

Serial 84  
Residential Tenancies Amendment Bill 2009  
Ms Lawrie

A Bill for an Act to amend the *Residential Tenancies Act*

NORTHERN TERRITORY OF AUSTRALIA

RESIDENTIAL TENANCIES AMENDMENT ACT 2009

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Act No. [ ] of 2009

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**Table of Provisions**

**Part 1 Preliminary matters**

1	Short title .....	1
2	Commencement .....	1
3	Act amended .....	1

**Part 2 Amendments relating to caravan parks**

4	Amendment of section 4 (Definitions).....	1
5	New sections 4A and 4B .....	4
	4A Meaning of <i>caravan</i>	
	4B Meaning of various terms if tenancy agreement relates to caravan park, and related matters	
6	Amendment of section 6 (Agreements to which this Act does not apply).....	6
7	Amendment of section 19 (Tenancy agreements to be written).....	7
	19 Form of tenancy agreement	
8	Amendment of section 24 (Landlord cannot impose extra charges or liabilities) .....	7
9	Amendment of section 25 (Condition report at beginning of tenancy).....	7
10	Repeal and substitution of Part 7 heading .....	8
	Part 7 Repairs, maintenance and related matters	
11	Amendment of section 48 (Premises to be clean and suitable for habitation).....	8
12	New sections 48A and 48B.....	9
	48A Keeping caravan park etc. clean	
	48B Keeping communal areas clean and tidy	
13	Amendment of section 51 (Cleanliness and damage) .....	9
14	Amendment of section 56 (Tenant to notify if premises to be vacant for more than 30 days) .....	10
15	Amendment of section 57 (Landlord's obligation to repair).....	10
16	Amendment of section 65 (Tenant to be able to use and enjoy property) .....	11
17	New section 88B.....	11
	88B Serious misconduct by resident of caravan park	

18	Repeal and substitution of section 90.....	12
	90 Fixed term tenancy	
19	New section 100B.....	12
	100B Application for confirmation of notice of termination given to resident of caravan park	
20	Amendment of section 110 (Condition report at end of tenancy).....	13
21	Amendment of Part 13, Division 1, heading and new section 116A.....	14
	Division 1 Rates and charges generally	
	116A Application of Division	
22	New Part 13, Division 1A.....	14
	Division 1A Rates and charges relevant to caravan park agreements	
	119A Application of Division	
	119B Payment of electricity, gas or water charges	
	119C No charge payable unless specified in caravan park agreement	
	119D Commissioner may determine charges payable	
23	New Part 13A.....	16
	Part 13A Further provisions relevant to caravan parks and caravan park agreements	
	Division 1 Formation of caravan park agreements	
	122A Caravan park agreement to be in writing	
	122B Agreements incorporate caravan park rules	
	Division 2 Caravan park rules and residents committees	
	122C Caravan park rules	
	122D Amendment of caravan park rules	
	122E Application if park rules are considered unreasonable	
	122F Residents committee	
	Division 3 Obligations of caravan park owners	
	122G Information to be provided by caravan park owner to resident	
	122H Enforcing caravan park rules	
	122J Access to caravan park	
	Division 4 Relocation of sites or caravans	
	122K Changing caravan or site within caravan park	
	122L Options after giving notice about relocation	
	Division 5 Sale of caravans on site	
	122M Sale of caravan on site	
24	Amendment of section 142 (Entry and inspection of property).....	23
25	New Part 19.....	24
	Part 19 Transitional provisions for Part 2 of Residential Tenancies Amendment Act 2009	
	164 Application to certain agreements at commencement	

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<b>Part 3</b>	<b>Amendments relating to condition reports and other matters</b>	
26	Amendment of section 4 (Definitions).....	25
27	Amendment of section 25 (Condition report at beginning of tenancy).....	25
28	Repeal and substitution of section 28.....	26
	28 Condition report conclusive of condition at start of tenancy	
	28A Condition report has effect for continuation of tenancy	
	28B Landlord must not require tenant to vacate for condition report	
29	New section 42A.....	27
	42A Commissioner may pay for valuation of premises	
30	Amendment of section 110 (Condition report at end of tenancy).....	28
31	Amendment of section 112 (When landlord may keep security deposit).....	28
32	Amendment of section 122 (Compensation and civil penalties) ....	28
33	New Part 20.....	29
	Part 20 Transitional provisions for Part 3 of Residential Tenancies Amendment Act 2009	
	165 Application of section 122	
<b>Part 4</b>	<b>Further amendments</b>	
34	Further amendments .....	29
<b>Schedule</b>	<b>Further amendments of Residential Tenancies Act</b>	



# NORTHERN TERRITORY OF AUSTRALIA

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Act No. [ ] of 2009

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An Act to amend the *Residential Tenancies Act*

[Assented to [ ] 2009]  
[Second reading [ ] 2009]

The Legislative Assembly of the Northern Territory enacts as follows:

## Part 1 Preliminary matters

### 1 Short title

This Act may be cited as the *Residential Tenancies Amendment Act 2009*.

### 2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

### 3 Act amended

This Act amends the *Residential Tenancies Act*.

