

Residential Tenancies (Water and Utilities Charges) Bill

EXPLANATORY MEMORANDUM

Clause 1 sets out the purposes of the Bill.

Clause 2 provides that the provisions in this Bill which amend the **Residential Tenancies Act 1980** and the **Caravan Parks and Movable Dwellings Act 1988** come into operation on 1 July 1993 and that the provisions which amend the **Water Act 1989** and the **Melbourne and Metropolitan Board of Works Act 1958** come into operation on 1 July 1994.

Clause 3 amends section 2 of the **Residential Tenancies Act 1980** to insert a definition of 'separately metered'.

Clause 4 Substitutes section 82 of the **Residential Tenancies Act 1980** with a number of new sections.

Proposed new section 82 sets out the respective liabilities of the tenant and the landlord during a tenancy agreement.

Proposed section 82 (1) provides for the tenant's liability for the use of separately metered electricity, gas or oil and for the use of water supplied to the rented premises if the cost is solely based on the amount of water supplied to the rented premises and the premises are separately metered.

Proposed section 82 (2) provides for the landlord's liability for all costs and charges for the supply of water not based on the amount of water used, for the charges for electricity, gas or oil that are not separately metered, for all charges related to sewerage and drainage services, and for the installation cost and charges for initial connection to the rented premises of an electricity, gas or oil supply service.

Proposed sections 82 (3) and (4) provide for the landlord to agree to take over the tenant's liability for any charges the tenant is responsible for.

Proposed sections 82 (5) and (6) provide for the tenant and the landlord to reimburse each other for any payment the other party is liable for under sections 82 (1) and (2).

Proposed section 82A (1) provides that a landlord of separately metered premises must not seek a payment or reimbursement from a tenant for a water or a utility charge that is greater than the amount the supply authority would have charged the tenant. The section allows for a penalty of 10 penalty units to be imposed if the landlord breaches this provision.

Proposed sections 82A (2)–(4) provide that a landlord must take the necessary steps to facilitate an eligible tenant to claim a concession as part of the process of paying or reimbursing the landlord.

Proposed new section 82B provides for the Director of Housing and incorporated bodies that receive financial assistance from the Director of Housing to charge a separate water and utility service charge in addition to the rent payable on a tenant in

non-separately metered premises, in order that tenants whose rent is charged as a portion of their income are contributing to the cost or charge for the use of water or a utility.

Proposed new section 82c provides for the requirement of the landlord to record meter readings in the circumstance where the landlord acts as a utility re-supplier under a re-sale agreement with a supply authority.

Proposed new section 82D provides that until the changes to the **Water Act 1989** and the **Melbourne and Metropolitan Board of Works Act 1958** are in operation a landlord is liable for the cost of utilities supplied to a rented premises in respect of any billing period in which the tenant was not in occupation of the premises for the entire period unless out of billing cycle readings are conducted and accounts issued.

Clause 5 amends section 84 of the **Residential Tenancies Act 1980** to provide in the circumstances in which that section applies for the distinction between property based rates and taxes and those related to the amount of a utility supplied to the rented premises.

Clause 6 amends section 99 of the **Residential Tenancies Act 1980** to widen the definition of urgent repairs to include water appliances and fittings which malfunction resulting in the substantial wasting of water, and provides that items that can not be repaired may be replaced with an 'A' rated product as defined in the general repairs provisions of the Act.

Clause 7 inserts a new section under the repairs provisions of the **Residential Tenancies Act 1980**.

The proposed new section 100A provides that a landlord when necessary must replace any water appliance, fitting or fixture with at least an 'A' rated one as defined in the Manual of Assessment Procedure for Water Efficient Appliances as amended from time to time by Standards Australia. The section also provides for landlord's liability for water used for as long as the landlord is in breach of this requirement.

Clause 8 amends section 3 of the **Caravan Parks and Movable Dwellings Act 1988** to insert a definition of 'separately metered'.

Clause 9 is a consequential amendment which repeals sections 19 (1) and (2) of the **Caravan Parks and Movable Dwellings Act 1988**.

