

South Australia



**RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT ACT
1999**

No. 55 of 1999

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A.D. 1999

No. 55 of 1999

An Act to amend the Residential Tenancies Act 1995 and to make related amendments to the Landlord and Tenant Act 1936 and the Retail and Commercial Leases Act 1995.

[Assented to 12 August 1999]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Residential Tenancies (Miscellaneous) Amendment Act 1999*.

(2) The *Residential Tenancies Act 1995* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 3—Interpretation

3. Section 3 of the principal Act is amended by inserting after subsection (3) the following subsection:

(4) For the purposes of this Act, a residential tenancy agreement includes an agreement granting a corporation the right to occupy premises that are occupied, or that are intended to be occupied, as a place of residence by a natural person.

Amendment of s. 5—Application of Act

4. Section 5 of the principal Act is amended by inserting in subsection (2) "or the South Australian Aboriginal Housing Authority" after "South Australian Housing Trust".

Amendment of s. 90—Tribunal may terminate tenancy where tenant's conduct unacceptable

5. Section 90 of the principal Act is amended by striking out subsection (2) and substituting the following subsections:

(2) If the Tribunal terminates a tenancy and makes an order for possession under this section—

(a) the Tribunal must specify the day as from which the order will operate, being not more than 28 days after the day on which the orders are made; and

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(b) the Tribunal may order that the landlord must not enter into a residential tenancy agreement with the tenant in relation to the same premises for a period determined by the Tribunal (being a period not exceeding three months) (and any agreement entered into in contravention of such an order is void).

(2a) However—

(a) the Tribunal must not make an order under this section unless the landlord has been given a reasonable opportunity to be heard in relation to the matter; and

(b) if the landlord objects to the making of an order under this section, the Tribunal must not make an order unless the Tribunal is satisfied that exceptional circumstances exist justifying the making of the order in any event.

Amendment of s. 97—Abandoned goods

6. Section 97 of the principal Act is amended—

(a) by striking out subsection (4) and substituting the following subsection:

(4) A person who is entitled to possession of goods stored under this section may reclaim the goods by paying to the landlord—

(a) the reasonable costs of removing and storing the goods; and

(b) the reasonable costs of giving notice under subsection (2)(b); and

(c) any other reasonable costs incurred by the landlord as a result of the goods being left on the premises.;

(b) by striking out subparagraph (iii) of subsection (6)(a) and substituting the following subparagraphs:

(iii) any other reasonable costs incurred by the landlord as a result of the goods being left on the premises; and

(iv) any amounts owed to the landlord under the residential tenancy agreement; and.

Amendment of s. 110—Powers of the Tribunal

7. Section 110 of the principal Act is amended—

(a) by striking out from paragraph (g) "Tribunal" first occurring and substituting "Fund";

(b) by striking out from paragraph (h) "Tribunal" first occurring and substituting "Fund";

(c) by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(2) The Tribunal does not have jurisdiction to award compensation for damages arising from personal injury.

Amendment of Landlord and Tenant Act 1936

8. Section 67A of the *Landlord and Tenant Act 1936* is amended—

(a) by striking out subsection (4) and substituting the following subsection:

(4) A person who has a lawful right to goods removed and stored under subsection (2) may at any time before the goods are sold under subsection (5) reclaim the goods by paying to the landlord—

- (a) the reasonable costs of removing and storing the goods; and
- (b) the reasonable costs of giving notice under subsection (3)(c); and
- (c) any other reasonable costs incurred by the landlord as a result of the goods being left on the premises.;

(b) by striking out subsection (6) and substituting the following subsection:

(6) If goods are stored, removed and sold by public auction under this section, the landlord may retain out of the proceeds of sale—

- (a) the reasonable costs of removing, selling and storing the goods; and
- (b) the reasonable costs of giving notice under subsection (3)(c); and
- (c) any other reasonable costs incurred by the landlord as a result of the goods being left on the premises; and
- (d) any amount owed by the tenant under the commercial tenancy agreement.

Amendment of Retail and Commercial Leases Act 1995

9. Section 76 of the *Retail and Commercial Leases Act 1995* is amended—

(a) by striking out subsection (4) and substituting the following subsection:

(4) A person who is entitled to possession of goods stored under this section may reclaim the goods by paying to the lessor—

- (a) the reasonable costs of removing and storing the goods; and
- (b) the reasonable costs of giving notice under subsection (2)(b); and
- (c) any other reasonable costs incurred by the lessor as a result of the goods being left on the premises.;

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(b) by striking out subparagraph (ii) of subsection (6)(a) and substituting the following subparagraphs:

- (ii) the reasonable costs of giving notice under subsection (2)(b); and
- (iii) any other reasonable costs incurred by the lessor as a result of the goods being left on the premises; and
- (iv) any amounts owed to the lessor under the lease; and.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor