



ANNO VICESIMO NONO
ELIZABETHAE SECUNDAE REGINAE

VICTORIA

Residential Tenancies Act 1980

No. 9514

An Act to simplify and modernize the Law relating to Residential Tenancies, to define the Rights and Duties of Landlords and Tenants of Residential Premises, to promote the quick and inexpensive Resolution of Disputes between Landlords and Tenants of Residential Premises, to provide for a Residential Tenancies Tribunal, to amend the *Landlord and Tenant Act 1958*, the *Ministry of Consumer Affairs Act 1973* and the *Administrative Law Act 1978* and for other purposes.

[Assented to 23 December 1980]

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

PART I.—PRELIMINARY

1. (1) This Act may be cited as the *Residential Tenancies Act 1980*. Short title.

(2) The several provisions of this Act shall come into operation on a day or on the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*. Commence-
ment.

(3) This

Arrangement
of Act.

(3) This Act is divided into Parts and Divisions as follows:

Part I.—Preliminary ss. 1–10.

Part II.—Administration ss. 11–54.

Division 1—Director of Consumer Affairs ss. 11–13.

Division 2—Residential Tenancies Tribunal ss. 14–48.

Division 3—Residential Tenancies Fund ss. 49–54.

Part III.—Rents, Security Deposits and Other Charges ss. 55–84.

Division 1—Rents generally ss. 55–61.

Division 2—Rent increases and excessive rents ss. 62–64.

Division 3—Security deposits ss. 65–79.

Division 4—Other charges ss. 80–84.

Part IV.—Tenancy Agreements ss. 85–108.

Division 1—General ss. 85–90.

Division 2—Rights and duties of landlords and tenants ss. 91–96.

Division 3—Repair and maintenance ss. 97–103.

Division 4—Fixtures, etc. s. 104.

Division 5—Compensation ss. 105–107.

Division 6—Assignment and sub-letting s. 108.

Part V.—Termination of Tenancy Agreements ss. 109–137.

Division 1—Termination generally ss. 109–113.

Division 2—Tenant's right to give notice of termination ss. 114–117.

Division 3—Landlord's right to give notice of termination ss. 118–125.

Division 4—Notice of termination generally s. 126.

Division 5—Recovery of possession of rented premises by landlord ss. 127–135.

Division 6—Goods abandoned on rented premises ss. 136–137.

Part VI.—Enforcement and Miscellaneous Provisions ss. 138–151.

Part VII.—Amendments and Transitional Provisions ss. 152–159.

2. In this Act, unless inconsistent with the context or subject-matter— Interpretation

“Approved institution” means a bank or other financial institution for the time being approved for the purposes of this Act by the Treasurer under section 65. “Approved institution.”

“Child” means a person under the age of 16 years. “Child.”

“Determination” in relation to the Tribunal, includes order, direction, decision or declaration and “determine” has a corresponding meaning. “Determination.”

“Director” means the Director of Consumer Affairs appointed for the purposes of the *Ministry of Consumer Affairs Act 1973*. “Director.”

“Facilities” in relation to a tenancy agreement includes— “Facilities.”

(a) land or buildings intended for use for storage space or car parking;

(b) laundry facilities;

(c) cooking facilities;

(d) recreational areas;

(e) lifts;

(f) garbage storage and disposal facilities;

(g) toilet and washing facilities;

(h) appliances for heating or cooling premises;

(i) communications facilities; and

(j) lawns, gardens and outhouses—

provided by the landlord for the tenant’s use otherwise than as part of the rented premises.

“Fixed term tenancy agreement” means a tenancy agreement for a term certain. “Fixed term tenancy agreement.”

“Fund” means the Residential Tenancies Fund established under this Act. “Fund.”

“Guarantee” includes indemnity. “Guarantee.”

“Hearing” in relation to proceedings of the Tribunal includes re-hearing. “Hearing.”

“Landlord” means— “Landlord.”

(a) in relation to a tenancy agreement, the person by whom premises are let under the tenancy agreement; and

(b) in relation to a proposed tenancy agreement, the person by whom the premises are to be let under the tenancy agreement.

“Periodic tenancy agreement” means a tenancy agreement other than a fixed term tenancy agreement. “Periodic tenancy agreement.”

“Prescribed”

"Prescribed."	"Prescribed" means prescribed by this Act or the regulations.
"Registrar."	"Registrar" means the Registrar of the Tribunal.
"Rented premises."	"Rented premises" in relation to a tenancy agreement means the premises let under the tenancy agreement.
"Security deposit."	"Security deposit" means the sum of the amounts paid or payable under or in respect of a tenancy agreement (not being rent or an insurance premium) by the tenant as security against a failure by the tenant to comply with the tenancy agreement or any of the provisions of this Act relating to the tenancy agreement.
"Tenancy agreement."	"Tenancy agreement" means an agreement, whether or not in writing and whether express or implied, under which a person lets premises as a residence.
"Tenant."	<p>"Tenant" means—</p> <p>(a) in relation to a tenancy agreement, the person to whom premises are let under the tenancy agreement; and</p> <p>(b) in relation to a proposed tenancy agreement, the person to whom premises are to be let under the tenancy agreement.</p>
"This Act."	"This Act" includes the regulations.
"Treasurer."	"Treasurer" means the Treasurer of Victoria.
"Tribunal."	"Tribunal" means the Residential Tenancies Tribunal established under this Act.
"Valuer-General."	"Valuer-General" means the Valuer-General under the <i>Valuation of Land Act 1960</i> .

Other interpretative provisions.

3. (1) In this Act, a reference to a notice of termination in relation to a tenancy agreement includes a reference to—

- (a) a notice to vacate the rented premises given by the landlord to the tenant under and in accordance with this Act; and
- (b) a notice of intention to vacate the rented premises given by the tenant to the landlord under and in accordance with this Act.

(2) Where, under this Act, the exercise of a power or duty or the performance of a function by a person is dependent upon the opinion, belief or state of mind of that person in relation to a matter, that power or duty may be exercised or that function may be performed by the delegate upon the opinion, belief or state of mind of the delegate in relation to the matter.

4. (1) This

4. (1) This Act applies to a person to whom the rights and obligations of—

Application of Act to assignees and transferees of landlords and tenants.

(a) a landlord under a tenancy agreement; or

(b) a tenant under a tenancy agreement—

have been assigned or transferred or have passed by operation of law in the same manner as this Act applies to the person by whom the rights were assigned or transferred or from whom the rights and obligations have passed by operation of law.

(2) Nothing in sub-section (1) operates to confer any rights under this Act on an assignee of a tenant where the assignment is not in accordance with this Act.

5. Where an amount greater than the sum of \$1500 but not exceeding \$3000 is prescribed by the regulations as the monetary limit for the purposes of the jurisdiction of the Tribunal under this Act, a reference in this Act to \$1500 is a reference to the amount so prescribed.

Monetary limit.

6. (1) Subject to this section, this Act applies to a tenancy agreement entered into on or after the commencement of this section.

Application of Act.

(2) Where the term of a fixed term tenancy agreement entered into before the commencement of this section is extended on or after that commencement, the tenancy agreement shall, for the purposes of this section, be deemed to have been entered into on the date on which the term is extended.

(3) Where a periodic tenancy agreement entered into before the commencement of this section continues after that commencement, the tenancy agreement shall, for the purposes of this section, be deemed to have been entered into on the first date after that commencement on which rent is payable under the tenancy agreement.

(4) This Act does not apply to a tenancy agreement—

(a) where the rented premises form part of a building in which other premises are let by the landlord to the tenant for the purpose of a trade, profession or business carried on by the tenant;

(b) where the rented premises are included in or on other premises let to the tenant by the landlord that are for the time being used, or are ordinarily used, as a grazing area, farm, orchard, market garden, dairy farm, poultry farm, pig farm or bee farm;

(c) created or arising between the parties to a contract of sale or mortgage of the premises in accordance with a term of the contract or mortgage;

(d) created

- (d) created or arising under the terms of a contract of employment or entered into in relation to such a contract;
- (e) that is a fixed term tenancy agreement where the term certain exceeds five years and the agreement does not include a provision enabling the landlord or the tenant to determine the agreement by notice (otherwise than on the grounds of a breach of the agreement) before the expiration of five years after the agreement is made;
- (f) that is a fixed term tenancy agreement where—
 - (i) the rented premises were, immediately before the agreement was entered into, the landlord's principal place of residence;
 - (ii) the term certain is less than 60 days; and
 - (iii) the agreement states that the rented premises were, immediately before the agreement was entered into, the landlord's principal place of residence and that the landlord intends to resume occupancy of the premises upon termination of the tenancy agreement;
- (g) where the rented premises are situated in a hotel, motel, hostel, educational institution, or like institution;
- (h) where the rented premises are situated in a hospital, nursing home, convalescent home, rehabilitation home, home for the aged or disabled or like institution;
- (i) where the rented premises are ordinarily used for holiday purposes;
- (j) where the rented premises are prescribed premises or are included in a class of prescribed premises; or
- (k) where the agreement is a prescribed agreement or is included in a class of prescribed agreements.

Exemptions by
Tribunal for
particular
tenancy
agreements.

7. (1) On application by a landlord or a tenant under a tenancy agreement, the Tribunal may if, after hearing the landlord and the tenant, it is satisfied that, in all the circumstances, the application of a provision or provisions of this Act would occasion severe hardship to the landlord or the tenant, by order declare that the provision, or provisions, shall not apply to the tenancy agreement.

(2) An order under sub-section (1)—

- (a) may be expressed to operate for a period stated in the order; and
- (b) may be made subject to such conditions as the Tribunal thinks fit.

(3) On application by a tenant under a tenancy agreement the Tribunal may by order declare void or vary a term of the tenancy agreement if it is satisfied that the term is harsh or unconscionable or is such that a court of equity would grant relief.

(4) An

(4) An order under this section has effect according to its tenor.

8. (1) Where, after the commencement of this section, the provisions of Part V. of the *Landlord and Tenant Act 1958* cease to apply to premises by reason of—

Application of Act to premises to which Part V. of *Landlord and Tenant Act 1958* ceases to apply.

(a) a declaration by the Fair Rents Board under section 107A of that Act and action taken by the Governor in Council; or

(b) a determination by the Fair Rents Board under that section—

a tenancy agreement for the letting of those premises shall be deemed to have been entered into on the date on which that Part ceases to apply to those premises, being a tenancy agreement under which—

(c) the person who, immediately before that date, was the lessor of those premises within the meaning of that Part is the landlord;

(d) the person who immediately before that date was the lessee of those premises within the meaning of that Part is the tenant; and

(e) subject to this Act, the terms are the terms of the lease in force immediately before that date.

(2) Subject to section 6, this Act applies to a tenancy agreement of premises referred to in sub-section (1) on and after the date on which Part V. of the *Landlord and Tenant Act 1958* ceases to apply to those premises.

9. (1) The provisions of Parts I. to IVA. (inclusive) of the *Landlord and Tenant Act 1958* do not apply to or with respect to tenancy agreements to which this Act applies.

Certain enactments not to apply to tenancy agreements.

(2) The provisions of sections 137, 144, 145, 146 and 150 of the *Property Law Act 1958* do not apply to or with respect to tenancy agreements to which this Act applies.

10. This Act shall bind the Crown.

Act to bind the Crown.

PART II.—ADMINISTRATION

DIVISION 1—DIRECTOR OF CONSUMER AFFAIRS

11. (1) Subject to the general direction and control of the Minister, the functions of the Director for the purposes of this Act are—

Functions and powers of Director.

(a) to investigate—

(i) any matter referred to him pursuant to the provisions of this Act by the Tribunal or the Registrar;

(ii) any request made under section 63;

(iii) any

- (iii) any complaint made to him by a tenant under a tenancy agreement that the rent under the tenancy agreement is excessive;
- (iv) any complaint made to him by a tenant under a tenancy agreement that the landlord is in breach of his duty to maintain the rented premises in good repair; and
- (v) any other dispute in relation to a tenancy agreement between the landlord and the tenant that is referred to him by the landlord or the tenant—

and to report upon his investigation to the person who referred the matter or dispute or made the request or complaint;

- (b) to negotiate settlements of complaints or disputes in relation to tenancy agreements that are made or referred to him under paragraph (a);
- (c) to undertake programmes for the dissemination (in English or in any other language) of information to educate or inform the public in relation to the provisions of this Act and the services provided under this Act by the Director;
- (d) to disseminate standard form tenancy agreements;
- (e) to conduct research into matters relating to tenancy agreements and to publish the results of that research;
- (f) subject to this Act, to liaise, co-operate and exchange information with, and to provide financial assistance from the Fund to, government departments, statutory authorities, municipalities, and other persons engaged in—
 - (i) the provision of information in relation to the provisions of this Act ;
 - (ii) programmes for educating or informing the public in relation to the provisions of this Act; or
 - (iii) conducting research into matters relating to tenancy agreements; and
- (g) such other functions as are conferred on him under this Act.

(2) Subject to this Act, the Director has power to do all things necessary or convenient to be done for or in connexion with the performance of his functions under this Act.

Delegation by
Director.

12. (1) The Director may, either generally or as otherwise provided in the instrument of delegation, by writing delegate to any officer or employee in the public service or of a municipality or public statutory authority all or any of his powers or functions under this Act except this power of delegation and his functions under section 13.

(2) The

(2) The Director may, by instrument in writing, vary or revoke a delegation made by him.

(3) A power or function delegated by the Director shall be exercised or performed in accordance with the instrument of delegation.

(4) Delegation of a power or function by the Director does not prevent the exercise of the power or the performance of the function by the Director.

(5) Any act or thing done in the performance or a function or the exercise of a power by a person to whom that function or power has been delegated by the Director under sub-section (1) has the same force and effect as if it had been done by the Director.

13. The Director shall in each annual report prepared pursuant to section 8A of the *Ministry of Consumer Affairs Act 1973* include a review of the administration and operation of this Act during the period to which the report relates and may include recommendations of the Director for amendment of this Act.

Matters to be included in Director's annual report.

DIVISION 2—RESIDENTIAL TENANCIES TRIBUNAL

14. (1) There shall be a tribunal called the Residential Tenancies Tribunal.

Establishment of Tribunal.

(2) The Governor in Council may appoint such members of the Tribunal as he thinks fit.

(3) The Governor in Council shall appoint one of the members of the Tribunal as chairman.

(4) A person is qualified to be appointed a member of the Tribunal if he is, or is eligible to be, admitted as a barrister and solicitor of the Supreme Court or is a stipendiary magistrate.

(5) The instrument of appointment of a member of the Tribunal may provide that the member may not hear and determine an application to or proceedings before the Tribunal relating to matters arising in respect of a specified class of tenancy agreements or to tenancy agreements of premises in a specified part of Victoria.

15. (1) The Governor in Council may, in the instrument of appointment of a person as a member of the Tribunal, specify terms and conditions of appointment.

Terms and conditions of appointment.

(2) Without affecting the generality of sub-section (1), the instrument of appointment of a member of the Tribunal may provide that the person is appointed on a full-time basis.

(3) A person appointed as a member of the Tribunal on a full-time basis shall not engage in paid employment outside the duties of his office.

(4) A person

(4) A person appointed as a member of the Tribunal holds office for such term, not being more than seven years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

(5) The Governor in Council may at any time remove from office a member of the Tribunal.

(6) A member of the Tribunal may resign his office by writing delivered to the Governor in Council.

(7) A member of the Tribunal is not in respect of his office subject to the provisions of the *Public Service Act* 1974.

(8) A person who immediately before his appointment as a member of the Tribunal on a full-time basis was an officer or employé in the public service shall, for the purposes of Division 4 of Part IV. of the *Public Service Act* 1974 be deemed to be an officer or employé in the public service during the period of his appointment as a member of the Tribunal.

(9) A person who immediately before his appointment as a member of the Tribunal on a full-time basis was an officer within the meaning of the *Superannuation Act* 1958 or any corresponding previous enactment shall notwithstanding the appointment continue, subject to that Act, to be an officer within the meaning of that Act.

Remuneration.

16. (1) The Chairman of the Tribunal is entitled to be paid—

- (a) such remuneration as is from time to time fixed by the Governor in Council; and
- (b) such travelling and other allowances as are from time to time fixed by the Governor in Council—

and, where the Chairman is an officer or employé in the public service or a referee of a Small Claims Tribunal, such remuneration and allowances shall be in addition to any other remuneration or allowances to which he is entitled.

(2) A person who is appointed as a member of the Tribunal on a full-time basis, other than the chairman, and who is not an officer or employé of the public service or a referee of a Small Claims Tribunal is entitled to be paid—

- (a) such remuneration as is from time to time fixed by the Governor in Council; and
- (b) such travelling and other allowances as are from time to time fixed by the Governor in Council.

(3) A person who is appointed as a member of the Tribunal otherwise than on a full-time basis, other than the chairman, and who is not an officer or employé in the public service or a referee of a Small Claims Tribunal is entitled to be paid—

- (a) such remuneration as is from time to time fixed by the Governor in Council; and

(b) such

- (b) such travelling and other allowances as are from time to time fixed by the Governor in Council.

(4) A person who is appointed as a member of the Tribunal, other than the chairman, and who is an officer or employé in the public service or a referee of a Small Claims Tribunal is, in addition to any other remuneration or allowances to which he is entitled, entitled to be paid—

- (a) such remuneration as is from time to time fixed by the Governor in Council; and
- (b) such travelling and other allowances as are from time to time fixed by the Governor in Council.

17. Subject to this Act, the Tribunal has jurisdiction to hear and determine an application under this Act relating to any matter arising in relation to a tenancy agreement of premises situated in Victoria.

Jurisdiction of Tribunal.

18. (1) Subject to sub-section (3), the Tribunal shall not hear and determine an application by a landlord or a tenant under a tenancy agreement which involves a monetary claim for an amount that exceeds \$1500.

Limits of jurisdiction.

(2) Subject to sub-section (3), the Tribunal shall not make a determination requiring or authorizing the payment of an amount that exceeds \$1500 or requiring or authorizing the carrying out of works, the estimated cost of which exceeds \$1500.

(3) The Tribunal may hear and determine an application or make a determination in respect of a monetary amount exceeding \$1500 if the landlord and the tenant, by instrument in writing given to the Registrar, so authorize the Tribunal.

(4) An authority by instrument in writing under sub-section (3) is irrevocable.

19. An application to or proceedings before the Tribunal shall be heard and determined by one member of the Tribunal.

Constitution of Tribunal.

20. An act or determination of the Tribunal is not invalid by reason only of a defect or irregularity in the appointment of a member of the Tribunal.

Defect in appointment of Tribunal.

21. Except as otherwise provided by the regulations, the Tribunal shall sit at such places in the State and at such times as are determined by the Registrar.

Sittings of Tribunal.

22. The Registrar shall give notice to each applicant and to each party to proceedings before the Tribunal of the time and place for the hearing of the application or proceedings.

Notice of hearings.

23. (1) Subject

General
applications
to Tribunal.

23. (1) Subject to this Act, a landlord or a tenant under a tenancy agreement may make application to the Tribunal where he claims that—

- (a) a dispute has arisen under the tenancy agreement; or
- (b) a breach has occurred under the tenancy agreement or under the provisions of this Act relating to the tenancy agreement.

(2) The provisions of this section are in addition to all other rights and powers under this Act.

General power
of Tribunal
to make
determinations.

24. (1) Subject to this Act, on an application made to, or in proceedings before, the Tribunal under this Act relating to a tenancy agreement, the Tribunal—

- (a) may make such determinations as it considers appropriate to restrain any action in breach of the tenancy agreement or the provisions of this Act relating to the tenancy agreement or to require any action in performance of the tenancy agreement or of obligations under those provisions;
- (b) without limiting the generality of paragraph (a), may make determinations for the return of goods unlawfully taken or removed from the rented premises by a party to the tenancy agreement; and
- (c) may make determinations ancillary or incidental to other determinations made by it.

(2) Where there are two or more tenancy agreements to which this Act applies in respect of the same premises and the rights under this Act of the landlord and the tenant under any of those agreements are prejudicially affected by reason of the application of this Act to two or more of those agreements, the Tribunal may make such determinations as it considers appropriate—

- (a) to give effect to the rights under this Act of any tenant in possession of the premises under a tenancy agreement to which this Act applies; and
- (b) subject to a determination being made under paragraph (a) or the Tribunal determining that no such determination is necessary, to give effect to the rights under this Act of each landlord and each tenant of the premises.

(3) The provisions of sub-sections (1) and (2) are in addition to all other powers of the Tribunal under this Act.

Settlements.

25. Where an application is made to the Tribunal under this Act in relation to issues arising between the parties to a tenancy agreement, the Tribunal, shall, if in its opinion it is reasonable

in

in the circumstances to do so, take such steps as it thinks fit to achieve a settlement of the issues without proceeding to hear and determine the application.

Application
to Tribunal.

26. (1) Except as otherwise provided in this Act, an application to the Tribunal under this Act—

- (a) shall be in writing signed by the applicant;
- (b) shall be—
 - (i) given to the Registrar; or
 - (ii) lodged at the office of a clerk of a Magistrates' Court, being an office that is outside the metropolitan area within the meaning of the *Town and Country Planning Act 1961*; and
- (c) shall be accompanied by such fee (if any) as is prescribed for applications of that kind.

(2) Where an application is lodged at the office of a clerk of a Magistrates' Court, the clerk shall as soon as practicable give the application and the prescribed fee (if any) to the Registrar.

27. (1) Where an application is made to the Tribunal, the Registrar—

Registrar may
refer application
to Director.

- (a) where the application is an application of a kind that the Director has directed the Registrar to refer to him—shall refer the application to the Director for investigation and report; and
- (b) in any other case, where he considers that the Director's report would be of assistance to the Tribunal, may refer the application to the Director for investigation and report.

(2) Where an application has been made to the Tribunal, not being an application for an order for possession under section 130 or 131, and any party to the proceedings arising from the application requests at any time before the hearing of the application that the Registrar refer the application to the Director for investigation and report, the Registrar may refer the application to the Director.

28. Where an application has been made to the Tribunal under this Act, the Registrar may at any time before the hearing of the application, amend the application at the request of all parties to proceedings on the application.

Registrar may
amend
applications in
certain cases.

29. (1) A person who has made application to the Tribunal under this Act may, at any time before the Tribunal determines the application, withdraw the application.

Withdrawal of
applications.

(2) A withdrawal of an application under sub-section (1) shall be in writing signed by the applicant and shall be given to the Registrar.

(3) An

(3) An applicant who withdraws an application under this section shall inform each other party to the proceedings (if any) of the withdrawal.

(4) Where an application is withdrawn under this Act, the applicant is not, except with the leave of the Tribunal, entitled to make application again to the Tribunal in respect of the same subject-matter.

**Procedure of
Tribunal.**

30. (1) Subject to this Act, the Tribunal—

- (a) is bound by the rules of natural justice; and
- (b) may regulate its own procedure.

(2) Subject to this Act, the Tribunal may hear and determine together two or more applications where it considers that the applications concern the same or related subject-matter.

(3) Subject to this Act, where an application is made to, or proceedings are before, the Tribunal under this Act, the Tribunal—

- (a) may at the request, or with the approval, of the applicant amend the application;
- (b) may refer the application or any matter arising in the proceedings to the Director for investigation and report; and
- (c) may refer to the Valuer-General for report any question arising under the application or in the proceedings in relation to the valuation of premises.

Reports.

31. Where, under this Act, an application to the Tribunal, a matter arising in proceedings or a question arising under an application or in proceedings is referred to the Director for investigation and report or to the Valuer-General for report—

- (a) the Director shall investigate the application or matter and report, or the Valuer-General shall report, as the case may be, to the Tribunal on the application, matter or question; and
- (b) the Tribunal shall not make a determination in relation to the application, matter or question unless it has received and taken into consideration the report of the Director or the Valuer-General, as the case may be.

**Evidence before
Tribunal.**

32. (1) Evidence before the Tribunal may be given on oath or, where the law permits, on affirmation or declaration instead of oath.

(2) A member of the Tribunal may administer an oath or take an affirmation or declaration for the purposes of this Act.

(3) Evidence given before the Tribunal shall not be used in criminal proceedings except in proceedings for an offence against this Act or for perjury.

(4) The

(4) The Tribunal is not bound by rules or practice as to evidence but may inform itself in relation to any matter in such manner as it thinks fit.

(5) The Tribunal may at the request of a party to proceedings before it or on its own initiative direct the Registrar to serve upon any person a summons to appear before the Tribunal to give evidence or to produce such documents as are specified in the summons and may in an appropriate case make an order for the manner of service, including an order for substituted service.

33. (1) Subject to this section, the hearing of proceedings before the Tribunal shall be held in public.

Proceedings of Tribunal and publication of evidence.

(2) The Tribunal may by order exclude from proceedings or any part of proceedings before it a person who does an act referred to in section 46.

(3) Where the Tribunal, whether at the request of a party to proceedings or on its own initiative, is satisfied that it is desirable to do so, the Tribunal may direct that the hearing of the proceedings, or part of the hearing, shall take place in private and give directions as to the persons who may be present.

(4) Where the Tribunal, whether at the request of a party to proceedings or on its own initiative, is satisfied that it is desirable to do so, the Tribunal may give directions prohibiting or restricting publication of evidence given before the Tribunal whether in public or in private, or of matters contained in documents filed or lodged with the Registrar, received in evidence by the Tribunal or placed in the records of the Tribunal.

34. (1) Where an application is made to the Tribunal under this Act and the Tribunal considers that—

Tribunal may dismiss certain applications.

- (a) there are no grounds upon which the application could be granted; or
- (b) there are grounds upon which the application could be granted but that the application is vexatious or frivolous—

the Tribunal may dismiss the application.

(2) Where the Tribunal dismisses an application that it considers to be vexatious or frivolous, being an application that refers to a dispute by the applicant with a party to a tenancy agreement or to a breach by a party to a tenancy agreement of the tenancy agreement or of a provision of this Act relating to the tenancy agreement, the Tribunal may order the applicant to pay to that party a sum, not exceeding \$100, specified by the Tribunal.

35. (1) Where a person who has made an application to the Tribunal is absent and unrepresented at the time and place appointed for the hearing of the application, the Tribunal may dismiss the application.

Proceedings in absence of party.

(2) Where

(2) Where a party to proceedings arising from an application to the Tribunal (other than the applicant) is absent and unrepresented at the time and place appointed for the hearing of the proceedings, the Tribunal may, if it is satisfied—

- (a) that a copy of the application was given in accordance with this Act to the party at his last-known or most usual place of residence or business; and
- (b) that the applicant has taken such further action (if any) to bring the application to the notice of that party as the Tribunal may direct—

hear and determine the proceedings notwithstanding that that party is absent and unrepresented.

Reservation
questions of
law.

36. (1) Where in an application to or proceedings before the Tribunal under this Act a question of law arises, the Tribunal shall, at the request of the applicant or a party to the proceedings, and may, on its own initiative, reserve the question in the form of a special case stated for the opinion of the Supreme Court.

(2) Where a question has been reserved under this section, the Tribunal shall not determine the application or the proceedings until the opinion of the Supreme Court has been given and shall not proceed in a manner or make a determination that is inconsistent with the opinion of the Supreme Court on the question of law.

(3) Subject to the *Supreme Court Act* 1958, the Judges of the Supreme Court may make rules (including rules with respect to costs) for or with respect to special cases stated for the opinion of the Supreme Court under sub-section (1).

(4) Where the Minister is of the opinion that a question of law reserved for the Supreme Court under this section is of general public importance, the Minister may authorize the payment from the Fund of the whole or any part of the costs of reserving the question for the opinion of the Supreme Court.

Tribunal to
state reasons
for
determination.

37. (1) Where the Tribunal makes a determination, it shall state the reasons for the determination.

(2) A statement of reasons by the Tribunal under sub-section (1) shall be taken to form part of the determination of the Tribunal.

(3) Where the Tribunal considers that a determination made by it ought in the public interest to be published it may request the Director to publish the determination.

Determination
to be in
writing.

38. (1) A determination of the Tribunal under this Act shall be in writing and shall be signed by the member of the Tribunal who constituted the Tribunal.

(2) The

(2) The production in any proceedings of a document purporting to be a copy of a determination made by the Tribunal under this Act and signed by a member of the Tribunal shall be conclusive evidence of the due making and existence of the determination.

39. Except as otherwise expressly provided in this Act, where the Tribunal makes a determination under this Act, the Registrar shall before the expiration of seven days after the making of the determination, give a copy of the determination to each party to the proceedings who did not appear and was not represented at the proceedings, addressed to his last known place of residence or business.

Copy of
determination.

40. A person to whom a determination of the Tribunal, including a determination as varied, applies, shall comply with the determination.

Persons to
comply with
determination
of Tribunal.

Penalty: \$500.

41. (1) A person to whom a determination made by the Tribunal applies may at any time make application to the Tribunal for a review of the determination.

Application
to Tribunal
for order
rescinding
or varying
determination.

(2) The Tribunal may, if it is satisfied that the determination to which an application under sub-section (1) applies should be reviewed, hear and determine the application and may if it thinks fit determine that the determination be rescinded or varied.

42. (1) Where the Tribunal makes a determination requiring the payment of moneys to a person, that person may file in the office of a Magistrates' Court a copy of the determination and pay to the Clerk of the Magistrates' Court such fee (if any) as is prescribed.

Enforcement of
determinations
of Tribunal.

(2) A copy of a determination filed in the office of a Magistrates' Court under this section shall be deemed to be an order of a Magistrates' Court and may be enforced accordingly.

43. (1) Where an application is made to, or proceedings are before, the Tribunal the issue concerned in the application or proceedings (whether shown in the application or emerging in the course of proceedings) shall not be justiciable at any time before a court or person acting judicially other than the Tribunal, except—

Proceedings
of Tribunal
not justiciable.

- (a) in proceedings instituted before the application to the Tribunal was made or the proceedings before the Tribunal were commenced;
- (b) where the application or proceedings have been withdrawn; or
- (c) in proceedings for an offence.

(2) Where

(2) Where a civil proceeding before a court or a person acting judicially was instituted before the making of an application to or bringing of proceedings before the Tribunal in respect of an issue, the issue shall not be determined by the Tribunal unless the proceedings before the court or person have been discontinued.

Party to
conduct own
proceedings.

44. (1) Subject to this section, a party to proceedings before the Tribunal shall conduct his case in person.

(2) A duly qualified legal practitioner may conduct the case of a party to proceedings before the Tribunal where—

- (a) the parties to the proceedings so agree;
- (b) the other party to the proceedings is a body corporate or a person referred to in sub-section (5);
- (c) the proceedings relate to an order for possession under section 130 or 131; or
- (d) the Tribunal is satisfied that the party ought to be represented by a duly qualified legal practitioner.

(3) A person who is not a duly qualified legal practitioner may conduct the case of a party to proceedings before the Tribunal (being a party who is a natural person) where the Tribunal is satisfied that the party ought to be represented by an agent.

(4) Where a party to proceedings before the Tribunal is a body corporate, an officer or agent, not being a duly qualified legal practitioner, of the body corporate, may conduct the case of that party.

(5) For the purposes of paragraph (b) of sub-section (2), the persons are—

- (a) a person who is or has been a duly qualified legal practitioner in a State or Territory of the Commonwealth;
- (b) a person who works or has worked with a solicitor in a State or Territory of the Commonwealth as an articulated clerk or law clerk; and
- (c) a person who holds a degree, diploma or other qualification in law conferred or granted in a State or Territory of the Commonwealth.

Costs of
applications to
and proceedings
before Tribunal.

45. (1) Where an application by a landlord or a tenant under a tenancy agreement made to the Tribunal under this Act is dismissed, the Tribunal may make an order for the payment by the applicant to the other party to the tenancy agreement—

- (a) unless that other party was represented by a duly qualified legal practitioner, of an amount not exceeding

\$200

\$200 in respect of disbursements necessarily incurred by that other party in connexion with the application; or

(b) where that other party was represented by a duly qualified legal practitioner—

(i) of an amount not exceeding \$200 in respect of disbursements necessarily incurred by that other party in connexion with the application; and

(ii) of costs, other than disbursements, at the prescribed scale.

(2) Where the Tribunal makes a determination in proceedings relating to a tenancy agreement, the Tribunal may make an order for the payment by a party to the tenancy agreement to the other party to the tenancy agreement—

(a) unless the other party was represented by a duly qualified legal practitioner, of an amount not exceeding \$200 in respect of disbursements necessarily incurred by the first-mentioned party in connexion with the proceedings; or

(b) where that other party was represented by a duly qualified legal practitioner—

(i) of an amount not exceeding \$200 in respect of disbursements necessarily incurred by the first-mentioned party in connexion with the proceedings; and

(ii) of costs, other than disbursements, at the prescribed scale.

46. (1) A person who—

Offences.

(a) insults a member of the Tribunal while he is performing functions or exercising powers as the Tribunal or any other person attending before the Tribunal;

(b) misbehaves at a hearing before the Tribunal;

(c) interrupts a hearing before the Tribunal;

(d) assaults or obstructs a person attending a hearing before the Tribunal; or

(e) without lawful excuse disobeys a direction or summons of the Tribunal—

is guilty of an offence against this Act and liable to a penalty not exceeding \$500.

(2) Proceedings for an offence against sub-section (1) may be brought only by the member constituting the Tribunal hearing the application or proceedings in relation to which the offence was committed and may be withdrawn by that member upon his receiving an apology for the act constituting the offence.

47. (1) Subject

Registrar
assistant
registrars and
register.

47. (1) Subject to the *Public Service Act* 1974, there shall be appointed a Registrar of the Tribunal and such assistant registrars as are necessary for the purposes of this Act.

(2) The Registrar shall—

- (a) keep a register in the prescribed form containing the prescribed particulars of all applications to and proceedings before the Tribunal under this Act and of the determinations of the Tribunal; and
- (b) perform such other functions and exercise such other powers as are conferred on him under this Act.

Delegation
by Registrar.

48. (1) The Registrar with the consent of the Director may, either generally or as otherwise provided in the instrument of delegation, by writing delegate to an assistant registrar all or any of his powers or functions under this Act except this power of delegation.

(2) The Registrar may by instrument in writing vary or revoke a delegation made by him.

(3) A power or function delegated by the Registrar shall be exercised or performed in accordance with the instrument of delegation.

(4) Delegation of a power or function by the Registrar does not prevent the exercise of the power or the performance of the function by the Registrar.

(5) Any act or thing done in the performance of a function or the exercise of a power by a person to whom that function or power has been delegated by the Registrar under sub-section (1) has the same force and effect as if it had been done by the Registrar.

DIVISION 3—RESIDENTIAL TENANCIES FUND

Establishment
of Fund.

49. There shall be kept in the Treasury in the Public Account as part of the Trust Fund an account which shall be called the "Residential Tenancies Fund".

Payments into
Fund.

50. There shall be paid into the Fund—

- (a) all moneys required or authorized by or under this Act to be paid into the Fund;
- (b) penalties paid or recovered under this Act;
- (c) fees paid under this Act;
- (d) any gift, donation or bequest of moneys to the Fund; and
- (e) any moneys appropriated by Parliament for the purposes of this Act.

51. There

51. There shall be paid out of the Fund—Payments out
of Fund.

- (a) moneys authorized or required by or under this Act to be paid out of the Fund; and
- (b) the cost of the administration of this Act.

52. The Treasurer—Treasurer's
powers and
duties in
relation to
Fund.

- (a) may from time to time invest moneys in the Fund in such manner as he thinks fit; and
- (b) shall pay into the Fund any interest received on moneys so invested.

53. (1) Where the Tribunal makes a determination authorizing a tenant under a tenancy agreement to pay rent into the Fund, the rent paid into the Fund in pursuance of the determination shall be credited to a special account in the Fund to be called the "Rent Special Account".

Rent Special
Account.

(2) Notwithstanding anything to the contrary in section 51, moneys in the Rent Special Account shall be applied only in the payment of rent to landlords in accordance with section 101.

54. (1) Where, on application in writing made to him in that behalf by a tenant under a proposed tenancy agreement, the Director is satisfied that the tenant would not without financial assistance be able to pay all or any part of a security deposit required to be paid under the tenancy agreement or the first payment of rent under the tenancy agreement, he may authorize the making of a loan out of the Fund to the tenant of an amount not exceeding the sum of the security deposit and the first payment of rent, being a loan that is subject to such conditions as the Director thinks fit, including a condition for repayment of the loan to the Fund with or without interest and a condition that the amount of the loan be paid by the Director on the tenant's behalf to the landlord.

Loans from
Fund.

(2) Where, an application in writing by a landlord under a tenancy agreement, the Director is satisfied that repairs mentioned in section 99 are urgently required to the rented premises and that without financial assistance the landlord would not be able to pay the cost of the repairs, the Director may authorize the making of a loan out of the Fund to the landlord of an amount not exceeding the amount of the rent payable in respect of the preceding period of two months under the tenancy agreement, being a loan that is subject to such conditions as the Director thinks fit, including a condition for repayment of the loan to the Fund with or without interest.

(3) Any

(3) Any moneys owing under a loan made under this section that are not paid when they become due and payable in accordance with the terms and conditions of the loan may be recovered by the Director as a debt owing to Her Majesty in a court of competent jurisdiction and moneys so recovered shall be paid into the Fund.

PART III.—RENTS, SECURITY DEPOSITS AND OTHER CHARGES

DIVISION 1—RENTS GENERALLY

Certain
penalties
prohibited.

55. A person shall not demand or accept from a tenant under a tenancy agreement who has failed to comply with the tenancy agreement or with any of the provisions of this Act relating to the tenancy agreement the payment by reason of the failure of any amount other than—

- (a) an amount or penalty provided for in this Act; or
- (b) subject to this Act, rent under the tenancy agreement.

Accrual of
rent.

56. For the purposes of this Act, rent under a tenancy agreement shall accrue from day to day and, subject to section 59, shall be recoverable or refundable accordingly.

Rent under
certain tenancy
agreements not
payable more
than one month
in advance.

57. Where, under a tenancy agreement, the amount of the rent payable in respect of one week does not exceed \$100 or, where a greater amount is prescribed for the purposes of this section, that greater amount, a person shall not demand or require the payment of rent under the agreement more than one month before it accrues due.

Penalty: \$200.

Rent under
weekly tenancy
agreements not
payable more
than two weeks
in advance.

58. Notwithstanding section 57, where, under a tenancy agreement, the period in respect of which rent is payable is not more than one week, a person shall not demand or require the payment of rent under the agreement more than two weeks before it accrues due.

Penalty: \$200.

Abandoned
premises and
rent in
advance.

59. Where a tenant of rented premises under a tenancy agreement abandons the premises and the landlord has received an amount of rent in respect of the premises that had not accrued due when the tenant abandoned the premises, the landlord is entitled to that amount, or such part of that amount as does not exceed the amount of loss or damage suffered by him as a result of the abandonment, whichever is the less and—

- (a) where the landlord knows the address of the tenant, the landlord shall pay the amount of the rent to which he is not entitled under this section (if any) to the tenant; or

(b) where

- (b) where the landlord does not know the address of the tenant, that amount shall be dealt with as unclaimed moneys in accordance with the provisions of Part II. of the *Unclaimed Moneys Act 1962* as if the landlord were a company or firm to which that Part applies.

60. Rent under a tenancy agreement shall be payable—

Place for
payment of
rent.

- (a) where a place for payment of rent is specified in the tenancy agreement—at that place; or
- (b) where no place for payment of rent is specified in the tenancy agreement—at the rented premises.

61. (1) A person who receives a payment of rent under a tenancy agreement—

Receipt for
rent.

- (a) where a person makes the payment in person in cash—shall forthwith give a receipt to the person who made the payment;
- (b) where a person makes the payment in cash otherwise than in person—shall before the end of the next business day after the day on which the payment is received, give a receipt to the person who made the payment; or
- (c) where the payment is made by cheque—shall issue and keep a receipt for the payment and a copy of the receipt and on request by the person who made the payment give the receipt to him.

Penalty: \$100.

(2) A receipt under sub-section (1) for a payment of rent under a tenancy agreement shall be in writing and shall be signed by the person who received the payment and shall state—

- (a) particulars sufficient to identify the tenant and the rented premises;
- (b) the date of receipt of the payment;
- (c) the period in respect of which the payment is made;
- (d) the amount paid; and
- (e) the fact that the payment was received by way of rent.

Penalty: \$100.

(3) The regulations may provide that a prescribed person is exempt from the provisions of sub-sections (1) and (2) subject to such conditions (if any) as are specified in the regulations.

DIVISION 2—RENT INCREASES AND EXCESSIVE RENTS

62. (1) A provision in a tenancy agreement under which the landlord may exercise a right to review, or to increase, the rent at intervals of less than six months is void.

Rent increases.

(2) Where

(2) Where a tenancy agreement contains a provision under which a landlord may exercise a right to review, or to increase, the rent at intervals of not less than six months, a landlord shall not exercise a right to increase the rent unless he gives the tenant at least 60 days' notice in writing of the increase.

Tenant may
complain to
Director about
excessive rent.

63. (1) A tenant under a tenancy agreement—

- (a) who considers that the rent payable under the tenancy agreement is excessive having regard to the fact that the landlord has reduced or withdrawn any goods, services or facilities provided with the rented premises; or
- (b) who has received notice from the landlord of an increase of the rent payable under the tenancy agreement and who considers that the increase is excessive—

may in writing request the Director to investigate and report on the matter.

(2) For the purposes of this section, rent under a tenancy agreement shall be regarded as excessive if it is significantly more than the rent payable for comparable rented premises let under a tenancy agreement by a landlord, other than a public statutory authority, in the locality of the first-mentioned rented premises and the following factors shall also be taken into account:

- (a) The cost of goods, services and facilities provided with the rented premises;
- (b) Any charges in respect of the rented premises for which the landlord is or may be liable by or under this or any other Act or the tenancy agreement;
- (c) The state of repair and general condition of the rented premises;
- (d) Any goods, services or facilities provided by the tenant under the tenancy agreement or any charges payable by the tenant under this or any other Act or the tenancy agreement;
- (e) Any work which the tenant has, with the landlord's consent, done or has agreed with the landlord to do in relation to the premises; and
- (f) Any valuation of the rented premises.

Excessive
rent orders.

64. (1) If, after receiving a report from the Director in relation to the investigation of rent under a tenancy agreement, the tenant is of the view that the rent, or proposed rent, is excessive, he may apply to the Tribunal for an order declaring that the rent, or proposed rent, is excessive.

(2) An application under sub-section (1) shall include particulars of the Director's report.

(3) The

(3) The Tribunal, upon receiving an application under sub-section (1), may, if it is of the opinion that having regard to the Director's report and to the matters mentioned in section 63 (2), make an order declaring the rent or proposed rent to be excessive and determining the maximum amount of rent payable in respect of the premises.

(4) Where, on application by a tenant after receiving the report of the Director in relation to rent or proposed rent payable under a tenancy agreement, the Tribunal makes an order under this section, it may include in the order a provision requiring the landlord to refund to the tenant an amount equal to the difference between—

- (a) the amount of the rent payable under the tenancy agreement in respect of the period commencing on the day on which the tenant requested the Director to investigate the rent and ending on the day immediately before the day on which the order is made; and
- (b) the maximum amount of rent that would have been payable in respect of that period if the order had come into operation on the day on which the tenant made the request to the Director for investigation of the rent.

(5) Where the Tribunal makes an order under this section in respect of premises, a person shall not, in respect of the period of twelve months after the day on which the order comes into operation, demand or accept an amount of rent under a tenancy agreement in respect of the premises exceeding the amount of the maximum rent payable in accordance with the order.

DIVISION 3—SECURITY DEPOSITS

65. (1) The Treasurer may approve as an approved institution for the purposes of this Act a bank or other financial institution having power to accept deposits of moneys if he is satisfied that the bank or institution will enter into arrangements with depositors under which the bank or institution will—

Approved
institutions.

- (a) open and maintain interest-bearing trust accounts for the purpose of this Division; and
- (b) pay interest on amounts in such trust accounts to the Treasurer.

(2) The Treasurer may at any time by notice in writing given to a bank or other financial institution approved under sub-section (1) revoke the approval of the bank or institution as an approved institution for the purposes of this Act.

(3) The Treasurer shall give notice to the Director of any approval of a bank or financial institution as an approved institution for the purposes of this Act and of any revocation of such an approval.

(4) The

(4) The Director shall keep a record of approved institutions.

(5) A record under sub-section (4) shall be open to inspection by any person free of charge.

Security
deposit held
in trust.

66. A landlord under a tenancy agreement who receives a security deposit in respect of the tenancy agreement holds the security deposit upon trust for the tenant subject to and in accordance with this Act.

Security
deposit to be
paid into
approved trust
account.

67. (1) A landlord under a tenancy agreement who receives a security deposit in respect of the tenancy agreement—

- (a) shall pay the security deposit into an approved trust account maintained by him at an approved institution before the end of the third business day after the day on which the security deposit is received;
- (b) shall maintain the approved trust account (or, where sub-section (3) applies, an approved trust account at another approved institution) until the security deposit is paid out of the account in accordance with this Act; and
- (c) shall retain the security deposit in the approved trust account (or, where sub-section (3) applies, an approved trust account at another approved institution) until it is paid out of the account in accordance with this Act.

(2) A person who is authorized by a landlord under a tenancy agreement to receive a security deposit in respect of the tenancy agreement shall pay the security deposit to, or in accordance with the instructions of, the landlord before the end of the third business day after the day on which the security deposit is received.

(3) Where the approval of a bank or other financial institution as an approved institution is revoked, a person who maintains a trust account at that institution for the purposes of this Division shall forthwith transfer the amount in the account to an approved trust account at another approved institution.

Penalty: \$500.

Approved
trust account.

68. (1) For the purposes of this Division, an approved trust account is a trust account maintained by a person at an approved institution being an account in respect of which the person has an arrangement with the institution under which the institution agrees to pay the interest on amounts in the account to the Treasurer.

(2) Where under an arrangement referred to in sub-section (1) an approved institution agrees to pay the interest on amounts in a trust account to the Treasurer, the institution shall pay that interest to the Treasurer.

(3) The

(3) The Treasurer shall pay into the Fund any interest received by him on approved trust accounts.

69. (1) Where a landlord under a tenancy agreement—

- (a) holds a security deposit in respect of the rented premises; and
- (b) assigns his interest in the rented premises to another person—

Landlord to transfer security deposit to assignee.

he shall authorize and require the approved institution at which is maintained the trust account in which the security deposit is held to transfer from that trust account the amount of the security deposit to an approved trust account opened and maintained for the purposes of this Act by the other person at an approved institution nominated by the other person.

(2) Upon the transfer to a person of a security deposit in respect of rented premises under sub-section (1) by a landlord, the obligations of the landlord in respect of the security deposit are discharged and the security deposit is held by the first-mentioned person in trust for the tenant as if the rights and obligations of the landlord in respect of the security deposit had been assigned to him.

70. (1) Subject to sub-section (2) and section 71, a person shall not, in respect of a tenancy agreement under which the amount of rent payable in respect of one week is not more than \$100 or, where a greater amount is prescribed for the purposes of this section, that greater amount, demand or accept—

Maximum security deposit.

- (a) a security deposit the total amount of which exceeds—
 - (i) unless an order is in force in respect of the premises under section 71, the amount of rent payable under the tenancy agreement in respect of one month; or
 - (ii) where an order is in force in respect of the premises under section 71, the maximum amount of the security deposit determined under that order; or
- (b) the payment of amounts in respect of a contract or contracts of insurance relating to the performance of the tenant's obligations in respect of the tenancy agreement where the amount or total amounts of the sum or sums assured under the contract or contracts exceeds the maximum amount that may be demanded or received as a security deposit in respect of the tenancy agreement—

and shall not demand or accept both such a security deposit and payment of such amounts in respect of a contract of insurance.

Penalty: \$500.

(2) Where, in respect of a tenancy agreement, the landlord demands a security deposit in compliance with sub-section (1), the tenant

tenant is entitled to elect to pay, in lieu of the security deposit, an amount or amounts in respect of a contract of insurance relating to the performance of the tenant's obligations in respect of the tenancy agreement, being a contract under which the amount of the sum assured is the amount of the security deposit demanded by the landlord.

(3) Where the tenant under a tenancy agreement makes an election under sub-section (2), the landlord may demand or accept amounts in compliance with paragraph (b) of sub-section (1) and shall not demand or receive a security deposit in respect of the tenancy agreement.

Penalty: \$500.

(4) A landlord shall not refuse to enter into a tenancy agreement by reason that the tenant makes an election under sub-section (2).

(5) Sub-section (1) does not apply in respect of a tenancy agreement relating to premises that, immediately before the agreement was entered into, were the landlord's principal place of residence, being a tenancy agreement that states that fact and that the landlord intends to resume occupancy of the premises upon termination of the tenancy agreement.

Determination
of maximum
amount of
security
deposit

71. (1) A landlord under a tenancy agreement or proposed tenancy agreement who wishes to demand or accept a security deposit the amount of which exceeds the amount that under section 70 he is permitted to demand or accept—

- (a) may request the Director to determine the maximum amount of the security deposit; or
- (b) may make application to the Tribunal for an order determining the maximum amount of the security deposit—

that he is permitted to demand or accept in respect of the tenancy agreement or proposed tenancy agreement.

(2) Subject to sub-section (3), the Director, on receiving a request under sub-section (1) and after consideration of—

- (a) the character, condition or quality of any goods, furniture or fittings let or provided under the tenancy agreement; and
 - (b) the character and condition of the rented premises—
- may, if he is of the opinion that the maximum amount of the security deposit ought reasonably to be increased, determine the maximum amount of the security deposit that may be demanded or accepted in respect of the tenancy agreement or proposed tenancy agreement.

(3) The

(3) The Director may not make a determination under sub-section (2) in relation to a security deposit in respect of a tenancy agreement if the Tribunal has made an order under this section in respect of that tenancy agreement or proposed tenancy agreement.

(4) The Tribunal, on receiving an application under sub-section (1) in relation to a security deposit in respect of a tenancy agreement or proposed tenancy agreement, whether or not a request has been made to, or a determination made by, the Director, may, after consideration of—

(a) the character, condition or quality of any goods, furniture or fittings let or provided under the tenancy agreement; and

(b) the character and condition of the rented premises—
if it is of the opinion that the maximum amount of the security deposit ought reasonably to be increased, make an order determining the maximum amount of the security deposit that may be demanded or accepted in respect of that tenancy agreement or proposed tenancy agreement.

72. Where—

(a) a tenant has paid a security deposit in respect of a tenancy agreement under which the amount of rent payable in respect of one week is not more than \$100 or, where a greater amount is prescribed for the purposes of section 70, that greater amount; and

(b) the tenant continues in occupation of the premises under a subsequent tenancy agreement—

a person shall not demand or accept a security deposit in respect of a subsequent tenancy agreement under which the tenant continues in occupation of the premises.

Penalty: \$500.

Not more than one security deposit payable in respect of continuous occupation.

73. (1) Where the landlord under a tenancy agreement requires the tenant to pay a security deposit the landlord shall, not later than the next business day after the day on which it is agreed that the tenant is to enter into occupation of the rented premises, give to the tenant two copies of a report in the prescribed form, signed by or on behalf of the landlord, as to the state of repair and general condition of the rented premises as at that day.

Penalty: \$200.

Condition report.

(2) Where the tenant receives copies of a report under sub-section (1), he shall within 3 business days after receipt of the copies return one of them to the landlord signed by or on behalf of the tenant or with an endorsement so signed to the effect that the tenant agrees, or disagrees, with the report as a whole or with specified parts of the report.

Penalty: \$200.

(3) Where

(3) Where a copy of a report under sub-section (1) is returned to the landlord signed, or with an endorsement signed, under sub-section (2), the report is a report to which section 89 applies.

Certain
guarantees
prohibited.

74. (1) Where, in respect of a tenancy agreement under which the amount of rent payable in respect of one week is not more than \$100 or, where a greater amount is prescribed for the purposes of section 70, that greater amount, the tenant has paid a security deposit or amounts in respect of a contract of insurance relating to the performance of the tenant's obligations in respect of the tenancy agreement, a person shall not demand, or require the tenant to obtain, a guarantee for the performance of any of the tenant's obligations in respect of the tenancy agreement.

Penalty: \$500.

(2) Sub-section (1) does not apply in respect of a tenancy agreement relating to premises that, immediately before the agreement was entered into, were the landlord's principal place of residence, being a tenancy agreement that states that fact and that the landlord intends to resume occupancy of the premises upon termination of the tenancy agreement.

Maximum
amount of
certain
guarantees.

75. (1) Where in respect of a tenancy agreement under which the amount of rent payable in respect of one week is not more than \$100 or, where a greater amount is prescribed for the purposes of section 70, that greater amount, the tenant has obtained a guarantee in relation to his obligations in respect of the tenancy agreement, the guarantee shall be unenforceable against the guarantor to the extent to which the amount guaranteed exceeds the amount of rent payable under the tenancy agreement in respect of one month.

(2) Sub-section (1) does not apply in respect of a tenancy agreement relating to premises that, immediately before the agreement was entered into, were the landlord's principal place of residence, being a tenancy agreement that states that fact and that the landlord intends to resume occupancy of the premises upon termination of the tenancy agreement.

Receipt for
security deposit.

76. (1) A person who receives payment of a security deposit in respect of a tenancy agreement shall, before the end of the next business day after the day on which the payment is received, give a receipt in accordance with sub-section (2) to the person who made payment.

(2) A receipt under sub-section (1) for payment of a security deposit in respect of a tenancy agreement shall be in writing and shall be signed by the person who received the payment and shall state—

(a) particulars sufficient to identify the tenant and the rented premises;

(b) the

- (b) the date of receipt of the payment;
- (c) the amount paid;
- (d) the name of the approved institution at which is kept the approved trust account into which the payment is to be paid and particulars sufficient to identify that account; and
- (e) the fact that the payment was received by way of security deposit.

Penalty: \$100.

77. (1) Where a security deposit is paid in respect of a tenancy agreement— Entitlement to security deposit.

- (a) the landlord may at any time pay the whole or any part of the security deposit held by him to the tenant;
- (b) if the tenant agrees not earlier than 30 days before the termination date in respect of the tenancy agreement that the landlord is entitled to the whole or any part of the security deposit held by him, the landlord is so entitled; and
- (c) if the tenant delivers up vacant possession of, or abandons, the rented premises and an amount of rent has accrued due and is unpaid, the landlord is entitled to that part of the security deposit held by him that is the amount of the rent that has accrued due and is unpaid or, where that amount equals or exceeds the amount of the security deposit held by him, to the whole of the security deposit.

(2) Subject to sub-section (3), where the amount or any part of the amount of the security deposit held by a landlord in respect of a tenancy agreement—

- (a) is not paid to the tenant under sub-section (1); and
- (b) is not an amount to which the landlord is entitled in accordance with sub-section (1)—

the landlord shall—

- (c) within fourteen days after the tenant delivers up vacant possession of the rented premises; or
- (d) within fourteen days after becoming aware that the tenant has abandoned the premises—

as the case may be, pay to the tenant the amount or part, as the case may be, of the security deposit held by him.

(3) A landlord

(3) A landlord under a tenancy agreement is not required to comply with sub-section (2) in respect of an amount of a security deposit held by him if—

- (a) he believes that he is entitled to the amount as compensation for loss or damage suffered by him on account of any one or more of the following:
 - (i) damage caused to the rented premises by the tenant or by a person coming on to the rented premises with the tenant's consent;
 - (ii) the failure by the tenant to keep the rented premises in a reasonably clean condition;
 - (iii) the abandonment of the rented premises by the tenant;
 - (iv) the liability of the landlord for charges payable by the tenant that are or may be recoverable by the person to whom they are owed from the landlord;
 - (v) any act or omission of the tenant or a person coming on to the rented premises with the tenant's consent that occasioned the loss of goods belonging to the landlord; and
- (b) he has within the time within which he would, but for this sub-section, be required to comply with sub-section (2), served notice on the tenant of his claim for compensation and made an application in accordance with sub-section (4) to the Tribunal for determination of his claim.

(4) An application to the Tribunal under sub-section (3) shall be accompanied by a copy of the report prepared in respect of the rented premises under the tenancy agreement in accordance with section 73.

(5) Where a landlord serves a notice of claim on a tenant under sub-section (3), the tenant may within 14 days after service of the notice, file notice of objection with the Registrar.

(6) Where an application is made to the Tribunal under sub-section (3), the Tribunal shall—

- (a) where the tenant has not filed a notice of objection under sub-section (5), determine the claim of the landlord; or
- (b) where the tenant has filed such a notice, hear and determine the claim.

(7) Where a tenant under a tenancy agreement has delivered up vacant possession of, or has abandoned, the rented premises and has not given the landlord particulars of his address for service of notices and neither the landlord, nor an agent of the landlord,

is

is aware of such an address of the tenant, the Tribunal may, on the application of the landlord, order that, for the purposes of this section, the landlord shall be deemed to have served notice on the tenant under sub-section (3) on the day on which the order was made.

(8) In this section, "landlord" in relation to a tenancy agreement that has terminated means the person who, immediately before the termination, was the landlord and the holder of a security deposit in respect of the tenancy agreement.

78. Where a person is required under this Division to pay to another person the amount or part of the amount of a security deposit but is unable to do so because the whereabouts of the other person are unknown to him, the amount or part shall be regarded as unclaimed moneys and dealt with in accordance with the provisions of Part II. of the *Unclaimed Moneys Act 1962* as if the first-mentioned person were a company or firm to which that Part applies.

Security deposit to be dealt with as unclaimed moneys in certain cases.

79. A tenant under a tenancy agreement shall not refuse to pay rent on the ground that he intends to regard as rent paid by him the security deposit or any part of the security deposit paid by him in respect of the rented premises.

Tenant not to refuse to pay rent on account of security deposit.

Penalty: \$200.

DIVISION 4—OTHER CHARGES

80. A landlord under a proposed tenancy agreement who receives an application deposit or other payment from a tenant as a sign of good faith shall—

Application deposits.

- (a) if at the expiration of the period of fourteen days after the day on which the landlord received the application deposit or payment, the landlord has not entered into a tenancy agreement with the tenant—refund the application deposit or payment to the tenant before the end of the next following business day; or
- (b) if before the expiration of that period the landlord enters into a tenancy agreement with the tenant—upon entering into the agreement refund the amount of the application deposit or payment to the tenant.

Penalty: \$200.

81. (1) Except as otherwise provided under this Act, a landlord shall not demand or receive from a tenant under a tenancy agreement or proposed tenancy agreement—

Holding deposits and other charges.

- (a) in the case of a proposed tenancy agreement a payment in consideration of a promise by the landlord not to let the premises to any other person; or

(b) a charge

- (b) a charge or an indemnity for a charge in relation to the making, continuation or renewal of a tenancy agreement that is a premium, bonus, commission or key money.

(2) A person shall not demand or receive from a tenant under a proposed tenancy agreement of premises any charge in relation to the inspection of the premises by the tenant.

Penalty: \$200.

Tenant responsible for charges for electricity, &c.

82. Unless a tenancy agreement otherwise provides or the landlord and the tenant otherwise agree, the tenant—

- (a) is liable for all charges in respect of the use of electricity, gas or oil in respect of his occupation of the rented premises; and
- (b) shall indemnify the landlord in respect of any amount recoverable from the landlord by a public statutory authority by way of charges for the supply of water by measure to the rented premises in excess of the minimum rate payable for the supply of water, being charges relating to the period during which the tenant occupies the rented premises.

Costs of preparing tenancy agreement.

83. Where a tenancy agreement is in writing, a provision in the agreement or any other agreement that requires a party to the tenancy agreement to bear any fees, costs or charges (other than stamp duty) incurred by the other party in connexion with the preparation of the tenancy agreement is void.

Indemnity in respect of rates and taxes.

84. The landlord under a tenancy agreement other than a fixed term tenancy agreement for a term certain exceeding one year shall indemnify the tenant in respect of any amount recoverable from the tenant by a public statutory authority in respect of rates or taxes payable under an Act in respect of the rented premises.

PART IV.—TENANCY AGREEMENTS

DIVISION 1—GENERAL

Standard forms.

85. (1) Where a tenancy agreement is in writing, it shall be in or to the effect of the prescribed standard form.

(2) A landlord or a tenant shall not prepare or authorize to be prepared, a tenancy agreement in writing in a form that is not in or to the effect of the prescribed standard form.

Penalty: \$200.

(3) Where

(3) Where a tenancy agreement is entered into in writing in a form that is not in or to the effect of the prescribed standard form, the tenancy agreement is not, except as provided in section 142, illegal, void or unenforceable by reason only of the operation of this section.

86. (1) A landlord under a proposed tenancy agreement shall not give to a tenant for signature the proposed tenancy agreement or any other document that contains terms that are proposed to form part of the tenancy agreement unless he has given to the tenant for his own use a copy of the proposed agreement or other document. Copy of agreement.

(2) Where a tenancy agreement is, or any of the terms of a tenancy agreement are, in writing signed by the tenant, the landlord shall give to the tenant a copy of the agreement or those terms signed by the landlord and tenant—

- (a) within fourteen days after the agreement is entered into or the terms are agreed; or
- (b) where the landlord is required to submit the document containing the agreement or those terms for the payment of stamp duty—within fourteen days after the stamp duty is paid—

whichever last occurs.

Penalty: \$200.

87. (1) A landlord under a tenancy agreement shall give to the tenant not later than the day on which it is agreed that the tenant is to enter into occupation of the rented premises— Statement of rights.

- (a) advice in or to the effect of the prescribed form as to the rights and obligations of landlords and tenants under tenancy agreements;
- (b) a statement in writing of the landlord's full name and address for service of documents; and
- (c) if there is an agent acting on behalf of the landlord, a statement in writing of the agent's full name and address for service of documents and the agent's telephone number (if any).

(2) Without affecting the landlord's obligation under paragraph (a) of sub-section (1), the landlord may give the tenant a document to the effect of the prescribed form mentioned in that paragraph expressed in a language, spoken by the tenant, other than the English language.

(3) If

(3) If while a tenancy agreement is in force, there is a change in any of the particulars mentioned in paragraphs (b) and (c) of sub-section (1), the landlord shall, before the expiration of fourteen days after the change, give notice in writing of the change to the tenant.

Penalty: \$200.

Refusal to let premises to persons intending to live on premises with child.

88. (1) Subject to sub-section (2) a person shall not refuse, or instruct or permit his agent to refuse, to let premises to another person under a tenancy agreement on the ground that the other person intends to live on the premises with a child.

Penalty: \$200.

(2) Sub-section (1) does not apply in respect of—

- (a) premises proposed to be let by a public statutory authority or a body corporate, being premises in respect of which the authority or body is receiving financial assistance for the provision of housing for lone persons or childless couples under an Act or an Act of the Parliament of the Commonwealth;
- (b) premises that are the principal place of residence of the person refusing, or instructing or permitting his agent to refuse, to let the premises; or
- (c) premises that by reason of their design or location are unsuitable or inappropriate for occupation by a child.

(3) Where a person claims that premises are not, by reason of their design or location, unsuitable or inappropriate for occupation by a child, he may make application to the Tribunal for a determination of the matter.

Condition report as evidence of state of repair etc.

89. Where a report as to the state of repair and general condition of rented premises under a tenancy agreement as at a particular time has been prepared in writing whether or not for the purposes of section 73 and—

- (a) is signed by or on behalf of the landlord; and
- (b) is signed by or on behalf of the tenant, or includes an endorsement so signed to the effect that the tenant agrees with the report as a whole, or with specified parts of the report—

a statement in the report (other than a statement with which, under the endorsement, the tenant does not agree) as to the state of repair or general condition of the premises or any part of the premises is conclusive evidence for the purposes of this Act of that state of repair or general condition, subject only to any state of repair or general condition that could not reasonably have been discovered upon a reasonable inspection of the premises.

90. A tenant

90. A tenant under a tenancy agreement who becomes aware of damage to the rented premises shall forthwith give notice specifying the nature of the damage to the landlord.

Tenant to give notice of damage.

DIVISION 2—RIGHTS AND DUTIES OF LANDLORDS AND TENANTS

91. The landlord under a tenancy agreement shall ensure that on the day on which it is agreed that the tenant shall enter into occupation of the rented premises, the premises are vacant and are in a reasonably clean condition.

Landlord's duty in relation to provision of premises.

92. A landlord under a tenancy agreement shall take all reasonable steps to ensure that the tenant has quiet enjoyment of the rented premises during the tenancy agreement.

Quiet enjoyment.

93. (1) A tenant under a tenancy agreement shall not use the rented premises or permit the rented premises to be used for any purpose which is illegal either at common law or under an Act.

Tenant not to use premises for illegal purpose or cause nuisance.

(2) A tenant under a tenancy agreement shall not use the rented premises or permit the rented premises to be used in such a manner as to cause a nuisance.

(3) Where a tenant under a tenancy agreement is in breach of sub-section (2) in relation to the tenancy agreement and the landlord has served notice of the breach in accordance with this Part, the landlord is not entitled to exercise a right under this Act in respect of the breach if before the expiration of fourteen days after service of the notice the tenant ceases to commit the breach.

(4) Sub-section (3) does not apply in respect of a breach of sub-section (2) by a tenant where, on not less than two previous occasions, the tenant has committed the same breach in respect of the same tenancy agreement and sub-section (3) has applied in respect of each such breach.

94. (1) The landlord under a tenancy agreement shall provide locks or other devices to secure all external doors and windows of the rented premises.

Locks.

(2) A party to a tenancy agreement who provides or alters a lock on an external door or window of the rented premises shall forthwith give a key to the lock to the other party to the tenancy agreement.

95. (1) A landlord under a tenancy agreement or an agent acting on behalf of a landlord under a tenancy agreement has a right to enter the rented premises together with such persons as

Right to enter rented premises.

are

are necessary to achieve the purpose of the entry and the tenant has a duty to permit the landlord or agent and other persons to enter the premises—

- (a) at a time agreed with the tenant where, not more than seven days before the entry, the tenant has consented to the entry; or
 - (b) at a time between the hours of 8.00 a.m. and 6.00 p.m. being a time not less than 24 hours after the landlord or agent has given to the tenant notice in accordance with sub-section (3) where—
 - (i) before the giving of that notice, notice of termination of the tenancy agreement had been given and entry is required to show the premises to a prospective tenant;
 - (ii) the premises are to be sold or used as security for a loan and entry is required to show the premises to a prospective buyer or prospective lender;
 - (iii) entry is required to enable the landlord to carry out a duty of the landlord under this Act, the tenancy agreement or any other Act;
 - (iv) entry is required for valuation purposes;
 - (v) the landlord or the agent believes on reasonable grounds that the tenant has failed to comply with any of his obligations under this Division or Division 3 or under the tenancy agreement; or
 - (vi) entry is required to enable the landlord or the agent to inspect the premises and entry for that purpose has not been made during the past six months.
- (2) A person exercising a right of entry under sub-section (1)—
- (a) shall exercise the right in a reasonable manner; and
 - (b) shall not, without the consent of the tenant, stay, or permit a person accompanying him, to stay on the premises longer than is necessary to achieve the purpose of the entry.
- (3) A notice of entry referred to in paragraph (b) of sub-section (1) shall—
- (a) state why the landlord or the agent wishes to enter the premises; and
 - (b) be given by post or between the hours of 8.00 a.m. and 6.00 p.m.

96. (1) Where a landlord under a tenancy agreement or the agent of a landlord under a tenancy agreement has caused damage to the tenant's goods on the rented premises when exercising a right of entry under section 95, or a person accompanying the landlord or agent exercising such a right of entry has caused such damage, the tenant may make application to the Tribunal for an order for compensation.

Orders of Tribunal relating to entry.

(2) Where a landlord under a tenancy agreement has exercised a right of entry under section 95 and has failed to comply with that section, the tenant may make application to the Tribunal for an order restraining the landlord and agents acting on behalf of the landlord from exercising a right of entry under that section during a specified period.

(3) Where an application is made to the Tribunal under this section, the Tribunal—

- (a) in the case of an application under sub-section (1), if it is satisfied that damage was caused to the rented premises, may make an order for the payment of such compensation as it thinks fit;
- (b) in the case of an application under sub-section (2), if it is satisfied that it is reasonable to do so, may make an order prohibiting the landlord and agents acting on behalf of the landlord from exercising a right under section 95 (1) (b) (i), (ii), (iv) or (vi) to enter during such period as is specified in the order; or
- (c) in either case, may refuse to make an order.

DIVISION 3—REPAIR AND MAINTENANCE

97. A landlord under a tenancy agreement shall ensure that the rented premises are maintained in good repair.

Landlord's duty to maintain premises.

98. (1) Where rented premises under a tenancy agreement are, or are part of, a house in respect of which a declaration under section 56 of the *Housing Act* 1958 is in force, the landlord is in breach of section 97.

Declaration under *Housing Act* 1958 that house unfit for habitation, etc.

(2) Notwithstanding that a landlord under a tenancy agreement is in breach of section 97 by reason of a declaration referred to in sub-section (1), the tenant is not entitled to exercise a right under section 99, 100 or 105 while the declaration is in force.

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99. (1) Where the tenant under a tenancy agreement is unable, after taking reasonable steps, to make arrangements for the carrying out forthwith by the landlord or by an agent of the landlord of urgent repairs to the rented premises—

Urgent repairs.

- (a) the tenant may carry out the repairs; and

(b) subject

- (b) subject to sub-section (2), the landlord is liable to reimburse the tenant for the reasonable costs of the repairs or \$200, whichever is the less.

(2) A landlord is not liable to reimburse an amount to a tenant under sub-section (1) until the expiration of a period of fourteen days after the tenant gives him notice in writing specifying the urgent repairs carried out and the cost of carrying out those repairs.

(3) In this section "urgent repairs" means any work necessary to repair or remedy—

- (a) any burst water service;
- (b) any sewerage blockage;
- (c) any broken sewerage fittings;
- (d) any serious roof leak;
- (e) any gas leak;
- (f) any electrical fault likely to cause damage to property or to endanger human life;
- (g) flooding;
- (h) any fault in a lift in the rented premises;
- (i) any substantial damage caused by flooding, storm or fire; or
- (j) any damage of a prescribed class.

Repairs
generally.

100. (1) Where the tenant under a tenancy agreement has given the landlord notice advising the landlord that repairs (other than urgent repairs referred to in section 99) are required to the rented premises and the landlord has not, within fourteen days after the giving of the notice, carried out the repairs, the tenant may request the Director to investigate the matter with a view to ascertaining whether the landlord is in breach of a duty to ensure that the rented premises are maintained in good repair.

(2) Where a request for an investigation is made under sub-section (1), the Director shall carry out the investigation and—

- (a) may, if he is of the opinion that the landlord is in breach of a duty to ensure that the rented premises are maintained in good repair, negotiate arrangements for the carrying out of the repairs; and
- (b) shall report to the tenant.

(3) Where the tenant under a tenancy agreement receives the report of the Director under sub-section (2) and, notwithstanding the report, is of the view that satisfactory arrangements have not been made for carrying out repairs to the rented premises, the tenant may make application to the Tribunal for an order requiring the landlord to carry out specified repairs.

(4) Where

(4) Where an application is made under sub-section (3) and the Tribunal is satisfied that the landlord is in breach of a duty to maintain the premises in good repair, the Tribunal may make an order requiring the landlord to carry out specified repairs within the time stated in the order.

101. (1) Where the tenant under a tenancy agreement has given notice to the landlord requiring the landlord to carry out repairs to the rented premises, the tenant may make application to the Tribunal for an order authorizing the tenant to pay the rent under the tenancy agreement into the Rent Special Account in the Fund.

Order of
Tribunal for
payment of
rent into Fund.

(2) Where an application is made under sub-section (1) by a tenant under a tenancy agreement and the Tribunal is satisfied that a notice has been given to the landlord in accordance with this Act requiring him to carry out repairs and that the landlord has failed to comply with his obligation to carry out repairs, it may make an order authorizing the tenant to pay the rent under the tenancy agreement into the Rent Special Account in the Fund during such period as the Tribunal specifies.

(3) Where an order is made under sub-section (2) for the payment of rent under a tenancy agreement into the Rent Special Account during a specified period—

- (a) the amount of that rent held in the Rent Special Account at the expiration of that period shall be paid to the landlord; and
- (b) the Tribunal may, on the application of the landlord before the expiration of that period, if it is satisfied that the landlord has fulfilled or is fulfilling his obligation to carry out repairs to the rented premises, order that the whole or such part as it determines of that rent held in the Rent Special Account be paid to the landlord.

102. A tenant under a tenancy agreement shall—

- (a) keep the rented premises in a reasonably clean condition, except in so far as under the tenancy agreement the landlord is responsible for keeping the premises in that condition; and
- (b) ensure that care is taken to avoid damaging the rented premises.

Tenant to keep
rented premises
clean, &c.

103. (1) Where damage is caused to rented premises because of a failure by the tenant under the tenancy agreement to comply with his obligations under section 102, the landlord—

Landlord's
remedy for
breach of
tenant's
obligations
under section
102.

- (a) where he requires the tenant to repair the damage at the tenant's expense, may give a notice in writing to the tenant stating—
 - (i) the nature of the damage;

(ii) that

- (ii) that the damage was caused by the failure of the tenant to ensure that care is taken to avoid damaging the rented premises;
- (iii) that the landlord requires the tenant to repair the damage at the tenant's expense within fourteen days after the giving of the notice; and
- (iv) that if the tenant has not within that period repaired the damage in a tradesman like manner the landlord may at the tenant's expense cause the damage to be repaired;
- (b) where he has given notice to the tenant under paragraph (a) and the tenant has not within fourteen days after the giving of the notice repaired the damage in a proper and tradesman like manner, may repair the damage at the tenant's expense; or
- (c) may repair the damage at the tenant's expense forthwith after giving to the tenant notice in writing stating—
 - (i) the nature of the damage;
 - (ii) that the damage was caused by the failure of the tenant to ensure that care is taken to avoid damaging the rented premises; and
 - (iii) that the tenant is liable for the reasonable cost of the repairs and that the landlord is undertaking the repairs.

(2) Where the landlord under a tenancy agreement repairs damage to the rented premises at the tenant's expense in accordance with sub-section (1) and gives to the tenant particulars in writing of the cost of the repairs, the tenant is liable to the landlord for the reasonable cost of those repairs.

(3) The landlord under a tenancy agreement is not in breach of the duty to ensure that the rented premises are maintained in good repair where—

- (a) damage has been caused to the rented premises because of the tenant's failure to ensure that care is taken to avoid damaging the rented premises; and
- (b) the landlord has given to the tenant notice under sub-section (1) requiring the tenant to repair the damage.

DIVISION 4—FIXTURES, ETC.

104. (1) The tenant under a tenancy agreement shall not, without the landlord's written consent—

- (a) install fixtures on the rented premises; or
- (b) make any renovation, alteration or addition to the rented premises.

(2) Unless

Tenant not to install fixtures, &c. without consent.

(2) Unless the tenancy agreement otherwise provides or the landlord and the tenant otherwise agree, a tenant who has installed fixtures on the rented premises or made any renovation, alteration or addition to the rented premises (whether or not with the landlord's written consent) shall before the tenancy agreement terminates or is terminated—

- (a) restore the premises to the condition they were in immediately before the installation or the making of the renovation, alteration or addition, fair wear and tear excepted; or
- (b) pay to the landlord an amount equal to the reasonable cost of restoring the premises to that condition.

DIVISION 5—COMPENSATION

105. (1) Subject to this Act, a party to a tenancy agreement may make application to the Tribunal for an order for the payment to the applicant by the other party to the tenancy agreement of compensation for loss or damage suffered by the applicant because—

Application to
Tribunal for
compensation.

- (a) the other party has failed to comply with the tenancy agreement or any of his obligations under this Act relating to the tenancy agreement;
- (b) in the case of a fixed-term tenancy agreement, an order has been made by the Tribunal reducing the term of the tenancy agreement; or
- (c) the applicant has paid to the other party to the tenancy agreement more than the applicant is required to pay to that other party in accordance with this Act and the tenancy agreement.

(2) A party to a tenancy agreement may not make application to the Tribunal under sub-section (1) for an order for compensation for loss or damage suffered by reason of a breach of Division 2 or 3 that applies to the tenancy agreement unless—

- (a) he has given not less than fourteen days' notice to the other party—
 - (i) specifying the breach;
 - (ii) where the breach is capable of remedy, requiring the other party to remedy the breach; and
 - (iii) stating his intention to apply for the order; and
 - (b) where the breach is capable of remedy, the other party has not, within the period of fourteen days after the notice is given, remedied the breach.
- (3) Where, on not less than two previous occasions—
- (a) a party to a tenancy agreement has been in breach of the same provision of Division 2 or 3 that applies to the tenancy agreement;

(b) the

- (b) the other party has on each occasion given notice under sub-section (2); and
- (c) the first-mentioned party has on each occasion remedied the breach before the expiration of the period of fourteen days after the giving of the notice—

the first-mentioned party may, without giving notice under sub-section (2), make application to the Tribunal under sub-section (1).

Order for
compensation.

106. (1) Upon application for compensation under section 105, the Tribunal, after taking into account—

- (a) whether or not the person from whom the compensation is claimed has taken all reasonable steps to comply with his obligations under this Act and the tenancy agreement, being obligations in respect of which the claim is made;
- (b) in the case of a breach of a tenancy agreement, whether or not the applicant has consented to the failure to comply with obligations in respect of which the claim is made;
- (c) whether or not any moneys have been paid to or recovered by the applicant by way of compensation, including any moneys recovered or entitled to be recovered from the security deposit (if any) paid under the tenancy agreement;
- (d) whether any reduction or refund of rent or other allowance has been made to the applicant in respect of the tenancy agreement;
- (e) whether or not any action was taken by the applicant to mitigate the loss or damage;
- (f) any tender of compensation; and
- (g) where the claim is made in respect of damage to the rented premises, any action taken by the person from whom the compensation is claimed to repair the damage at his own expense—

may determine whether or not compensation should be paid to the applicant and, if it determines that compensation should be so paid, shall make an order for the payment to the applicant by the other party to the tenancy agreement of such amount as the Tribunal determines.

(2) A person who has recovered compensation from a security deposit relating to a tenancy agreement is not prevented from taking proceedings under this section to recover any additional amount by way of compensation relating to that tenancy agreement.

(3) Where

(3) Where a party to a tenancy agreement is convicted of an offence against this Act, the court before which he is convicted may, on application by the other party to the tenancy agreement, order the first mentioned party to pay to the applicant compensation for any loss or damage suffered by the applicant because of the commission of the offence.

(4) The Tribunal shall not make an order under this section for the payment of compensation in respect of death, physical injury, pain or suffering.

107. (1) A landlord under a tenancy agreement is not entitled to claim compensation under this Act in respect of a failure by the tenant to pay rent unless the rent is unpaid for at least fourteen days after it has accrued due.

Compensation
for unpaid
rent.

(2) Sub-section (1) does not apply where the tenant has on not less than two previous occasions failed to pay rent under the same tenancy agreement within fourteen days after it has accrued due.

DIVISION 6—ASSIGNMENT AND SUB-LETTING

108. (1) A tenant under a tenancy agreement shall not assign or sub-let the whole or any part of the rented premises without the consent of the landlord.

Tenant not to
assign or sub-
let without
consent.

(2) A landlord under a tenancy agreement shall not unreasonably withhold his consent to an assignment or sub-letting of the whole or any part of the rented premises.

(3) Where a landlord under a tenancy agreement withholds his consent to an assignment or sub-letting of the whole of rented premises or to an assignment of any part of rented premises and the tenant believes the consent is unreasonably withheld, the tenant may apply to the Tribunal for a determination that the consent of the landlord is not required.

(4) Where, on an application under sub-section (3), the Tribunal having heard the landlord and the tenant, determines that the consent of the landlord to an assignment or sub-letting of the whole of rented premises or to an assignment of any part of rented premises is not required, the assignment or sub-letting may be effected without that consent.

(5) An assignment or sub-letting of the whole or any part of rented premises made without the consent of the landlord is void unless, on an application under sub-section (3), the Tribunal has determined that the consent is not required.

(6) A landlord shall not—

(a) demand or receive a fee or payment for his consent to an assignment or sub-letting of rented premises; or

(b) refuse

- (b) refuse to consent to an assignment or sub-letting of rented premises on the ground that the tenant has refused to pay a fee or amount that the landlord has required the tenant to pay for the consent.

(7) Where a tenant has paid to a landlord of rented premises a fee or amount for the consent of the landlord to an assignment or sub-letting, the tenant may apply to the Tribunal for an order that the landlord refund to the tenant the amount of the payment.

(8) Nothing in this section prevents a landlord under a tenancy agreement from requiring the tenant to bear any fees, costs or charges incurred by the landlord in connexion with the preparation of an assignment in writing of the tenancy agreement.

PART V.—TERMINATION OF TENANCY AGREEMENTS

DIVISION 1—TERMINATION GENERALLY

Termination
of tenancy
agreements.

109. (1) Notwithstanding any Act or law to the contrary, a tenancy agreement shall not terminate or be terminated except—

- (a) by agreement of the landlord and the tenant;
- (b) where the landlord or the tenant gives notice of termination under this Act and—
 - (i) the tenant delivers up vacant possession of the rented premises on or after the termination date specified in the notice; or
 - (ii) the tenancy agreement terminates in accordance with section 130 (2);
- (c) where the landlord is not the owner in fee simple of the rented premises—if the person who is entitled to the reversion on the determination of the interest of the landlord in the premises gives notice of termination under this Act in accordance with section 110 and—
 - (i) the tenant delivers up vacant possession of the rented premises on or after the termination date specified in the notice; or
 - (ii) the tenancy agreement terminates in accordance with section 130 (2);
- (d) where the tenant is not in possession of the rented premises by reason of the sub-letting by him of the premises—if the landlord or the tenant gives notice of termination under this Act and the period (if any) between the giving of the notice and the termination date specified in the notice has expired;
- (e) where a mortgagee in respect of the rented premises under a mortgage entered into before the tenancy agreement was entered into becomes entitled to possession of, or to exercise

exercise a power of sale in respect of, the premises under the mortgage and gives notice in writing to the tenant requiring him to vacate the premises;.

- (f) where the tenant abandons the rented premises;
- (g) where the tenant delivers up vacant possession of the rented premises with the consent of the landlord which, once given, is irrevocable;
- (h) by merger;
- (i) by disclaimer;
- (j) where the tenant has not entered into possession of the rented premises and has given notice of termination of the tenancy agreement to the landlord on a ground specified in sub-section (2); or
- (k) where the tenant has not entered into possession of the rented premises and the landlord has given notice of termination of the tenancy agreement to the tenant on the ground—
 - (i) that the rented premises are unfit for human habitation; or
 - (ii) that the rented premises are destroyed totally or to such an extent as to be rendered unsafe.

(2) The grounds for the purposes of paragraph (j) of sub-section (1) are—

- (a) that the rented premises are not in good repair;
- (b) that the rented premises are unfit for human habitation;
- (c) that the rented premises are destroyed totally or to such an extent that they are rendered unsafe;
- (d) that the rented premises are not vacant;
- (e) that the rented premises are not legally available for use as a residence; or
- (f) that the rented premises are for any other reason unavailable for occupation.

(3) Where—

- (a) a person is in possession of premises under a tenancy agreement to which this Act applies granted to him by a person who is a tenant of those premises under another tenancy agreement (whether or not this Act applied at any time to that agreement) granted to him by a landlord;
- (b) that other tenancy agreement terminates or is terminated and

(c) the

- (c) the first-mentioned tenancy agreement does not terminate and is not terminated in accordance with sub-section (1) when that other tenancy agreement terminates or is terminated—

the first-mentioned person becomes the tenant of the landlord in respect of those premises on the same terms so far as applicable as the terms of the first-mentioned tenancy agreement.

Right of
reversioner
to give notice
to vacate.

110. (1) Where the landlord under a tenancy agreement is not the owner in fee simple of the rented premises, the person who is entitled to the reversion on the determination of the interest of the landlord in the premises may, subject to sub-section (2), exercise a right to give the tenant a notice to vacate the rented premises (otherwise than under section 121) or to recover possession of the premises that the landlord may exercise, including a right to give a notice for the purposes of section 120 of a breach of a provision of Division 2, 3 or 4 of Part IV. that applies to the tenancy agreement.

(2) Where a person is entitled under sub-section (1) to exercise a right to give a notice to vacate rented premises, a notice to vacate given by that person does not have effect unless it specifies a termination date on or after the day on which the person is entitled in possession to the reversion on the determination of the interest of the landlord in the premises.

(3) Where a person exercises a right in relation to a tenancy agreement, a tenant or rented premises that, under this section, he is entitled to exercise, the provisions of this Part have effect as if a reference to the landlord under the tenancy agreement included a reference to that person.

Order by
Tribunal that
premises are
abandoned.

111. (1) Where a landlord under a tenancy agreement believes that the tenant has abandoned rented premises, the landlord may apply to the Tribunal for an order declaring that the tenant has abandoned the rented premises.

(2) The Tribunal may, upon application under this section by a landlord under a tenancy agreement, by order declare that the rented premises were abandoned by the tenant on a date specified by the Tribunal and the tenant shall be deemed to have abandoned the premises on that day.

Creation of
periodic
tenancy.

112. (1) Where the term of a fixed-term tenancy agreement to which this Act applies expires and the tenant under that agreement continues in occupation of the rented premises otherwise than as a tenant under another fixed-term tenancy agreement, he shall be taken to occupy the premises under a periodic tenancy agreement.

(2) The rental period under the periodic tenancy agreement created by sub-section (1) shall be—

- (a) where the rental period under the fixed-term tenancy agreement was more than a month—a monthly period; and

(b) where

(b) where the rental period under the fixed-term tenancy agreement was a month or less—a period equivalent to that rental period.

(3) Subject to sub-section (2) the terms of the periodic tenancy agreement shall so far as applicable be the same as the terms of the fixed-term tenancy agreement.

(4) The Tribunal may, upon application by the landlord or the tenant, make such modifications of the terms of a periodic tenancy agreement created by sub-section (1) as may be necessary for or appropriate to its continuance.

113. On application by a party to a fixed-term tenancy agreement, the Tribunal may make an order reducing the term of the agreement by a period stated in the order and making such variations in the terms of the agreement 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 agreement were not reduced would be greater than the hardship which the other party to the tenancy agreement would suffer if the term were reduced.

Reduction of term of fixed-term tenancy agreement.

DIVISION 2—TENANT'S RIGHT TO GIVE NOTICE OF TERMINATION

114. Where rented premises under a tenancy agreement—

- (a) have been destroyed totally or to such an extent as to be rendered unsafe; or
- (b) are unfit for human habitation—

Tenant may vacate where premises destroyed or unfit for habitation.

the tenant may give notice of intention to vacate the rented premises specifying a termination date that is the date of the giving of the notice or a later date.

115. (1) A tenant under a tenancy agreement may give notice of intention to vacate rented premises specifying a termination date that is not earlier than 28 days after the day on which he gives the notice.

Period of notice of intention to vacate.

(2) A notice given under sub-section (1) in respect of a fixed-term tenancy agreement is of no effect—

- (a) where the agreement includes a provision enabling the landlord or the tenant to determine the agreement by notice (otherwise than on the grounds of a breach of the agreement), if—

- (i) the period after the giving of the notice and before the termination date specified in the notice is less than the period of notice required under that provision; or

(ii) the

- (ii) the termination date specified in the notice is a date other than a date on which under that provision the agreement may be determined; or
- (b) in any other case—if it specifies a termination date that is earlier than the end of the term of the tenancy agreement.

Notice of
intention to
vacate for
breach of Act.

116. (1) Where a landlord under a fixed-term tenancy agreement is in breach of a provision of Division 2 or 3 of Part IV. that applies to the tenancy agreement, the tenant may give notice to the landlord—

- (a) specifying the breach; and
- (b) requiring the landlord—
 - (i) where the breach is capable of remedy, to remedy the breach; or
 - (ii) where the breach is not capable of remedy, to make compensation in money for the breach.

(2) Where a notice under sub-section (1) is given to the landlord and, at the expiration of a period of fourteen days after the giving of the notice, the landlord has not—

- (a) where the breach is capable of remedy, remedied the breach; or
- (b) where the breach is not capable of remedy, made compensation in money for the breach—

the tenant may give notice of intention to vacate the rented premises specifying the breach and specifying a termination date that is not less than fourteen days after the date on which the notice is given, notwithstanding that the date occurs before the expiration of the term of the tenancy agreement.

(3) Where—

- (a) on two occasions the landlord under a tenancy agreement has been in breach of the same provision of Division 2 or 3 of Part IV. that applies to the tenancy agreement;
- (b) the tenant has on each occasion given notice to the landlord under sub-section (2); and
- (c) the landlord has on each occasion remedied the breach or made compensation in money for the breach as the case may be within the period of fourteen days after the giving of the notice—

the tenant may, without giving the notice under sub-section (1), give the notice of intention to vacate referred to in sub-section (2).

(4) Subject to sub-section (5), where a tenant gives notice of intention to vacate under this section and, before the termination date specified in the notice the landlord—

- (a) where the breach specified in the notice is capable of remedy, remedies the breach; or

(b) where

(b) where that breach is not capable of remedy, makes compensation in money for the breach—
the notice ceases to have effect.

(5) Sub-section (4) does not apply where on two previous occasions—

- (a) the landlord under a tenancy agreement has been in breach of the same provision of Division 2 or 3 of Part IV. that applies to the tenancy agreement;
- (b) the tenant has on each occasion given notices under sub-sections (1) and (2) specifying that breach; and
- (c) the landlord has on each occasion remedied the breach, or made compensation for the breach, as the case may be, before the termination date specified in the notice.

117. (1) A notice of intention to vacate rented premises shall be given—

Form and service of notice of intention to vacate.

- (a) by delivering the notice to the landlord or to the landlord's agent or to the person who usually collects the rent;
- (b) by sending the notice by registered post or certified mail addressed to the landlord at his address for service of documents or addressed to the landlord's agent at his usual place of business;
- (c) by giving the notice to a person employed in the office of the landlord's agent;
- (d) where the landlord is a corporation, by sending the notice by registered post or certified mail to the registered office in Victoria of the corporation or by giving the notice to a person who is an officer of the corporation authorized to accept service of notices employed at the registered office of the corporation; or
- (e) by giving or serving the notice in a manner determined by the Tribunal.

(2) A notice of intention to vacate rented premises is not valid unless it is in writing signed by the tenant giving the notice or by his agent.

DIVISION 3—LANDLORD'S RIGHT TO GIVE NOTICE OF TERMINATION

118. Where—

Immediate notice to vacate.

- (a) the conduct (by act or omission) of the tenant under a tenancy agreement or of a person coming on to the rented premises with the tenant's permission is of such a nature that—
 - (i) damage is maliciously caused to the premises; or
 - (ii) the safety of occupiers of neighbouring premises is in danger;

(b) rented

(b) rented premises have been destroyed either totally or to such an extent as to be rendered unsafe; or

(c) rented premises are unfit for human habitation—

the landlord may give the tenant notice to vacate the rented premises specifying a termination date that is the date of the giving of the notice or a later date.

Notice to vacate for breach of Act or tenancy agreement.

119. (1) Where—

(a) the rent payable in respect of rented premises under a tenancy agreement remains unpaid for fourteen days after it has accrued due;

(b) the tenant has failed to comply with an obligation of a kind referred to in sub-section (2); or

(c) a landlord under a tenancy agreement is a public statutory authority engaged in the provision of housing and was induced to enter into the tenancy agreement by reason of the making by the tenant of a statement in relation to a matter upon which eligibility to rent the rented premises depended that the tenant knew to be false or misleading; or

(d) the tenant under a tenancy agreement has assigned or sub-let or purported to have assigned or sub-let the whole or any part of the rented premises without the landlord's consent—

the landlord may give the tenant notice to vacate specifying a termination date that is not less than fourteen days after the date on which the notice is given.

(2) The obligations for the purposes of paragraph (b) of sub-section (1) are—

(a) an obligation to comply with a provision of a tenancy agreement relating to the payment of a security deposit or an amount in respect of a contract of insurance;

(b) a requirement of a tenancy agreement relating to the payment of an insurance premium; or

(c) a term of a tenancy agreement prohibiting the tenant permitting a child to reside on the rented premises.

Notice to vacate for breach of Act.

120. (1) Where a tenant under a tenancy agreement is in breach of a provision of Division 2, 3 or 4 of Part IV. that applies to the tenancy agreement, the landlord may give notice to the tenant—

(a) specifying the breach; and

(b) requiring the tenant—

(i) where the breach is capable of remedy, to remedy the breach; or

(ii) where the breach is not capable of remedy, to make compensation in money for the breach.

(2) Where

(2) Where a notice under sub-section (1) is given to the tenant and, at the expiration of fourteen days after the giving of the notice, the tenant has not—

- (a) where the breach is capable of remedy, remedied the breach; or
- (b) where the breach is not capable of remedy, made compensation in money for the breach—

the landlord may give notice to vacate the rented premises specifying the breach and specifying a termination date that is not less than fourteen days after the date on which the notice is given.

(3) Where—

- (a) on two occasions the tenant under a tenancy agreement has been in breach of the same provision of Division 2, 3 or 4 of Part IV. that applies to the tenancy agreement;
- (b) the landlord has on each occasion given notice to the tenant under sub-section (2); and
- (c) the tenant has on each occasion remedied the breach, or made compensation in money for the breach, as the case may be, within the period of fourteen days after the giving of the notice—

the landlord may, without giving the notice under sub-section (1), give the notice to vacate referred to in sub-section (2).

(4) Subject to sub-section (5), where a landlord gives notice to vacate under this section and, before the termination date specified on the notice the tenant—

- (a) where the breach specified in the notice is capable of remedy, remedies the breach; or
- (b) where that breach is not capable of remedy, makes compensation in money for the breach—

the notice ceases to have effect.

(5) Sub-section (4) does not apply where on two previous occasions—

- (a) the tenant under a tenancy agreement has been in breach of the same provision of Division 2, 3 or 4 or Part IV. that applies to the tenancy agreement;
- (b) the landlord has on each occasion given notices under sub-sections (1) and (2) specifying that breach; and
- (c) the tenant has on each occasion remedied the breach, or made compensation for the breach, as the case may be, before the termination date specified in the notice.

121. (1) Where—

- (a) a landlord under a fixed term tenancy agreement lets premises that immediately before the entering into of the agreement were his principal place of residence; and

Landlord's
principal place
of residence.

(b) the

- (b) the tenancy agreement includes a statement that the premises were immediately before the agreement was entered into the landlord's principal place of residence and that the landlord intends to resume occupancy of the premises upon termination of the tenancy agreement—

the landlord may before the end of the term of the tenancy agreement give to the tenant notice to vacate specifying a termination date that is the date of, or a date after, the end of the term.

(2) Where rented premises under a periodic tenancy agreement that was entered into before the commencement of section 6 and continues after that commencement—

- (a) form part of a building or premises occupied by the landlord as his principal place of residence; or
- (b) were, immediately before the entering into of the agreement, the principal place of residence of the landlord—

the landlord may give to the tenant notice to vacate the premises specifying a termination date that is not less than fourteen days after the date on which the notice is given.