Clause 10 inserts proposed new sections 19A, 19B, 19C and 19D into the **Caravan Parks and Movable Dwellings Act 1988**.

Proposed section 19A (1) provides for the resident's liability for the use of separately metered electricity, gas and water to a rented site in respect of those services that are separately metered.

Proposed section 19A (2) provides for the caravan park owner's liability for charges for water and utility services supplied to a site that are not separately metered and the installation costs and charges for the initial connection to the rented site of an electricity or gas supply service.

Proposed sections 19A (3)–(5) provide for the resident and caravan park owner to reimburse each other for any payment the other party is responsible for.

Proposed section 19B (1) provides that a caravan park owner of a separately metered site must not seek reimbursement for the payment of water or a utility charge that is greater than the amount the supply authority would have charged the resident. The new section allows for a penalty of 10 penalty units to be imposed if the caravan park owner breaches this provision.

Proposed sections 19B (2)–(4) provide that a caravan park owner must take the necessary steps to facilitate an eligible resident to claim a concession in making the payment for water or a utility supplied to the site.

Proposed new section 19C provides for the requirement of the caravan park owner to record meter readings in the circumstances where the caravan park owner acts as a utility supplier under a re-sale agreement with a supply authority, and that the resident is not liable for payment in respect of a billing period if the caravan park owner does not do so.

Proposed new section 19D provides that until the changes to the **Water Act and the Melbourne and Metropolitan Board of Works Act 1958** are in operation a caravan park owner is liable for the cost of utilities supplied to a rented site in respect to any billing period in which the resident was not in occupation of the site for the entire period if no out of billing cycle readings are conducted and accounts issued.

Clause 11 amends section 22A of the of the **Caravan Parks and Movable Dwellings Act 1988** to widen the definition of urgent repairs to include water appliances and fittings which malfunction resulting in the substantial wasting of water and provides that items that can not be repaired may be replaced with an ‘A’ rated product as defined in the general repairs provisions of the Act.

Clause 12 inserts a new section under the repairs provisions of the **Caravan Parks and Movable Dwellings Act 1988**.

The proposed new section 22B provides that a caravan park owner when necessary must replace any water appliance, fitting or fixture with at least an ‘A’ rated one as defined in the Manual of Assessment Procedure for Water Efficient Appliances as amended from time to time by Standards Australia. The section also provides for caravan park owner liability for water used for as long as the caravan park owner is in breach of this requirement.

Clause 13 inserts new sections in the **Water Act 1989**.

Proposed new section 273A provides that if a property is occupied by a tenant under the **Residential Tenancies Act 1980** or a resident under the **Caravan Parks and Movable Dwellings Act 1988**, the occupier of the property and not the owner is liable for separately metered water to the property if that cost is based on the amount of water used.

Proposed new section 273B provides that if a separately metered property is occupied by a tenant under the **Residential Tenancies Act 1980** or a separately metered site is occupied by a resident under the **Caravan Parks and Movable Dwellings Act 1988**, the water supply authority must read the meter on the day the tenant or resident occupies or vacates the property, and that the supply authority must be given notice by the tenant or resident of the occupation or vacation of a property or site.

The section further provides that if a tenant or resident occupies a property, and fails to notify the supply authority the tenant or resident is liable for the cost of all water supplied from the last time the supply authority read the meter.

The section also provides that if a tenant or resident vacates a property and fails to notify the supply authority, the tenant or resident is liable for the cost of all water supplied until the supply authority reads the meter or to the end of the current billing period.

Clause 14 makes various consequential changes to sections in the **Water Act 1989**.

Clause 15 inserts new sections 98A and 98B in the **Melbourne and Metropolitan Board of Works Act 1958**, which are similar provisions to those inserted by clause 13 into the **Water Act 1989**.

Clause 16 makes provision for the revocation of the transitional provisions of section 82D in the **Residential Tenancies Act 1980** and section 19D in the **Caravan Parks and Movable Dwellings Act 1988**.