



ANNO QUADRAGESIMO

ELIZABETHAE II REGINAE

A.D. 1991

No. 65 of 1991

An Act to amend the Residential Tenancies Act 1978.

[Assented to 5 December 1991]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Residential Tenancies Amendment Act 1991*.
- (2) The *Residential Tenancies Act 1978* 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.

Interpretation

3. Section 5 of the principal Act is amended by inserting after the definition of "premises" the following definition:

"registered housing co-operative" means a housing co-operative registered under the *Housing Co-operatives Act 1991*;

Proceedings of Tribunals

4. Section 24 of the principal Act is amended by inserting after subsection (5) the following subsections:

(6) The Tribunal may, on the application of the South Australian Co-operative Housing Authority, allow the Authority to intervene in any proceedings before the Tribunal.

(7) The Authority may only be allowed to intervene if the Tribunal is satisfied that it is fair and reasonable that the Authority participate in the proceedings.

(8) If the Authority is allowed to intervene in any proceedings, it may intervene in the manner and to the extent directed by the Tribunal, and on such other conditions as the Tribunal may direct.

Variation of rent

5. Section 34 of the principal Act is amended by inserting after subsection (2a) the following subsections:

(2b) Notwithstanding the provisions of this section (but subject to subsection (2c)), where—

(a) the landlord under a residential tenancy agreement is a registered housing co-operative;

and

(b) under the terms of the agreement the rent payable in respect of the premises is variable according to variations in the tenant's income,

the rent payable by the tenant may be increased by the landlord on the ground of a variation in the tenant's income by notice in writing to the tenant specifying the amount of the increased rent and the day as from which the increased rent becomes payable, being a day not less than 14 days after the day on which the notice is given.

(2c) Where—

(a) the terms of a residential tenancy agreement between a registered housing co-operative (as landlord) and a tenant allows the landlord to vary the method for calculating the rent payable under the agreement;

(b) the landlord proposes such a variation;

and

(c) the effect of the variation would be to increase the rent payable under the agreement,

the landlord must give the tenant a notice in writing specifying the proposed variation and the day from which the variation will apply, being a day—

(d) not less than 60 days after the day on which the notice is given;

and

(e) not less than six months after the day on which the tenancy commenced, or, if the method has already been varied since the commencement of the tenancy, the day on which it was last so varied,

(and, where such a notice is given, no further notice need be given under this section in respect of any variation of rent that occurs on the day from which the variation applies).

Landlord's responsibility for cleanliness and repairs

6. Section 46 of the principal Act is amended by inserting after subsection (2) the following subsection:

(2a) The term prescribed by subsection (1) (b) does not apply in relation to items of a prescribed kind where the landlord is a registered housing co-operative.

Right of tenant to assign or sub-let

7. Section 52 of the principal Act is amended by inserting after subsection (3) the following subsection:

(4) Where the landlord under a residential tenancy agreement is a registered housing co-operative—

(a) subsections (1) and (3) do not apply;

and

(b) it will be a term of the agreement—

- (i) that the right of the tenant to assign his or her interest under the agreement or sub-let the premises is subject to the consent of the landlord;
- (ii) that the landlord may, in its absolute discretion, withhold its consent to any assignment of the tenant's interest under the agreement;
- (iii) that the tenant is only entitled to sub-let the premises on a reasonable number of occasions for reasonable periods;

and

- (iv) provided subparagraph (iii) is observed, that the landlord will not unreasonably withhold its consent to any sub-letting of the premises by the tenant.

Insertion of s. 64a

8. The following section is inserted after section 64 of the principal Act:

Notice of termination by a housing co-operative

64a. (1) Where the landlord under a residential tenancy agreement is a registered housing co-operative, the landlord may give notice of termination of the agreement on the ground—

(a) that the tenant has ceased to be a member of the co-operative;

or

(b) that the tenant has ceased to satisfy a condition specified by the agreement as being essential to the continuation of the tenancy.

(2) Where a landlord gives notice of termination under this section, the period of notice must be not less than 28 days.

Notice of termination by landlord without any ground

9. Section 65 of the principal Act is amended by striking out subsection (3) and substituting the following subsection:

(3) This section does not apply in relation to—

(a) a residential tenancy agreement that creates a tenancy for a fixed term during the currency of that term;

or

(b) a residential tenancy agreement between a registered housing co-operative and a member of the co-operative.

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

ROMA MITCHELL Governor