## Part 2 Amendments relating to caravan parks

### 4 Amendment of section 4 (Definitions)

#### (1) Section 4, definition *residential premises*

*omit*

## (2) Section 4

*insert (in alphabetical order)*

**caravan**, see section 4A.

**caravan park** means an area of land used or intended to be used in either or both of the following ways:

- (a) as a complex of sites and caravans, for which rights of occupancy are conferred under various caravan park tenancy agreements, together with common area bathroom, toilet and laundry facilities and other common areas;
- (b) as a complex of sites for which rights of occupancy are conferred under various caravan park site agreements, together with common areas that may, but need not, include bathroom, toilet and laundry facilities.

**caravan park agreement**, see section 4B(1).

**caravan park owner** means any person who is (either wholly or partly) the owner of a business that operates a caravan park.

**caravan park rules** means rules for a caravan park made under section 122C and, if amended under section 122D, as amended under section 122D.

**caravan park site agreement**, see section 4B(2).

**caravan park tenancy agreement**, see section 4B(4).

**common area**, in a caravan park, means any facilities, building, road or other area in the park provided for common use by residents of the caravan park.

**resident**, in relation to a caravan park, means a person who occupies a caravan in the caravan park and who:

- (a) has obtained the prior written agreement of the caravan park owner to occupy either of the following for a period of at least 90 consecutive days;
  - (i) a site for the placement of a caravan other than a caravan owned by the caravan park owner (whether that agreement was given in relation to the site or another site in the caravan park);

- (ii) a site and a caravan (whether that agreement was given in relation to the site or caravan, or another site or caravan, in the caravan park); or
- (b) has so occupied any site, or any site and caravan, in the caravan park for at least 90 consecutive days.

**residential premises** means the following:

- (a) a building or a part of a building intended for occupation as a place of residence;
  - (b) a caravan or houseboat intended for occupation as a place of residence;
  - (c) a site in a caravan park intended for occupation by the placement of a caravan (that is intended for occupation as a place of residence) on the site.
- (3) Section 4, definition **landlord**, at the end

*insert*

*Note*

*See also section 4B(5)(a).*

- (4) Section 4, definition **tenancy agreement**, after "premises"

*insert*

or a site for a caravan

- (5) Section 4, definition **tenancy agreement**, at the end

*insert*

*Note*

*See also section 4B(5)(b).*

- (6) Section 4, definition **tenant**, paragraph (a)

*omit*

agreement

*substitute*

agreement; or

- (7) Section 4, definition ***tenant***, after paragraph (e)

*insert*

*Note*

*See also section 4B(5)(c).*

## **5 New sections 4A and 4B**

After section 4, in Part 1

*insert*

### **4A Meaning of *caravan***

- (1) A caravan is either of the following:
- (a) a caravan as described in subsections (2) to (4);
  - (b) an immovable dwelling situated in a caravan park.
- (2) A caravan is a trailer:
- (a) designed principally for residential purposes; and
  - (b) designed to be attached to and towed by a self-propelled vehicle; and
  - (c) that, as originally designed, was capable of being registered under a law of the Territory about the use of vehicles on public roads.
- (3) Also, a caravan is something:
- (a) not fitted with wheels; and
  - (b) not designed for permanent attachment to land but designed for attachment to a motor vehicle and for use for residential purposes.
- (4) In addition, a caravan is a self-propelled vehicle:
- (a) that:
    - (i) is designed to be used both as a vehicle and for residential purposes; or
    - (ii) was designed to be used solely as a vehicle but has been modified to be suitable for use both as a vehicle and for residential purposes; and



- (b) that, as originally designed, was capable of being registered under a law of the Territory about the use of vehicles on public roads.
- (5) A caravan as defined in subsection (1) also includes an annexe used as an extension of the habitable area of the caravan.

**4B Meaning of various terms if tenancy agreement relates to caravan park, and related matters**

- (1) An agreement is a **caravan park agreement** if the agreement is:
  - (a) a caravan park site agreement; or
  - (b) a caravan park tenancy agreement.
- (2) A **caravan park site agreement** is an agreement under which a caravan park owner grants another person, for valuable consideration, a right (that may, but need not, be an exclusive right) to occupy a site in the caravan park, and to place a caravan on the site, for residential purposes.
- (3) Despite subsection (2), if a caravan is not placed on the site in accordance with the agreement but a tent is placed on the site, on the day the tent is so placed, the agreement stops being a caravan park agreement in relation to the site and this Act does not apply to the agreement.
- (4) A **caravan park tenancy agreement** means:
  - (a) an agreement under which a caravan park owner grants another person, for valuable consideration, a right (that may, but need not, be an exclusive right) to occupy a site in the caravan park, and a caravan made available on the site by the park owner, for residential purposes; or
  - (b) an agreement (a **sub-tenancy agreement**) under which a resident of the caravan park grants another person, for valuable consideration, a right (that may, but need not, be an exclusive right) to occupy the site for which the resident has a right of occupancy, and the caravan on the site (whether a caravan made available by the caravan park owner or installed or located on the site by the resident), for residential purposes.
- (5) To remove doubt, it is declared for this Act that:
  - (a) a caravan park owner is a **landlord**; and
  - (b) a caravan park agreement is a **tenancy agreement**; and

(c) a resident of a caravan park is a **tenant**.