Notice to
vacate where
premises to be
demolished, &c.

122. (1) Where rented premises under a tenancy agreement are immediately after the termination date—

- (a) to be demolished;
- (b) to be substantially repaired, renovated or reconstructed and the repair, renovation or reconstruction cannot be carried out practicably without vacant possession;
- (c) to be used for the purposes of business or for any other purpose not being a purpose of letting as a residence;
- (d) to be occupied—
 - (i) by the landlord, his spouse, child, parent or spouse's parent; or
 - (ii) by another person who normally lives with the landlord and is wholly or substantially dependent upon him;
- (e) to be sold or offered for sale with vacant possession; or
- (f) being the property of a public statutory authority which is authorized to acquire compulsorily land for its purposes—required for public purposes—

the landlord may give to the tenant notice to vacate the premises specifying a termination date that is not less than 60 days after the date on which the notice is given.

(2) A notice

(2) A notice given under sub-section (1) in respect of a fixed term tenancy agreement is of no effect—

- (a) where the agreement includes a provision enabling the landlord or the tenant to determine the agreement by notice (otherwise than on the grounds of a breach of the agreement)—if—
 - (i) the period after the giving of the notice and before the termination date specified in the notice is less than the period of notice required under that provision; or
 - (ii) the termination date specified in the notice is a date other than a date on which under that provision the agreement may be determined; or
- (b) in any other case—if it specifies a termination date that is earlier than the end of the term of the tenancy agreement.

(3) A landlord who obtains possession of rented premises in respect of which a notice to vacate has been given on a ground mentioned in paragraph (a), (c), (d) or (e) of sub-section (1) shall not, unless the Tribunal otherwise determines, let the premises as a residence to a person other than a person referred to in paragraph (d) of sub-section (1) before the expiration of the period of six months after the day on which the notice was given.

Penalty: \$500.

123. (1) The landlord under a tenancy agreement may give to the tenant notice to vacate the rented premises specifying a termination date that is not less than six months after the date on which the notice is given.

Notice to vacate where no reason specified.

(2) A notice given under sub-section (1) in respect of a fixed term tenancy agreement is of no effect—

- (a) where the agreement includes a provision enabling the landlord or the tenant to determine the agreement by notice (otherwise than on the grounds of a breach of the agreement)—if—
 - (i) the period after the giving of the notice and before the termination date specified in the notice is less than the period of notice required under that provision; or
 - (ii) the termination date specified in the notice is a date other than a date on which under that provision the agreement may be determined; or
- (b) in any other case—if it specifies a termination date that is earlier than the end of the term of the tenancy agreement.

124. (1) Where

Effect of orders under section 64 upon notice to vacate.

124. (1) Where an order is in force under section 64 in respect of rented premises, the landlord is not entitled to give a notice to vacate under section 123.

(2) Where the landlord under a tenancy agreement gives a notice to vacate under section 123 and, before the termination date specified in the notice, an order in respect of the premises is made under section 64, the notice to vacate is void as from the date on which the order is made.

Form and service of notice to vacate.

125. (1) A notice to vacate rented premises shall be given—

- (a) by giving the notice to the tenant;
- (b) by leaving the notice on the rented premises with a person apparently over the age of sixteen years and apparently living at the premises;
- (c) by sending the notice by registered post or certified mail addressed to the tenant at the rented premises; or
- (d) by giving or serving the notice in a manner determined by the Tribunal.

(2) A notice to vacate rented premises is not valid unless—

- (a) it is in writing signed by the landlord giving the notice or by his agent; and
- (b) except in the case of a notice under section 123, it specifies the grounds for giving the notice.

DIVISION 4—NOTICE OF TERMINATION GENERALLY

Where party is entitled to serve two or more notices to vacate.

126. (1) Where under this Part a person is or becomes entitled to give two or more notices of termination, the invalidity of any of the notices shall not affect the validity of any of the others and each valid notice shall have full force and effect.

Withdrawal of notice of termination.

(2) A notice of termination is withdrawn only if a notice of withdrawal is signed by the person who gave the notice and by the person to whom the notice of termination was given.

DIVISION 5—RECOVERY OF POSSESSION OF RENTED PREMISES BY LANDLORD

Application for order for possession.

127. (1) Where, in respect of rented premises under a tenancy agreement, the landlord has given to the tenant notice to vacate the rented premises otherwise than under section 123, the landlord may, not later than 30 days after the termination date specified in the notice, make application to the Tribunal for an order for possession of the rented premises.

(2) Where, in respect of rented premises under a tenancy agreement—

- (a) the landlord has given notice to vacate the rented premises under section 123; or

(b) the

(b) the tenant has given notice of intention to vacate—
and the tenant has not delivered up vacant possession of the rented premises, the landlord may, at any time within the period of 30 days after the termination date specified in the notice of termination, make application to the Tribunal for an order for possession of the rented premises.

(3) Where the landlord of rented premises under a tenancy agreement makes application to the Tribunal under this section, he shall forthwith give a copy of the application to the tenant.

128. (1) Where a notice of termination in relation to rented premises under a tenancy agreement has been given before an application for an order for possession is made under section 127, the landlord shall, when making the application, give to the Tribunal a copy of the notice.

Application for
order for
possession.

(2) Where a notice of termination in relation to rented premises is given after the landlord has made application to the Tribunal for an order for possession under section 130 the landlord shall forthwith give to the Tribunal a copy of the notice.

129. Where an application for an order for possession of rented premises is made under section 127 (1), the Tribunal shall not determine the application on a date earlier than the termination date specified in the notice to vacate the rented premises.

Hearing of
application for
possession.

130. (1) Where an application is made to the Tribunal under section 127 for an order for possession of rented premises and the Tribunal is satisfied—

Order for
possession.

(a) in the case of an application where the landlord has given notice to vacate the rented premises—that the landlord was entitled to give the notice and the notice has not ceased to have effect; and

(b) that the landlord has complied with section 127 (3)—
the Tribunal shall make an order for possession of the rented premises.

(2) Where an order for possession of rented premises is made, the tenancy agreement terminates at the end of the day before the day on which possession of the rented premises is delivered up to the landlord.

131. (1) Where a person claims to be entitled to possession of premises—

Order for
possession
against persons
occupying
premises
without licence
or consent.

(a) that at any time within the period of twelve months before the date of the application to the Tribunal under this section, have been rented premises under a tenancy agreement; and

(b) that

- (b) that he alleges are occupied solely by a person or persons (not being a tenant under a tenancy agreement) who entered into or remained in occupation without his licence or consent or that of any predecessor in title of his—

he may apply to the Tribunal for an order for possession.

(2) An application under sub-section (1) shall be accompanied by an affidavit stating—

- (a) the applicant's interest in the premises;
- (b) the circumstances—
 - (i) in which the premises have been occupied without licence or consent; and
 - (ii) in which the applicant's claim to possession arises;
- (c) where the person or persons occupying the premises is or are not named in the application—the steps that the applicant has taken to ascertain and identify the person or persons occupying the premises; and
- (d) particulars of the tenancy agreement under which the applicant claims the premises have been rented premises within the preceding twelve months.

(3) Where an application is made to the Tribunal under this section and the Tribunal is satisfied that—

- (a) the applicant is entitled to possession of the premises to which the application relates; and
- (b) there are reasonable grounds for believing that a person or persons are occupying the premises without licence or consent—

the Tribunal shall make an order for possession of the premises.

(4) An order for possession of premises under sub-section (3) shall provide—

- (a) that the Registrar shall forthwith issue a warrant of possession against all persons for the time being occupying the premises; or
- (b) that notice in or to the effect of the form prescribed for the purposes of this section be served forthwith on all persons for the time being occupying the premises requiring them to appear and show cause before the Tribunal on a day after the expiration of seven days after the date of the notice why a warrant of possession should not be issued.

(5) Where in accordance with an order for possession under sub-section (4) a notice is to be given, the applicant shall, notwithstanding any other provision of this section, serve a copy

of

of the order and the notice on all persons for the time being occupying the premises by affixing the copy of the order and the notice to a door giving access to the premises.

(6) Where a person upon whom there is served a copy of an order and a notice under sub-section (5) fails to appear before the Tribunal in accordance with the notice, the Tribunal shall, on being satisfied that the copy of the order and the notice were served in accordance with sub-section (5), order that the Registrar forthwith issue a warrant of possession against all persons for the time being occupying the premises.

(7) Where a person upon whom there is served a copy of an order and a notice under sub-section (5) appears to answer the notice, the Tribunal shall determine the application and shall, if it is satisfied that the applicant is entitled to possession of the premises, order that the Registrar issue a warrant of possession against all persons for the time being occupying the premises.

(8) An application to the Tribunal under this section may be made *ex parte* and the provisions of this section have effect notwithstanding anything to the contrary in any other provision of this Act.

132. (1) Subject to sub-section (2), where the Tribunal makes an order for possession under section 130, the Tribunal shall provide in the order that the Registrar shall, on the request of the landlord and on payment by him of the prescribed fee (if any), issue a warrant of possession to be executed within a time stated in the order, not exceeding 30 days after the date of issue of the warrant.

Issue of
warrant of
possession.

(2) Where the Tribunal makes an order for possession under section 130 of rented premises otherwise than on the application of a landlord who has given notice to vacate the rented premises under section 118 the Tribunal may provide in the order that the issue of a warrant of possession shall be postponed for a period specified in the order, not exceeding 30 days after the order is made, if the Tribunal is satisfied that the tenant would suffer hardship if the issue of the warrant were not postponed and that that hardship would be greater than any hardship that the landlord would suffer because of the postponement.

(3) Where the Tribunal has made an order under this section postponing the issue of the warrant of possession of rented premises for a specified period and, during that period the tenant fails to pay any rent accrued due or otherwise fails to comply with the tenancy agreement or fails to comply with the provision of this Act relating to the tenancy agreement, the Tribunal shall, upon application of the landlord if it is satisfied that the tenant has so failed to pay rent or comply, make an order for the issue of a warrant of possession forthwith.

133. (1) An

Lapse of order
for possession
and warrant
of possession.

133. (1) An order for possession is discharged if the landlord does not within six months from the date of the order request that a warrant of possession be issued.

(2) A warrant of possession lapses if not executed within the time stated in the order or within such further time (if any) as the Tribunal by order allows.

Execution of
warrant of
possession.

134. (1) A warrant of possession under this Act relating to premises shall be directed to a member of the Police Force or to any other person for the time being authorized by the Minister either generally or in any particular case to execute warrants of possession and shall authorize the member or person to enter the premises (by force if necessary) and with such assistance as is necessary to compel all persons for the time being occupying the premises to vacate them and give possession of them to the applicant for the order under which the warrant was issued but the warrant shall not be taken as requiring the member or person to remove any goods from the premises.

(2) Entry on premises under a warrant of possession shall not be made between the hours of 4 p.m. and 8 a.m. or on any Sunday, Good Friday or Christmas Day.

Order
requiring person
to enter into
tenancy
agreement.

135. (1) Where—

- (a) an application for an order for possession has been made under section 127 or 131;
- (b) a tenant has abandoned rented premises; or
- (c) a tenant has delivered up vacant possession of rented premises or has given notice of intention to vacate rented premises—

a person who—

- (d) has been residing on the rented premises and the premises are the person's principal place of residence; and
- (e) was not a party to the tenancy agreement—

may make application to the Tribunal for an order requiring the landlord to enter into a tenancy agreement with that person.

(2) Where an application is made under sub-section (1) and the Tribunal is satisfied—

- (a) that the applicant could reasonably be expected to comply with the obligations of a tenant under a tenancy agreement to which this Act applies; and
- (b) the applicant would be likely to suffer severe hardship if he were compelled to leave the premises and that the hardship would be greater than any hardship that the landlord would suffer if the order were made—

may make an order requiring the landlord to enter into a tenancy agreement with the applicant before the expiration of the time
stated

stated in the order, being a tenancy agreement subject to the same terms and conditions as the tenancy agreement in force in respect of the rented premises before the making of the order subject to such modifications as the Tribunal determines.

(3) A person who makes an application to the Tribunal under this section shall forthwith give notice of the application to the landlord or his agent.

DIVISION 6—GOODS ABANDONED ON RENTED PREMISES

136. (1) Where a tenancy agreement is terminated and goods are left on the rented premises, the former landlord may remove and destroy or dispose of the goods if— Abandoned goods.

- (a) the goods have no monetary value;
- (b) the goods are perishable foodstuffs; or
- (c) the value of the goods is less than the total estimated cost of the removal, storage and sale of the goods.

(2) Where a tenancy agreement is terminated and goods are left on the rented premises and have not been removed for destruction or disposal under sub-section (1), the former landlord shall store them in a safe place and manner for a period of not less than 30 days.

(3) A former landlord shall before the expiration of seven days after he has stored goods under sub-section (2)—

- (a) where the former tenant has informed him of his forwarding address—send a notice to the tenant at that address in or to the effect of the form prescribed for the purposes of this paragraph; and
- (b) cause a notice in or to the effect of the form prescribed for the purposes of this paragraph to be inserted in a newspaper circulating generally throughout Victoria.

(4) At the request of a former landlord, the Director may state in writing whether or not in his opinion there are reasonable grounds for believing that sub-section (1) applies in respect of particular goods.

(5) Where a former landlord has been found liable to the owner of goods that he has removed and destroyed or disposed of, being goods that were left on rented premises, and it is proved that he removed and destroyed or disposed of the goods in reliance upon a statement of the Director under sub-section (4), the former landlord shall be entitled to be paid from the Fund an amount equal to the amount in respect of which he has been found liable.

(6) Where—

- (a) a tenancy agreement is terminated;
- (b) goods have been left on the premises; and

(c) at

- (c) at the request of the former landlord, the Director has made a statement in writing that in his opinion there are reasonable grounds for believing that the total cost of removing, storing and selling the goods would exceed the value of the goods—

the Tribunal may on application by the former landlord make an order for the payment to him out of the Fund of an amount equal to the difference between the value of the goods and the reasonable cost of removal, storage and sale.

(7) A person who has a lawful right to goods removed and stored under sub-section (2) may at any time before the goods are sold under section 137 reclaim the goods upon paying to the former landlord the reasonable costs of the removal and storage of the goods.

Sale of
abandoned
goods.

137. (1) Where goods are stored under section 136 and have not been reclaimed within 30 days after the day on which they were removed and stored, the landlord shall cause them to be sold by public auction as soon as practicable.

(2) If goods stored under section 136 are sold within eight weeks after the date on which they were removed and sold by public auction, the landlord is entitled to retain out of the proceeds of the sale the reasonable costs of removing, storing and selling the goods.

(3) The proceeds of sale of goods under this section remaining after deduction of any amount to which the former landlord is entitled under sub-section (2), shall be dealt with as unclaimed moneys in accordance with the provisions of Part II. of the *Unclaimed Moneys Act 1962* as if the former landlord were a company or firm to which that Part applies.

PART VI.—ENFORCEMENT AND MISCELLANEOUS PROVISIONS

Secrecy.

138. (1) A person who is or has been—

- (a) a member of the Tribunal;
- (b) the Registrar;
- (c) an Assistant Registrar;
- (d) the Director;
- (e) an officer or employé in the Ministry of Consumer Affairs; or
- (f) a person to whom the Director has delegated a function or power under this Act—

shall not, except in the performance of a function or the exercise of a power under this or any other Act or with the written authority of the Minister or the person to whom the information relates, either directly or indirectly make a record of, or divulge or communicate

communicate to any person information concerning the affairs of the person, being information acquired by him by reason of his office or employment under or for the purposes of this Act.

Penalty: \$500.

(2) Nothing in sub-section (1) precludes a person from—

- (a) producing a document to a Court in the course of criminal proceedings or in the course of any proceedings under this or any other Act; or
- (b) divulging or communicating to a Court in the course of any proceedings referred to in paragraph (a) any matter or thing coming under his notice in the performance of a function or the exercise of a power referred to in that sub-section.

