

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

(As presented)

Landlord and Tenant (Rental Bonds) Bill 1990

No. of 1990

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1989-90

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Connolly)

Landlord and Tenant (Rental Bonds) Bill 1990

A BILL

FOR

**An Act to constitute a Rental Bond Board and
for other related purposes.**

The Legislative Assembly for the Australian Capital Territory enacts
as follows:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the *Landlord and Tenant (Rental Bonds)
Act 1990*.

Commencement

2. (1) This section and section 1 shall commence on the day on which this Act is notified in the *Gazette*.

(2) Subject to subsection (3), the remaining provisions of this Act commence on such day as is fixed by the Minister by notice in the *Gazette*.

(3) If the provisions referred to in subsection (2) do not commence within the six months beginning on the day on which this Act is notified in the *Gazette*, they commence on the first day after the end of that period.

Definitions

3. (1) In this Act, unless the contrary intention appears:
"authorised officer" means a person appointed by the Board to be an authorised officer for the purposes of this Act;

"Board" means the Rental Bond Board constituted under this Act;

"functions" includes responsibilities, powers, authorities and duties;

"lease" means a lease or sublease of residential premises and includes

(a) a contract for the letting of residential premises, whether the contract is express or implied or is made orally, in writing or by deed;

(b) a contract for the letting of residential premises together with goods;

but does not include such a lease, sublease, contract or tenancy where the premises the subject of the lease, sublease, contract or tenancy are partly residential premises and partly premises that are not residential premises;

"lessee" means a person who proposes to become, or who is or was, a lessee or tenant under a lease (being a lease as defined in this subsection) and includes heirs, executors, administrators and assigns;

"lessor" means a person who proposes to become, or who is or was, a lessor or landlord under a lease (being a lease as defined in this subsection) and includes heirs, executors, administrators and assigns;

"member" means a member of the Board;

"money" includes a cheque or postal order;

"prescribed proceedings" means proceedings in a court (other than a prosecution) in relation to any matter which, under the terms or conditions of a lease, could, but for this Act, have given rise to a claim in relation to a rental bond deposited or paid in accordance with those terms or conditions;

"rental bond" in relation to a lease or proposed lease, means an amount of money deposited with or paid before, on or after the

date on which the lease became, or the proposed lease becomes, binding on the parties to -

- (a) the lessor under that lease or proposed lease;
- (b) a person, other than the lessor under that lease or proposed lease, in accordance with the directions of that lessor or the terms or conditions of that lease or proposed lease; or
- (c) a person, other than the lessor under that lease or proposed lease, acting on behalf of that lessor,

being money so deposited or paid in such a way that the effect is to secure, otherwise than by payment of rent in advance, that lessor against any failure by a lessee to comply with any terms or conditions (irrespective of whether those terms or conditions are related to payment of rent or not) applying to or in connection with that lease or proposed lease;

"residential premises" means -

- (a) a dwelling-house or any part thereof;
- (b) premises, other than a dwelling-house, or any part thereof; or
- (c) a caravan that is leased in a fixed position, used solely for the purposes of residence and, where land or appurtenances are leased with that dwelling-house, those premises or that caravan (not being land or appurtenances used for commercial purposes or for the purposes of a business of an industry), includes that land or those appurtenances;

(2) An amount of money deposited with or paid to a person as referred to in paragraph (b) or (c) of the definition of "rental bond" in subsection (1) in respect of a lease shall be deemed, for the purposes of section 8, to be deposited with or paid to the lessor under that lease.

(3) For the purposes of the definition of "rental bond" in subsection (1), where money is deposited or paid as referred to in that definition in relation to a proposed lease and a lease between the parties, and of the premises, to which the proposal relates is entered into, the lease entered into shall be deemed to be the lease proposed at the time the money is deposited or paid, whether or not the lease entered into differs from the lease proposed at that time.

Act to bind the Crown

4. This Act binds the Crown.

PART 2--CONSTITUTION OF THE RENTAL BOND BOARD**Constitution of the Rental Bond Board**

5. (1) For the purposes of this Act there shall be a body to be known as the Rental Bond Board of the Australian Capital Territory.

(2) The Board -

(a) is a body corporate with perpetual succession;

(b) shall have a common seal;

(c) may acquire, hold and dispose of real and personal property,
and

(d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to a document and shall presume that it was duly affixed.

Constitution and procedure of the Board

6. (1) The Board shall consist of 5 members of whom-

(a) one shall be the person for the time being holding, or acting in, the office of ACT Commissioner for Housing who shall be the Chairman of the Board;

(b) one shall be the person for the time being holding, or acting in, the office of ACT Director of Consumer Affairs;

(c) two shall be persons appointed by the Minister who have, in the opinion of the Minister, experience in tenancy matters;and

(d) one shall be a person appointed by the Minister, who has, in the opinion of the Minister, experience in the real estate industry.

(2) Subject to this Act, a member appointed pursuant to paragraphs (1) (c) or (d) shall hold office for such term, not exceeding 3 years, as is specified in the instrument of appointment.

(3) A member appointed pursuant to paragraph (1) (c) or (d) shall, if otherwise qualified, be eligible for re-appointment from time to time for such further term, not exceeding 3 years, as is specified in the instrument of re-appointment.

(4) The Minister may, by regulation, make rules of procedure for the Board.

(5) The members of the Board shall be paid such remuneration and allowances as are prescribed.

Officers, employees etc.

7. (1) The Minister may appoint officers of the Department to provide a secretariat to the Board.

**PART 3-SPECIAL FUNCTIONS OF THE BOARD
(PROVISION OF RESIDENTIAL ACCOMMODATION)**

Joint ventures for residential accommodation

8. (1) The Board may, with the approval of the Minister and the concurrence of the Treasurer, enter into a joint venture (including a partnership and any other association) with other persons or bodies, whether or not incorporated.

(2) The joint venture shall be for the purpose of the development (including the acquisition, management, leasing and disposal) of land for or in connection with the provision of residential accommodation.

Joint venture powers

9. (1) For the purposes of such a joint venture, the Board may, with the approval of the Minister-

(a) join in the formation of any company to be incorporated in the ACT;

(b) purchase, hold, dispose of or deal with shares in, or subscribe to the issue of shares by, any company incorporated in the ACT;

(c) make advances of money or provide other financial accommodation to any person or body (whether or not incorporated) participating in the joint venture or acting for or on behalf of the joint venture.

(d) do such other things as are necessary or convenient for, or incidental to, the joint venture.

(2) A company in which the Board has a controlling interest because of its shareholding in the capital of the company is not and does not represent the Crown.

Investment in residential accommodation unit trusts

10. (1) The Board may invest money in units in a residential accommodation unit trust and may, with the approval of the Minister, underwrite the issue of units in such a trust.

(2) A residential accommodation unit trust is a unit trust providing for participation by unit holders in income and profits arising from the development of property that wholly or partly comprises residential accommodation.

(3) Development of property includes the acquisition, holding management, leasing and disposal of property.

Guarantees etc. by Board

11. (1) The Board may, with the approval of the Minister -

(a) guarantee the due performance of an obligation incurred by a person or body in connection with a scheme for the provision of residential accommodation;

(b) make good a loss incurred by a person or body in connection with a scheme for the provision of residential accommodation;

(c) indemnify a person or body against a liability incurred under a guarantee (provided by the person or body) of the kind which the Board could provide under paragraph (a); and

(d) enter into and give effect to an agreement to do anything which the Board is authorised to do under this section.

(2) The following are examples of schemes for the provision of residential accommodation;

(a) a joint venture which the Board enters into under this part;

(b) a residential accommodation unit trust in which the Board is empowered to invest under this Part.

(3) A permissible method of making good a loss involving such a residential accommodation unit trust is investment in units in the trust.

Finance

12. (1) Amounts may be paid from the Rental Board Interest Account under Part 6 to meet expenditure by the Board under this Part.

(2) Amounts may also be paid from the Rental Bond Account under Part 6 to meet so much of that expenditure as is attributable to the provision of financial accommodation (including advances).

(3) Interest and other income accruing to the Board in connection with any investment made, financial accommodation provided or joint venture entered into under this Part shall be paid into the Rental Bond Interest Account under Part 6.

PART 4—DEPOSIT OF RENTAL BONDS WITH THE RENTAL BOND BOARD

Deposit of rental bonds with the Board

13. (1) Where, before the commencement of this Act a lessor under a lease or proposed lease received a deposit or payment of money that, if it had been received after that commencement, would have been a rental bond and the money or its equivalent, as at that commencement—

(a) has not been refunded or become refundable;

(b) has not become the property of that lessor; or

(c) is not subject to prescribed proceedings,

that lessor (by him/herself or his agent) shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act, deposit with the Board within one month after that commencement an amount of money equivalent to the amount deposited or paid.

(2) Where, after the commencement of this Act, a lessor receives a rental bond for a lease or a proposed lease, that lessor shall, notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act,

deposit with the Board an amount of money equivalent to the amount of that rental bond not later than 7 days (or, where some other period is prescribed for the purposes of this subsection, that other period) after—

- (a) the date of receipt of that rental bond; or
- (b) the date on which the lease became, or the proposed lease becomes, binding on the parties;

whichever is the later date.

(3) Subsection (1) does not apply to a rental bond that—

- (a) is refunded or becomes refundable;
- (b) becomes the property of a lessor; or
- (c) becomes subject to prescribed proceedings;

during the period referred to in subsection (1).

(4) The Board may, without affecting the obligation imposed on a lessor under subsection (1) or (2), refuse to accept any amount tendered for deposit under subsection (1) or (2) that is not accompanied by a notification in or to the effect of a form approved by the minister duly completed.

(5) If a rental bond—

- (a) exempt or excluded from the operation of subsection (1); or
- (b) exempt or excluded from the operation of subsection (2);

pursuant to section 26, subsequently ceases to be so exempt or excluded, this section shall, in respect of that rental bond, be deemed to be amended—

(c) where paragraph (a) applies – by omitting from subsection (1) the words "after that commencement" and by inserting instead the words "after that rental bond ceases to be exempt or excluded from the operation of this subsection"; or

(d) where paragraph (b) applies – by omitting from subsection (2) all matter following the word "after" where secondly occurring, and by inserting instead the words "that rental bond ceases to be exempt or excluded from the operation of this section".

(6) The Minister, by instrument in writing, may –

- (a) generally or in any particular case or class of cases, extend the period prescribed by subsection (1); and
- (b) in any particular case or class of cases, extend the period prescribed by or under subsection (2).

Rental bonds to be in money

14. (1) Notwithstanding the terms of any agreement, no person as lessor of residential premises shall, in respect of a lease or proposed lease of those premises, demand or receive from another person anything, other than money, that would have the effect of securing the lessor against any failure by a lessee to comply with any terms or conditions applying to or in connection with that lease or proposed lease, whether that thing is to be received by or deposited with –

- (a) the lessor;

- (b) another person in accordance with the directions of the lessor or the terms or conditions of the lease or proposed lease; or
- (c) another person acting on behalf of the lessor.

(2) Notwithstanding the terms of any agreement, a lessor of residential premises shall not, in respect of a lease or proposed lease of those premises, demand an amount of money that would, if deposited or paid, be a rental bond, or receive a rental bond, of an amount that exceeds the rental of those premises -

- (a) in the case of a lease or proposed lease of unfurnished premises - in respect of the first 4 weeks of the lease or proposed lease;
- (b) in the case of a lease or proposed lease of furnished premises - in respect of the first 6 weeks of the lease or proposed lease; or
- (c) where some other period is prescribed for the purposes of paragraph (a) or (b) for that other period in the case of a lease or proposed lease referred to in that paragraph.

(3) A lessor shall be deemed to have demanded a rental bond if a term or condition of the lease or proposed lease requires that rental bond to be deposited with or paid to the lessor or another person in accordance with the directions of the lessor or acting on behalf of the lessor.

Provisions in leases relating to rental bonds

15. (1) Notwithstanding the terms of any agreement, no person (other than the Board) shall, in respect of any period after the date that an amount of money equivalent to the amount of a rental bond is deposited with the Board, be entitled to receive interest in respect of that rental bond.

(2) Subject to subsection (3), the terms and conditions of a lease, to the extent that those terms and conditions are rendered inoperative by the provisions of this Act, shall be deemed to be void.

(3) Where, but for this Act, a lessor or lessee would have a claim against a rental bond under the terms and conditions of a lease for an amount which cannot be recovered under any other provision of those terms and conditions-

- (a) that lessor may recover from the lessee as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond; and
- (b) that lessee may recover from the lessor as a debt an amount equivalent to the amount of the claim that he would have had against that rental bond.

Condition report

16. (1) Where the lessor of residential premises or a person acting on behalf of the lessor requires the lessee to provide a rental bond, the lessor or the person acting on behalf of the lessor shall not later than the next business day after the day on which it is agreed that the lessee is to enter into occupation of the residential premises, give to the lessee two copies of a report

in the prescribed form, signed by or on behalf of the lessor, as to the state of repair and general condition of the residential premises as at that day.

Penalty \$500.