- (6) For this Act, the address in relation to a caravan, or site, in a caravan park is the address of the caravan park unless the caravan park agreement provides for a particular address for the caravan or site.

**6 Amendment of section 6 (Agreements to which this Act does not apply)**

- (1) Section 6

*omit*

This Act

*substitute*

- (1) This Act

- (2) Sections 6(1)(a) to (d), (e)(ii) and (f), at the end

*insert*

or

- (3) Section 6(1)(h)

*omit, substitute*

- (h) under which a person occupies or is intended to occupy a caravan in a caravan park for a continuous period of less than 90 days (whether the period started under the agreement or another agreement).

*Note for paragraph (h)*

*Bob comes to Darwin on a holiday and enters into an agreement to rent a caravan in a caravan park for 72 days. At the time the agreement is entered into, this Act does not apply to the agreement. During the 72 days, Bob decides to stay in Darwin and get a job. On the 71st day of renting the caravan, Bob enters into a new agreement allowing Bob to continue to rent the caravan for another 4 weeks after the end of the previous agreement. Because of the new agreement, Bob is to occupy the caravan for a continuous period of 90 days. This Act applies to the new agreement.*

- (4) After section 6(1)

*insert*

- (2) For working out a continuous period of occupation as mentioned in subsection (1)(h), a person is taken to occupy, or is intended to occupy, a caravan in a caravan park for a continuous period even if

the person stops occupying a caravan in the caravan park for a period that is less than 7 days.

**7 Amendment of section 19 (Tenancy agreements to be written)**

(1) Section 19, heading

*omit, substitute*

**19 Form of tenancy agreement**

(2) Section 19(1)(a) and (b)

*omit, substitute*

(a) contain the name of the tenants; and

(b) contain the full name and address for service of the landlord and, if any, of the landlord's agent; and

(3) Section 19(1)(c) and (d), at the end

*insert*

and

**8 Amendment of section 24 (Landlord cannot impose extra charges or liabilities)**

After section 24(3)

*insert*

(4) Subsection (1) does not apply to a requirement to pay, or the receipt of, an amount under a caravan park tenancy agreement for a deposit for a key or other device that permits access to the park or a common area of the park if the amount is refundable to the resident on return of the key or other device.

**9 Amendment of section 25 (Condition report at beginning of tenancy)**

Section 25(2)(a)

*omit, substitute*

(a) specify the condition of the following:

(i) for premises, other than premises in a caravan park or premises that are a caravan or houseboat – the walls, floors and ceilings in each room in the premises to which

the tenancy agreement relates;

- (ii) for premises in a caravan park if the tenancy agreement includes the provision of a caravan – the site to which the tenancy agreement relates, the walls, floors and ceilings of the caravan and, if the caravan has rooms, the walls, floors and ceilings of each room of the caravan;
- (iii) for premises in a caravan park if the tenancy agreement does not include the provision of a caravan – the site to which the tenancy agreement relates;
- (iv) for premises that are a caravan (other than a caravan provided under a caravan park agreement) or houseboat – the walls, floors and ceilings of the caravan or houseboat to the extent practicable; and

## **10 Repeal and substitution of Part 7 heading**

Part 7, heading

*repeal, substitute*

## **Part 7 Repairs, maintenance and related matters**

### **11 Amendment of section 48 (Premises to be clean and suitable for habitation)**

- (1) Section 48(1)(a), at the end

*insert*

and

- (2) Section 48(1)(b)

*omit*

or the ancillary property; and

*substitute*

, or the ancillary property, of that type; and

**12 New sections 48A and 48B**

After section 48

*insert*

**48A Keeping caravan park etc. clean**

It is a term of a caravan park tenancy agreement that the caravan park owner must:

- (a) keep common areas, gardens, roadways, paths and recreation areas in the caravan park clean and in a safe condition; and
- (b) arrange for the collection of residents' garbage and other garbage from the caravan park.

**48B Keeping communal areas clean and tidy**

- (1) It is a term of a caravan park tenancy agreement that the caravan park owner must keep clean and tidy all communal bathrooms, toilets, laundries and other communal facilities in the caravan park.
- (2) When repairing or renovating communal facilities, a caravan park owner must:
  - (a) minimise inconvenience and disruption to residents; and
  - (b) if necessary, provide temporary substitute facilities.
- (3) In this section:  
**keep** includes repair, maintain and renovate.

**13 Amendment of section 51 (Cleanliness and damage)**

- (1) Section 51(1)(a) to (d), at the end

*insert*

and

- (2) Section 51(1)(f)

*omit*

Act.

*substitute*

Act; and

- (3) After section 51(1)(f)

*insert*

(g) if the premises are in a caravan park– must not intentionally or recklessly cause or permit damage to common areas within the caravan park.

- (4) Section 51(4)(a), at the end

*insert*

and

**14 Amendment of section 56 (Tenant to notify if premises to be vacant for more than 30 days)**

Section 56

*omit*

more than 30 days

*substitute*

more than:

- (a) for any premises that are in a caravan park or are a caravan or houseboat – 14 days; or
- (b) for any other premises – 30 days.

**15 Amendment of section 57 (Landlord's obligation to repair)**

- (1) Section 57(3)(a) and (b), at the end

*insert*

and

- (2) Section 57(3)(d)

*omit*

Act.

*substitute*

Act for premises of that type.

**16 Amendment of section 65 (Tenant to be able to use and enjoy property)**

Section 65(b)

*omit*

premises.

*substitute*

premises and, for premises in a caravan park, common areas in the caravan park.

**17 New section 88B**

After section 88A

*insert*

**88B Serious misconduct by resident of caravan park**

- (1) A caravan park owner may, by notice of termination given to a resident of the caravan park, terminate a caravan park agreement on the ground the resident, or a person while on the premises or in the caravan park with the consent of the resident, has, intentionally or recklessly, caused or permitted, or is likely to cause or permit:
- (a) serious damage to the premises or other property in the caravan park; or
  - (b) personal injury to:
    - (i) the park owner or agent; or
    - (ii) a person in the caravan park or in the vicinity of the caravan park; or
  - (c) serious interference:
    - (i) with the reasonable peace, comfort or privacy of another resident in the other resident's use of the caravan park including common areas; or
    - (ii) with the reasonable peace, comfort or privacy of a person residing in the immediate vicinity of the caravan park.

- (2) The notice of termination may terminate the agreement immediately or on a later day stated in the notice.
- (3) Within 3 business days after the day the termination is given to the tenant, the caravan park owner must apply to the Commissioner for an order under section 100B confirming the termination.
- (4) If the caravan park owner does not make an application as mentioned in subsection (3), on the fourth business day after the day the termination is given to the tenant, the termination ends and the resident has a right to resume residing in the caravan park on the same terms.
- (5) Without limiting section 101, if the notice of termination does not state the matters mentioned in subsections (3) and (4), it is of no effect.
- (6) This section does not limit the caravan park owner from taking other actions under this Act.

## **18 Repeal and substitution of section 90**

Section 90

*repeal, substitute*

## **90 Fixed term tenancy**

A landlord may terminate a fixed term tenancy due, under the tenancy agreement, to terminate on a particular day by notice of termination given to the tenant:

- (a) if the tenancy agreement is a caravan park agreement – at least 28 days before termination on that particular day; or
- (b) otherwise – at least 14 days before termination on that particular day.

## **19 New section 100B**

After section 100A, in Part 11, Division 4

*insert*

## **100B Application for confirmation of notice of termination given to resident of caravan park**

- (1) This section applies if:
  - (a) a caravan park owner has given a notice of termination to a resident of the caravan park; and



- (b) within 3 business days after the day the notice of termination is given to the resident, the caravan park owner has applied to the Commissioner for an order confirming the termination.
- (2) In giving notice of the application to the resident as mentioned in section 126(3), the Commissioner must give the resident an opportunity to respond to the application.
- (3) If, after exercising powers under Part 14 in relation to the application as the Commissioner considers appropriate, the Commissioner:
  - (a) is satisfied there were grounds for the caravan park owner to give the notice of termination to the resident and it was reasonable in the circumstances for the owner to give that notice – the Commissioner must confirm the termination; or
  - (b) is not so satisfied – the Commissioner must declare the termination was invalid.
- (4) If the Commissioner declares a termination invalid and considers the resident incurred expenses for accommodation, food and moving expenses that would not otherwise have been incurred, the Commissioner may, as the Commissioner considers appropriate, order the caravan park owner to pay all or part of the expenses of the resident and others who lived with the resident in the caravan.
- (5) Despite anything to the contrary, the Commissioner must not extend the time for making an application for confirmation of a termination by notice of termination.

- (6) In this section:

***notice of termination*** means a notice of termination under section 88B(1).

***resident*** means a person who is given a notice of termination even if the person has left the relevant caravan park because of the notice.

## 20 **Amendment of section 110 (Condition report at end of tenancy)**

Section 110(4)(a)

*omit, substitute*

- (a) specify the condition of the following:
  - (i) for premises other than premises in a caravan park or premises that are a caravan or houseboat – the walls,

floors and ceilings in each room in the premises to which the tenancy agreement relates;

- (ii) for premises in a caravan park if the tenancy agreement includes the provision of a caravan – the site to which the tenancy agreement relates, the walls, floors and ceilings of the caravan and, if the caravan has rooms, the walls, floors and ceilings of each room of the caravan;
- (iii) for premises in a caravan park if the tenancy agreement does not include the provision of a caravan – the site to which the tenancy agreement relates;
- (iv) for premises that are a caravan (other than a caravan provided under a caravan park agreement) or houseboat – the walls, floors and ceilings of the caravan or houseboat to the extent practicable; and

**21 Amendment of Part 13, Division 1, heading and new section 116A**

Part 13, Division 1, heading

*omit, substitute*

**Division 1 Rates and charges generally**

**116A Application of Division**

This Division applies to a landlord and a tenant under a tenancy agreement other than a landlord or a tenant under a caravan park agreement.

**22 New Part 13, Division 1A**

After section 119

*insert*

**Division 1A Rates and charges relevant to caravan park agreements**

**119A Application of Division**

This Division applies to a landlord and a tenant under a caravan park agreement.

**119B Payment of electricity, gas or water charges**

A caravan park owner must not require a resident to pay for charges, levies, rates or taxes, other than a charge payable by the resident for electricity, gas or water supplied to the site or caravan occupied by the resident.

Maximum penalty: 20 penalty units.

**119C No charge payable unless specified in caravan park agreement**

(1) A resident is only required to pay the caravan park owner for a charge payable by the owner for electricity, gas or water supplied to the site or caravan during the tenancy if:

- (a) the resident is required to do so under the caravan park agreement; and
- (b) the site or caravan to which the agreement relates is individually metered for the service or facility to which the charge relates.

(2) A caravan park owner must not request from a resident an amount for a charge payable by the owner for electricity, gas or water supplied to the site or caravan during the tenancy unless the amount is calculated in accordance with the caravan park agreement.

Maximum penalty: 20 penalty units.

(3) A caravan park owner who receives money from a resident for electricity, gas or water supplied to the site or caravan must pay the money to the person to whom the money is owing by the resident unless the owner has already paid the money owing.

Maximum penalty: 20 penalty units.

**119D Commissioner may determine charges payable**

(1) On application of a caravan park owner or a resident, the Commissioner may determine the proportion of a charge that:

- (a) is payable by the resident for electricity, gas or water supplied to the site or caravan; and
- (b) the resident is required to pay to the owner under the caravan park agreement as mentioned in section 119C(1).

(2) For subsection (1), the Commissioner may order an amount be paid by the resident or paid or refunded to the resident.

**23 New Part 13A**

After section 122

*insert*

**Part 13A Further provisions relevant to caravan parks and caravan park agreements**

**Division 1 Formation of caravan park agreements**

**122A Caravan park agreement to be in writing**

- (1) A caravan park agreement must be in writing and signed by the parties to the agreement.
- (2) The agreement must include:
  - (a) the matters specified in section 19(1) for a written tenancy agreement; and
  - (b) any other terms prescribed by regulation as standard terms for a caravan park agreement.
- (3) If, for a standard term of a caravan park agreement to be effective, the term requires stated information to be included in it, the agreement is taken to include the standard term only if the information is properly included.
- (4) If a caravan park agreement does not comply with a requirement of this section, the caravan park owner is guilty of an offence.

Maximum penalty: 20 penalty units.

- (5) If a caravan park agreement is not in accordance with subsections (1) and (2), a caravan park agreement, if any, prescribed by regulation is taken to be the agreement between the parties for this Act.

**122B Agreements incorporate caravan park rules**

- (1) The caravan park rules for a caravan park (as in force from time to time under Division 2) are taken to constitute terms of every caravan park agreement relating to the park.
- (2) However, despite subsection (1), the caravan park rules need not be set out in the written caravan park agreement.

**Division 2 Caravan park rules and residents committees****122C Caravan park rules**

- (1) A caravan park owner may make rules about the use, enjoyment, control and management of the caravan park.
- (2) However, rules may be made only about the following:
  - (a) the use of common areas and the operation of common area facilities;
  - (b) the making and abatement of noise;
  - (c) the carrying on of sporting and other recreational activities;
  - (d) the speed limits for motor vehicles;
  - (e) the parking of motor vehicles;
  - (f) the disposal of refuse;
  - (g) the keeping of pets;
  - (h) the erecting of structures, including an annexe ancillary to the use of the caravan or site;
  - (i) other things prescribed by regulation.
- (3) In this section:

***motor vehicle***, see the *Motor Vehicles Act*.

**122D Amendment of caravan park rules**

- (1) A caravan park owner may amend the caravan park rules of the caravan park.
- (2) An amendment does not have effect unless each resident of the caravan park was given at least 14 days written notice of the amendment.
- (3) If a residents committee has been established under section 122F for the caravan park, the caravan park owner must consult with, and consider the views of, the committee before amending the caravan park rules.

(4) In this section:

**amend**, in relation to caravan park rules, includes:

- (a) vary a caravan park rule; and
- (b) add a new rule to the caravan park rules; and
- (c) revoke an existing caravan park rule.

#### **122E Application if park rules are considered unreasonable**

- (1) A person who is or was a resident of a caravan park may apply to the Commissioner for a declaration under this section about a caravan park rule.
- (2) The Commissioner must consider the application in a way the Commissioner considers appropriate.
- (3) After consideration of the application about a caravan park rule, the Commissioner may make:
  - (a) an order declaring the rule to be or to have been reasonable; or
  - (b) an order declaring the rule to be or to have been unreasonable; or
  - (c) an order declaring the rule to be unreasonable and an order to change the rule in a way the Commissioner considers appropriate to make it reasonable.
- (4) A caravan park rule is or was invalid if the Commissioner makes an order declaring the rule to be or to have been unreasonable.
- (5) In this section:

**unreasonable**, in relation to a caravan park rule, includes the subject matter of the rules is or was not a matter about which a caravan park rule may be made under section 122C.

#### **122F Residents committee**

- (1) Residents from at least 5 different occupied sites in a caravan park may form a committee (a **residents committee**) to represent the interests they have in common as residents of the caravan park.
- (2) However, only a single residents committee may be formed in relation to the same caravan park.

- (3) A caravan park owner must not interfere with a resident of the caravan park forming or participating in:
- (a) the residents committee for the caravan park; or
  - (b) an organisation representing the interests generally of residents of caravan parks.

Maximum penalty: 50 penalty units.

### **Division 3 Obligations of caravan park owners**

#### **122G Information to be provided by caravan park owner to resident**

- (1) A caravan park owner must ensure that, before or at the time the owner and a resident enter into a caravan park agreement, the owner gives the resident:
- (a) a copy of any caravan park rules in force for the caravan park; and
  - (b) a notice containing information as required by regulation.

Maximum penalty: 20 penalty units.

- (2) A caravan park owner must ensure a resident is given, before or at the time the resident starts occupying the residential premises under a caravan park agreement, manufacturers' manuals, or written or oral instructions, about the operation of any appliances and devices provided for the resident's use as part of the residential premises or the common area facilities of the caravan park.

Maximum penalty: 20 penalty units.

- (3) If a person succeeds another as the caravan park owner, the new caravan park owner (the **new owner**) must, within 14 days, notify the resident in writing of:
- (a) the full name and address for service of documents on the new owner; and
  - (b) if the new owner is a company – the address of the registered office of the company; and
  - (c) contact details for a person who will, on behalf of the new owner, carry out emergency repairs to the sites, caravans and common area facilities of the park.

Maximum penalty: 20 penalty units.

- (4) If a caravan park owner has notified the name, address or contact details of someone under this section and the name, address or contact details change, within 14 days after the date of the change, the owner must notify the resident in writing of the change.

Maximum penalty: 20 penalty units.

#### **122H Enforcing caravan park rules**

It is a term of a caravan park agreement that the caravan park owner must:

- (a) take all reasonable steps to ensure the caravan park rules are observed by all residents and other persons occupying a caravan or site in the caravan park; and
- (b) ensure the caravan park rules are reasonable and are enforced and interpreted consistently and fairly.

#### **122J Access to caravan park**

It is a term of a caravan park agreement that the caravan park owner must provide each resident with:

- (a) 24 hour vehicular access to the site occupied by the resident; and
- (b) 24 hour access to the site occupied by the resident and the communal toilet and bathroom facilities or communal toilet and bathroom facilities for residents within designated areas of the park; and
- (c) access, during all reasonable hours, to recreational areas, laundry and communal facilities other than toilet and bathroom facilities.

### **Division 4 Relocation of sites or caravans**

#### **122K Changing caravan or site within caravan park**

- (1) This section applies if a caravan park owner is satisfied, on reasonable grounds, that it is necessary to relocate a resident from a site or caravan within the caravan park to another site or caravan within the park:
- (a) to allow work to be carried out in the park; or
  - (b) because of an emergency; or
  - (c) for health or safety reasons; or



- (d) for another reason under a law in force in the Territory.
- (2) The caravan park owner must give the resident written notice about the relocation including the following:
- (a) the decision about the relocation including the reasons for the relocation;
  - (b) the date proposed for the relocation to take place;
  - (c) that the owner is responsible for the cost of the relocation;
  - (d) the caravan park tenancy agreement is to be amended to include the details of the relocation or, at the election of the resident, may be terminated on or before the date proposed for the relocation;
  - (e) what the resident may do if he or she does not wish to be relocated as stated in the notice, including the time by which the resident must act.
- (3) The caravan park owner must give the notice to the resident within a reasonable period before the date proposed for the relocation having regard to the reason for the giving of the notice.

*Examples of a reasonable period*

*If there is a health and safety reason, 24 hours may be reasonable. But if the reason is carrying out programmed maintenance, 30 days may be reasonable.*

## **122L Options after giving notice about relocation**

- (1) This section applies if a caravan park owner has given a resident a notice under section 122K.
- (2) The caravan park owner and resident may enter into an agreement (a **relocation agreement**) about the relocation including, for example, the proposed date for the relocation, how the relocation is to be undertaken and the type of caravan to be made available.
- (3) If the resident wishes to terminate the caravan park tenancy agreement, the resident may give the caravan park owner written notice (a **relocation termination notice**) terminating the agreement on or before the date proposed for the relocation.
- (4) If a relocation agreement is not entered into, or a relocation termination notice is not given, within the period of 30 days after the notice under section 122K is given, the caravan park owner may apply to the Commissioner for an order about the relocation.

- (5) The Commissioner must consider the application in a way the Commissioner considers appropriate.
- (6) After considering the application, the Commissioner may:
  - (a) if the Commissioner considers there was sufficient grounds for the caravan park owner to be satisfied it was necessary to relocate the resident from a site or caravan in the caravan park to another site or caravan in the park – make an order declaring the resident must relocate, the date for relocation and the place to which the resident must relocate; or
  - (b) otherwise – make an order declaring the resident need not relocate to a site or caravan in the caravan park.

