The report shall show separately—

“(a) The audited consolidated financial statements for the Residential Tenancies Trust Account for the year to which the report relates, consisting of such statements as may be necessary to show the financial position of that Account and the financial

results of the operation of the Account during that year; and

“(b) The auditor’s report on those financial statements.”

**48. Audit Office to be auditor of Residential Tenancies Trust Account**—The principal Act is hereby amended by inserting, after section 127, the following section:

“128.(1) The Audit Office shall be the auditor of the Residential Tenancies Trust Account and shall have and may exercise all powers as it has under the Public Finance Act 1977 in respect of public money and public stores, as if money in that Account were public money within the meaning of that Act.

“(2) The chief executive shall pay to the Audit Office for carrying out its duties and functions under this section fees at such rates as may be prescribed by the Minister of Finance.

“(3) Without limiting subsection (1) or subsection (2) of this section, the chief executive may, after consultation with the Audit Office, appoint a person or firm that is qualified for appointment as an auditor to be an additional auditor of the Residential Tenancies Trust Account.”

**49. Method of payment**—(1) The principal Act is hereby amended by inserting, after section 134, the following section:

“134A. Any amount that is, by virtue of any provision of this Act or of any order of the Tribunal, to be paid to the chief executive shall be paid by such method as may be prescribed by regulations made under section 140 of this Act.”

(2) Section 140 (1) of the principal Act is hereby consequentially amended by inserting, after paragraph (d), the following paragraph:

“(da) Prescribing the method by which payments are to be made to the chief executive:”.

**50. Service of documents**—(1) Section 136 (1) (b) of the principal Act is hereby amended by omitting the words “section 15 or section 16 of”.

(2) Section 136 (1) of the principal Act is hereby amended by adding the following paragraph:

“(d) It is transmitted to a facsimile number specified in the tenancy agreement, or otherwise stated in writing by the landlord or the tenant, as a facsimile number by which the landlord or the tenant will accept service of documents relating to the tenancy.”

(3) Section 136 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Without limiting the provisions of subsection (1) of this section, any notice or other document required or authorised by this Act to be given to or served upon any tenant may be served on a tenant:

“(a) At the premises to which the tenancy agreement relates, if the tenant resides at those premises, as follows:

“(i) By posting it addressed to the tenant at those premises; or

“(ii) By delivering it to those premises and either placing it in the mailbox or attaching it to the door of those premises in a prominent position; or

“(iii) By giving it to any person appearing to have attained the age of 16 years and to be residing at those premises; or

“(b) At any other place of residence of the tenant, by giving it to any person appearing to have attained the age of 16 years and to be residing at those premises and who confirms that the tenant resides at the premises; or

“(c) At the tenant’s address for service, by giving it to any person appearing to have attained the age of 16 years and to be residing at those premises; or

“(d) By giving it to the person who ordinarily pays the rent under the tenancy agreement; or

“(e) By giving it to any solicitor or other agent of the tenant duly authorised by the tenant to receive the same.”

(4) Section 136 (3) of the principal Act is hereby amended by omitting the words “under a tenancy agreement”.

(5) Section 136 (4) of the principal Act is hereby amended by omitting the words “under a tenancy agreement”.

(6) Section 136 (7) of the principal Act is hereby amended by omitting the words “for service”.

(7) Section 136 of the principal Act is hereby further amended by adding the following subsection:

“(8) Where any document is transmitted by facsimile in accordance with this section after 5 p.m. on any day, it shall be deemed, in the absence of evidence to the contrary, to have been given or served on the next working day after the date on which it was transmitted; and, in proving service, it shall be sufficient to prove that the document was properly transmitted by facsimile machine to the person concerned.”

**51. First Schedule may be amended by Order in Council**—Section 141 of the principal Act is hereby amended by omitting the words “Chairman of the Tribunal”, and substituting the words “Principal Tenancy Adjudicator”.

**52. Places at which offices of Tribunal shall be situated**—The First Schedule to the principal Act is hereby amended by omitting the words “Glen Innes”, “Hastings”, “Mangere”, “Masterton”, “Otara”, “Porirua”, “Te Kuiti”, “Wanganui”, and “Whakatane”.

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This Act is administered in the Ministry of Housing.

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