139. Subject to this Act and the regulations, a person may inspect the register kept by the Registrar under this Act. Inspection of register.

140. For the purposes of this Act, where a document is properly addressed, prepaid and posted to a person as a letter, the document shall be deemed to have been given to the person at the time at which the letter would be delivered in the ordinary course of post. Giving of documents.

141. Where in any proceedings a person claims that this Act, or a provision of this Act, does not apply in relation to the subject-matter of the proceedings, the onus of proving that this Act or that provision does not so apply, lies upon him. Onus of proof that Act does not apply.

142. A term of a tenancy agreement (including a term that is not set out in the tenancy agreement but is incorporated in the tenancy agreement by another term of the agreement) that purports to exclude, restrict or modify or purports to have the effect of excluding, restricting or modifying— Certain terms to be void.

- (a) the application to that agreement of all or any of the provisions of this Act; or
 - (b) the exercise of a right conferred by such a provision—
- is void.

143. (1) Proceedings for an offence against this Act may be brought— Proceedings for offences.

- (a) by the Director; or
- (b) by an officer or employé in the Ministry of Consumer Affairs authorized in writing by the Minister or the Director either generally or in a particular case to take proceedings for offences against this Act.

(2) In proceedings for an offence against this Act it shall be presumed, in the absence of evidence to the contrary, that the person bringing the proceedings was authorized to bring the proceedings.

144. Where

Stipendiary
magistrate to
hear
proceedings.

144. Where proceedings for an offence against this Act are brought in a Magistrates' Court, the Magistrates' Court shall consist of a stipendiary magistrate.

Liability of
officers of
bodies
corporate.

145. Where a body corporate commits an offence against this Act, a director or officer of the body corporate who is knowingly a party to the commission of the offence is also guilty of the offence and liable to the penalty for the offence.

Offence to
obtain
possession, &c.
of premises.

146. A landlord or a person acting on behalf of a landlord under a tenancy agreement shall not, except in accordance with this Act—

- (a) require or compel or attempt to compel the tenant under the tenancy agreement to vacate the rented premises; or
- (b) obtain or attempt to obtain possession of the rented premises by entering them, whether the entry is peaceable or not.

Penalty: \$500.

147. It is a good defence to a prosecution of a person for an offence against the provisions of section 146 (a) if the person proves that he obtained or attempted to obtain possession of rented premises because he believed on reasonable grounds that the tenant had abandoned the premises.

Penalty for
making false
representations.

148. A person shall not in relation to a tenancy agreement or proposed tenancy agreement—

- (a) make a false and fraudulent misrepresentation as to—
 - (i) a provision of this Act;
 - (ii) a term included or to be included in the tenancy agreement; or
 - (iii) a matter affecting a person's rights or duties under this Act or the tenancy agreement or proposed tenancy agreement;
- (b) by threat or intimidation persuade or attempt to persuade a party to the tenancy agreement or proposed tenancy agreement not to exercise his rights to take or continue proceedings under this Act; or
- (c) aid, abet, counsel or procure the commission of an offence against this Act.

Penalty: \$500.

Jurisdiction of
Supreme Court.

149. (1) The Supreme Court, or a judge of the Supreme Court, has jurisdiction to hear and determine applications made under this section.

(2) A person may make application to the Supreme Court or a judge of the Supreme Court in relation to any matter arising in relation to a tenancy agreement of premises situated in Victoria,
being

being an application that, if made to the Tribunal, the Tribunal would be entitled to hear and determine or would, but for section 18 or section 106 (4), be entitled to hear and determine.

(3) The Supreme Court or a judge of the Supreme Court has, in hearing and determining an application made to it or him under sub-section (2), the same powers as the Tribunal would have had if the application had been heard and determined by it.

(4) Nothing in section 18 or section 106 (4) limits the power of the Supreme Court or a judge of the Supreme Court to hear and determine an application under this section.

(5) Where a person makes an application to the Supreme Court or a judge of the Supreme Court, being an application that, if made to the Tribunal, the Tribunal would have been entitled to hear and determine, the person is not entitled to any costs in the proceedings unless the Supreme Court or judge is satisfied that, at the time of making the application, there were reasonable grounds for believing that the Tribunal would not have been entitled to hear and determine the application.

(6) Subject to the *Supreme Court Act* 1958, the judges of the Supreme Court may make rules (including rules with respect to costs) for or with respect to applications to, the hearing of applications by, and determinations of, the Supreme Court or a judge of the Supreme Court under this section.

150. (1) Subject to section 37 of the *County Court Act* 1958, the County Court or a judge of the County Court has jurisdiction to hear and determine applications made under this section.

Jurisdiction of
County Court
and
Magistrates'
Court.

(2) Subject to section 50 of the *Magistrates' Courts Act* 1971, a Magistrates' Court consisting of a stipendiary magistrate has jurisdiction to hear and determine applications made under this section.

(3) A person may make application to a court or judge under this section in relation to any matter arising in relation to a tenancy agreement of premises situated in Victoria, being an application that, if made to the Tribunal, the Tribunal would, but for section 18, have been entitled to hear and determine.

(4) The court or judge to which or to whom application is made under this section has, in hearing and determining the application the same powers as the Tribunal would have had if the application had been heard and determined by it.

(5) Nothing in section 18 limits the power of a court or judge to hear and determine an application under this section.

(6) Subject to the *County Court Act* 1958, the judges of the County Court may make rules (including rules with respect to costs) for or with respect to applications to, the hearing of applications by, and determinations of, the County Court or a judge of the County Court under this section.

151. (1) The

Regulations.

151. (1) The Governor in Council may make regulations for or with respect to—

- (a) the practice and procedure of the Tribunal;
- (b) prescribing places in the State at which the Tribunal is to sit;
- (c) imposing and collecting fees not exceeding \$10 in relation to applications or classes of applications made to the Tribunal;
- (d) imposing and collecting fees not exceeding \$30 for the issue or execution of warrants of possession under this Act;
- (e) prescribing particulars contained in the register kept by the Registrar under this Act that are not open to inspection by the public;
- (f) prescribing a standard form of tenancy agreement;
- (g) prescribing forms to be used for the purposes of this Act; and
- (h) generally prescribing any matter or thing required or authorized to be prescribed by this Act.

(2) Strict compliance with forms prescribed by the regulations is not necessary and substantial compliance is sufficient.

PART VII.—AMENDMENTS AND TRANSITIONAL PROVISIONS

152. (1) A person (not being an officer or employé in the public service) who, immediately before the commencement of this section, was employed in connexion with the administration of Part V. of the *Landlord and Tenant Act* 1958 shall at the expiration of 28 days after the date of commencement of this section—

- (a) be offered employment in the Ministry of Consumer Affairs; or
- (b) if he so requests in writing received before the expiration of that period of 28 days by the Public Service Board established under the *Public Service Act* 1974—be offered employment under section 40 of that Act—

at a salary not less than that which he was receiving or which he became entitled to receive immediately before that offer of employment, and with such classification, relative seniority, emoluments, entitlements and accrued benefits as are determined by the Public Service Board.

(2) In making a determination under sub-section (1), the Public Service Board is not bound by the *Public Service Act* 1974.

153. (1) After

Transfer to
Ministry of
Consumer
Affairs of
people
employed in
administering
Part V. of
the *Landlord
and Tenant
Act* 1958.

153. (1) After section 43 of the *Landlord and Tenant Act 1958* there shall be inserted the following sections:

Amendment of
No. 6285.

'43A. (1) The lessor or the lessee of prescribed premises may, within the period of six months after the date of commencement of section 153 of the *Residential Tenancies Act 1980*, apply to the Director for the registration of the premises.'

Lessor or
lessee may
register
prescribed
premises.

(2) An application under sub-section (1)—

- (a) shall be in writing;
- (b) shall be signed by the applicant; and
- (c) shall state—
 - (i) the full name of the lessor of the premises;
 - (ii) the full name of the lessee of the premises;
 - (iii) the rent payable for the premises; and
 - (iv) the address of the premises.

43B. (1) The Director shall register prescribed premises in respect of which an application for registration has been received under section 43A and shall give notice of the registration to the applicant.

Registration
of prescribed
premises.

(2) For the purposes of this section, the Director shall cause to be kept a register of prescribed premises to be called "the Register of Prescribed Premises".

(3) A register kept under sub-section (2) shall be in the prescribed form and shall contain the prescribed particulars* of premises registered under this section.

(4) A certificate signed by the Director and stating that premises are or are not or were or were not registered under this section shall be *prima facie* evidence of the facts stated in the certificate.

(5) The Register of Prescribed Premises shall be open to inspection free of charge.

43C. Where premises are immediately before the expiration of the period of one year after the date of commencement of section 153 of the *Residential Tenancies Act 1980* prescribed premises and the premises are registered in the Register of Prescribed Premises pursuant to the provisions of section 43B, the premises shall cease to be subject to the provisions of this Part on the expiration of that period.

Effect of
registration.

43D. (1) Where, by virtue of the operation of any provision of this Part (other than section 43C) premises which are registered in the Register of Prescribed Premises cease to be prescribed premises, the person who, immediately before the premises ceased to be prescribed premises, was the lessor of the premises shall forthwith give notice to the Director that the premises have ceased to be prescribed premises.

Register to
be amended
where premises
cease to be
prescribed.

(2) Where

(2) Where the Director receives a notice under sub-section (1) or otherwise becomes aware that premises are not or have ceased to be prescribed premises, he shall without delay cause the Register of Prescribed Premises to be amended accordingly.

Director to bring provisions of sections 43A to 43D to the attention of the public.

43E. As soon as practicable after the date of commencement of section 153 of the *Residential Tenancies Act* 1980, the Director shall take such steps as he considers appropriate to publicize the fact that, if application for registration of prescribed premises is not made within six months after the date of commencement of section 153 of the *Residential Tenancies Act* 1980, the premises will cease to be prescribed premises on the second anniversary of that date of commencement but if application for registration is made within that period of six months, the premises will cease to be prescribed premises on the first anniversary of that date of commencement, and that premises which cease to be prescribed will no longer be subject to the provisions of the *Landlord and Tenant Act* 1958 relating to rent control and eviction.

Meaning of "Director".

43F. In sections 43A to 43E, "Director" means the Director of Consumer Affairs appointed for the purposes of the *Ministry of Consumer Affairs Act* 1973.'.

(2) Section 44 (1) and section 44 (3) of the *Landlord and Tenant Act* 1958 are repealed.

Amendment of No. 6285 Part V

154. Part V. of the *Landlord and Tenant Act* 1958 is hereby amended as follows:

- (a) For the definition of "Authorized officer" in section 34(1) there shall be substituted the following definition:

"Authorized officer" means—

- (a) any person appointed by the Minister in writing to be an authorized officer for the purpose of this Part or the Acts previously in force;
 - (b) the Director of Consumer Affairs appointed for the purposes of the *Ministry of Consumer Affairs Act* 1973; or
 - (c) an officer or employee of the Ministry of Consumer Affairs.';
- (b) In the definition of "Board" in section 34 (1) after the words "this Part" there shall be inserted the words "and includes the Residential Tenancies Tribunal";
- (c) After section 51 there shall be inserted the following section:

"51A. (1) Notwithstanding anything to the contrary in this Part, on and after the commencement of section 154 of the *Residential Tenancies Act* 1980, a function or power of a Board under this Division may be performed or exercised only by the Residential Tenancies Tribunal

except

except insofar as the function or power is performed or exercised pursuant to an application or appeal made to a Board before that commencement.

(2) Except in so far as they are inconsistent with provisions of this Part, the provisions of Division 2 of Part II. of the *Residential Tenancies Act 1980* apply to the Residential Tenancies Tribunal in the performance of functions or exercise of powers under this Act.”;

- (d) Section 54 shall be repealed;
- (e) In section 64 (4) for the words “and income” there shall be substituted the expression “, income assets and liabilities”;
- (f) In section 68 (2) for the words “Fair Rents Board” there shall be substituted the word “Board”; and
- (g) In section 80—
 - (a) for the words “stipendiary magistrate” (where three times occurring) there shall be substituted the word “person”; and
 - (b) for the words “another magistrate” there shall be substituted the words “another person”.

155. After section 67 of the *Landlord and Tenant Act 1958* there shall be inserted the following section:

New s. 67A
inserted in
No. 6285.

“67A. (1) In addition to any other increase of the fair rent of prescribed premises that a lessor may make under this Part, a lessor may increase the fair rent of prescribed premises by a proportion that does not exceed the proportion that the amount by which the last published Housing Group number exceeds the third last published Housing Group number bears to that last-mentioned number.

Increase of
Fair Rent in
line with
Consumer
Price Index.

(2) A lessor of prescribed premises shall not increase the fair rent of those premises under sub-section (1) unless, not less than 30 days before the increase, he has given to the lessee notice in writing signed by the lessor stating—

- (a) the amount of the intended increase; and
- (b) the date on which the increase becomes payable.

(3) A lessor of prescribed premises shall not increase the fair rent of those premises under sub-section (1) more than once in any period of six months.

(4) Where the fair rent of prescribed premises is increased in accordance with this section, the increased rent is the fair rent of the premises until the rent is altered or increased in accordance with this Part.

(5) In this section—

- (a) a reference to the last published Housing Group number is a reference to the number for Housing in the Consumer

Price

Price Index for Melbourne for the most recent quarter for which such a number has been published by the Australian Bureau of Statistics; and

- (b) a reference to the third last published Housing Group number is a reference to the number for Housing in that Index for the third most recent quarter for which such a number has been so published.”.

Amendment of
No. 6285, s.
107A.

Additional
matters to be
taken into
account when
determining
whether
premises to be
de-prescribed.

156. In section 107A of the *Landlord and Tenant Act 1958* for the word “income” (wherever occurring) there shall be substituted the words “, income, assets and liabilities”.

Repeal of
No. 6285,
Part V.

157. (1) On the second anniversary of the commencement of section 153—

- (a) Part V. of the *Landlord and Tenant Act 1958* shall be repealed; and
- (b) in the Table of Parts and Divisions in section 1 of the *Landlord and Tenant Act 1958* the item relating to Part V. shall be repealed.

Transitional
provisions.

(2) The repeal of Part V. of the *Landlord and Tenant Act 1958* shall not affect the continuity of status, operation or effect of any judgment, order, determination, agreement, application, notice, declaration or warrant made, given or issued under Part V. of the *Landlord and Tenant Act 1958* before the repeal.

(3) Notwithstanding anything to the contrary in the *Landlord and Tenant Act 1958* or this Act where a notice to quit or an application for an order, determination or declaration or any other or further proceeding in relation thereto or any appeal has been issued or instituted under Part V. of the *Landlord and Tenant Act 1958* before the repeal of the Part, that notice may be enforced and that proceeding may be continued and completed in all respects as if this Act had not been enacted.

(4) Where before the repeal of Part V. of the *Landlord and Tenant Act 1958* a notice of rent increase has been given under section 67 or section 67A of that Act—

- (a) the provisions of sections 67 and 67A of that Act shall, notwithstanding the repeal of Part V. of that Act, continue to apply in respect of that rent increase; and
- (b) the provisions of this Act relating to rent increases shall not apply in respect of that rent increase.

158. In

158. In the Schedule to the *Ministry of Consumer Affairs Act* 1973, after the item relating to the *Small Claims Tribunals Act* 1973 there shall be inserted the following item:

Amendment of
No. 8442.
Schedule.

“*Residential Tenancies Act* 1980.”.

159. After section 4 (3) of the *Administrative Law Act* 1978, there shall be inserted the following sub-section:

Amendment
No. 9234.
Procedure for
review.

“(4) Where an application for review relates to an application to, proceedings before or a determination of, the Residential Tenancies Tribunal, the Court or Judge shall refuse the application unless it or he is satisfied that the applicant has made out a *prima facie* case for relief under section 7 on the ground that the Tribunal had or has no jurisdiction under the *Residential Tenancies Act* 1980 in relation to the matter or that there has been a denial of natural justice to the applicant or to a party to the proceedings before the Tribunal.”.