## **Division 5      Sale of caravans on site**

### **122M      Sale of caravan on site**

- (1) It is a term of a caravan park site agreement that a resident:
  - (a) is entitled to sell the resident's caravan placed on the site to which the agreement relates while it is so placed; and
  - (b) must inform the caravan park owner of the resident's intention to offer the caravan for sale before displaying a "for sale" sign in or on the caravan or site.
- (2) A caravan park owner must not do either of the following if the resident acts in accordance with a term of the caravan park agreement as mentioned in subsection (1):
  - (a) hinder, or attempt to hinder, the sale of a caravan by the resident;
  - (b) prevent, or attempt to prevent, the display by a resident of a "for sale" sign in or on a caravan or site for the purpose of selling the caravan.

Maximum penalty:      50 penalty units.

- (3) Without limiting subsection (2), a caravan park owner is taken to hinder the sale of a caravan if the owner or his or her agent stops potential buyers from inspecting the caravan.
- (4) A caravan park owner does not contravene subsection (2) in relation to the proposed sale of a caravan placed on a site if:

- (a) the owner imposes conditions relating to potential buyers entering or remaining on the caravan park that are reasonable in the circumstances; or
  - (b) the owner has reasonably refused to consent to a proposed assignment of the resident's interest in the caravan park site agreement relating to the site.
- (5) The Regulations may prescribe the maximum size for a "for sale" sign.

**24 Amendment of section 142 (Entry and inspection of property)**

- (1) Section 142(1)(a) and (b)

*omit*

or a building

*substitute*

, a building, or premises that are or were premises to which a caravan tenancy agreement relates

- (2) Section 142(2)

*omit*

may:

*substitute*

may do any 1 or more of the following:

- (3) Section 142(2)(b)

*omit*

or a building or other things on or in land or a building;

*substitute*

, a building, premises that are or were premises to which a caravan tenancy agreement relates or things on or in the land, building or premises;

- (4) Section 142(2)(d)

*omit*

; or

*substitute*

;

(5) Section 142(2)(e)

*omit*

or building

*substitute*

, building, or premises that are or were premises to which a caravan tenancy agreement relates

## **25 New Part 19**

After section 163

*insert*

## **Part 19 Transitional provisions for Part 2 of Residential Tenancies Amendment Act 2009**

### **164 Application to certain agreements at commencement**

- (1) This section applies in relation to an agreement in force immediately before the commencement of this section (an **existing agreement**) under which a person has occupied, or it is intended will occupy, either of the following for 90 days or more:
  - (a) a caravan in a caravan park (whether the caravan is identified as a caravan or a mobile home);
  - (b) a site for the placement of a caravan in a caravan park.
- (2) Subject to subsection (3), this Act applies to the existing agreement, and each person allowing occupation or given a right of occupation under the existing agreement, even if the persons are not identified as a landlord and a tenant.
- (3) The following provisions do not apply in relation to the existing agreement or a person allowing occupation or given a right of occupation under the existing agreement:
  - (a) section 19;
  - (b) Part 5;
  - (c) Part 6, Division 1;

- (d) sections 39 to 41 and 44 to 46;
  - (e) Part 12;
  - (f) Part 13, Division 1A.
- (4) However, subsection (3) ceases to have effect in relation to an existing agreement and a person allowing occupation or given a right of occupation under an existing agreement when the earlier of the following happens:
- (a) a caravan park agreement comes into force that involves the same persons as those under the existing agreement;
  - (b) at any time after 6 months after the commencement of this section, the existing agreement is renewed or varied or the tenancy under the existing agreement becomes a periodic tenancy.
- (5) For subsections (2) and (4), the Regulations may provide for matters relevant to the way this Act applies to an existing agreement and each person allowing occupation or given a right of occupation under the existing agreement.

### **Part 3                      Amendments relating to condition reports and other matters**

#### **26                      Amendment of section 4 (Definitions)**

Section 4

*insert (in alphabetical order)*

**continuation**, in relation to a tenancy to which a tenancy agreement relates, includes an extension or renewal of the tenancy (however described) and whether the continuation is a fixed term tenancy or periodic tenancy.

#### **27                      Amendment of section 25 (Condition report at beginning of tenancy)**

- (1) Section 25, heading

*omit*

**beginning**

*substitute*

**start**

- (2) Section 25(1), after "relates,"

*insert*

or after the start of a continuation of the tenancy to which the tenancy agreement relates,

## **28 Repeal and substitution of section 28**

Section 28

*repeal, substitute*

## **28 Condition report conclusive of condition at start of tenancy**

- (1) This section applies if a condition report is or is to be taken to have been accepted under this Division by a landlord and a tenant unless the Commissioner determines otherwise in a particular case.
- (2) If the condition report relates to the start of a tenancy to which a tenancy agreement relates, the report is conclusive evidence of the condition of the premises and of the provision of, and the condition of, any ancillary property referred to in the condition report at the start of the tenancy.
- (3) If the condition report relates to the start of a continuation of a tenancy to which a tenancy agreement relates, the report is conclusive evidence of the condition of the premises and of the provision of, and the condition of, any ancillary property referred to in the condition report at the start of the continuation.

## **28A Condition report has effect for continuation of tenancy**

- (1) This section applies to a tenancy for residential premises to which a tenancy agreement relates (the **original tenancy**) if the tenancy is continued and a condition report is not prepared under section 25 in relation to the continuation.
- (2) The condition report for the residential premises that had effect under this Division for the original tenancy continues to have effect for this Division for the continuation.
- (3) It is immaterial for subsection (2) whether either or both of the following apply:

- (a) there is a waiver of rent in relation to the period from the end of the original tenancy until a new agreement starts or the tenancy is continued;
- (b) the tenants for the new agreement or continuation of the tenancy include someone who was not previously a tenant under the original tenancy as long as one of the tenants for the new agreement or continuation was a tenant under the original tenancy.

**28B Landlord must not require tenant to vacate for condition report**

A landlord must not require a tenant to vacate residential premises in order to make a condition report under this Division.

**29 New section 42A**

After section 42

*insert*

**42A Commissioner may pay for valuation of premises**

- (1) This section applies if a tenant has made, or the Commissioner is satisfied the tenant wishes to make, an application as mentioned in section 42(1).
- (2) If the Commissioner considers it appropriate to do so, the Commissioner may pay or undertake to pay for a valuation about premises in relation to the tenant's application or proposed application.
- (3) In considering whether it is appropriate to pay or undertake to pay for a valuation but without limiting the Commissioner's discretion, the Commissioner may have regard to either or both of the following:
  - (a) whether it would cause economic hardship to the applicant or his or her family if the applicant were to pay for the valuation;
  - (b) whether the Commissioner has previously paid or undertaken to pay for a valuation under this section involving the applicant.
- (4) If the Commissioner makes a payment under subsection (2), the amount is payable from the Tenancy Trust Account.
- (5) For section 16, the payment is part of meeting the costs of administering and enforcing this Act.

**30 Amendment of section 110 (Condition report at end of tenancy)**

Section 110(1)

*omit*

all words from "a tenant" to "possession of"

*substitute*

vacant possession is given up for

**31 Amendment of section 112 (When landlord may keep security deposit)**

(1) Section 112(3)(a) to (c)

*omit*

;

*substitute*

; or

(2) Section 112(5)(a), (b) and (c)(ii)

*omit*

;

*substitute*

; and

(3) After section 112(9)

*insert*

(10) In this section:

***end of a tenancy agreement*** means, if there is a continuation of the tenancy to which the tenancy agreement relates, at the end of the continuation.

**32 Amendment of section 122 (Compensation and civil penalties)**

(1) Section 122(3)

*omit*

account –



*substitute*

account each of the following:

- (2) Section 122(3)(b), after "agreement"

*insert*

or this Act

- (3) Section 122(3)(f)

*omit*

and

**33 New Part 20**

At the end

*insert*

**Part 20 Transitional provisions for Part 3 of Residential Tenancies Amendment Act 2009**

**165 Application of section 122**

In dealing with an application under section 122, the Commissioner must take into account the matters stated in section 122(3) even if the tenancy agreement was entered into before the commencement of this section.

**Part 4 Further amendments**

**34 Further amendments**

The Schedule has effect.

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**Schedule Further amendments of Residential Tenancies Act**

section 34

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Provision	Amendment	
	<i>omit</i>	<i>substitute</i>
section 3(a) to (c)	;	; and
sections 9(4)(a), 10(5)(a) and (b) and 11(2)(a) and (b)	;	; or
section 16(1)(a) and (2)(a)	;	; and
sections 24A(1)(a) and 26(3)(a)	;	; or
sections 29(6)(a) and (b), 31(3)(a) and (b), 36(2)(a) and (b), 37(5)(a) to (c) and 42(2)(a) and (4)(a)	;	; and
section 44(1)(a) and (b)	;	; or
section 47	(1) A landlord	A landlord
section 54(a)	;	; or
sections 60(a)(ii) and (b) and 61(1)(a)	;	; and
section 61(3)(a)	;	; or
sections 62(3)(a) and 63(1)(a) and (b)	;	; and
section 63(2)(a) to (k)	;	; or
sections 69(4)(a) and 74(1)(a)	;	; and
sections 76(2)(a) and (b) and 82(1)(a) to (e)	;	; or

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section 83(a)	;	; and
section 86(a)	;	; or
sections 88A(2)(a) and 91(1)(a)	;	; and
section 92(a)	;	; or
section 96(a)	;	; and
section 97(2)(a)	;	; or
section 101(1) and (2)	under this section	under this Act
sections 101(1)(a) and (b) and (2)(a) and (b), 109(7)(a) and 118(1)(a) and (c)(i)	;	; and
section 126(1)(a)	;	; or
section 126(2)(a) and (b)	;	; and
section 128(a)	;	; or
section 131(2)(a)	;	; and
sections 140(2)(a), 148(2)(a) and (b) and 149(a) and (b)	;	; or
section 150(5)	may	must
section 158(1)	whole subsection	(1) The Administrator may make regulations under this Act.
section 158(2)(a) to (e)	;	; and

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