(2) Where the lessee receives copies of a report under subsection (1) the lessee may, within three business days after the receipt of the copies return one of them to the person who provided the report, signed by or on behalf of the lessee or with an endorsement so signed to the effect that the lessee agrees, or disagrees, with the report as a whole or with specified parts of the report.

(3) The lessor or person acting on behalf of the lessor, shall provide to the Board a copy of the report, and any response from the lessee pursuant to subsection (2), within 5 working days of the issue of the report, or the receipt of a response from the lessee whichever is the later.

Penalty \$500.

(4) Where a condition report has not been provided to the Board pursuant to subsection (3) the Board shall not accept any application from the lessor pursuant to section 17 for payment of the rental bond, or part of the rental bond, to the lessor on account of any damage to the premises allegedly caused by the lessee.

Payment out of rental bonds

17. (1) In this section –

(a) a reference to an amount of money, in relation to a lease, is a reference to an amount of money equivalent to the amount of money, or part of the amount of money, as the case may require, held on deposit by the Board in respect of that lease; and

(b) where the Board has received a notification referred to in subsection (2) from a prescribed person or organisation – a reference to a lessee includes a reference to the prescribed person or organisation.

(2) Where the Board is, or has been, notified that an amount of money held on deposit by the Board in respect of a lease, or that a specified part of such an amount of money, was paid to it by a prescribed person or organisation on behalf of the lessee under the lease, the Board shall, where it is required to pay out to the lessee any part of the amount of money held on deposit, pay to the prescribed person or organisation in priority to any other person so much of the amount that it is required to pay out as does not exceed the amount to which the notification relates.

(3) An application to the Board to pay out an amount of money in respect of a lease shall be in or to the effect of a form approved by the Minister and may –

(a) in the case of an application of a kind referred to in subsection (4) – be made at any time; or

(b) in the case of an application of a kind referred to in subsection (5) or (6) - be made upon termination of the lease.

(4) Subject to subsection (12), where an application under subsection (3) -

(a) is made jointly by a lessor and a lessee under a lease;

(b) is made by a lessor under a lease who, in that application, directs the Board to pay out an amount of money to the lessee under that lease; or

(c) is made by the lessee under a lease who, in that application, directs the Board to pay out an amount of money to the lessor under that lease,

the Board shall pay out an amount of money as directed in that application.

(5) Where an application under subsection (3) is made by lessor under a lease who, in that application, directs the Board to pay out an amount of money to him/herself, the Board shall, unless a notice has been given under subsection (6) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessee under that lease.

(6) Where an application under subsection (3) is made by a lessee under a lease who, in that application, directs the Board to pay out an amount of money to him/herself, the Board shall, unless a notice has been given under subsection (5) in respect of that lease, give, by personal service or by post, notice in writing of the receipt of that application to the lessor under that lease.

(7) Subject to subsection (12), if an application referred to in subsection (5) or (6) is made in respect of part of an amount of money held on deposit by the Board in respect of a lease the Board shall -

(a) in the case of an application referred to in subsection (5) - pay out to the lessee the remainder of that amount; and

(b) in the case of an application referred to in subsection (6) - pay out to the lessor the remainder of that amount.

(8) If a lessee to whom notice has been given under subsection (5) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he/she disputes the claim by the lessor, the Board shall, subject to subsection (12) pay out that amount to the lessor.

(9) If a lessor to whom notice has been given under subsection (6) does not, within 10 days (or, where some other period is prescribed for the purposes of this subsection, that period) after personal service of the notice or the date of posting of the notice, as the case may be, notify the Board in writing that he/she disputes the claim by the lessee, the Board shall, subject to subsection (12), pay out that amount to the lessee.

(10) Where pursuant to subsection (8) or (9) a dispute exists between the lessor and lessee as to the payment of the rental bond following an application for payment, the Board may determine the application.

(11) In determining the dispute the Board may—

- (a) hear the application in such manner as the Board considers best suited to that purpose;
- (b) proceed to hear and determine the application in the absence of any or both parties thereto.

(12) Where an application has not been commenced in relation to an amount of money held by the Board within the period prescribed by or under subsection (7) or (8), a lessor or a lessee may, at any time before a payment is made in accordance with an application made by him, withdraw that application and, for the purposes of this section, that application shall thereupon be deemed never to have been made.

(13) Where the Board is required to pay out an amount of money to a person under this section, the Board may, instead of paying out that money to that person, pay out or apply that money in accordance with that person's directions.

(14) This section applies notwithstanding the terms of any agreement, any rule of law or the provisions of any other Act.

(15) The Board may in any particular case extend the period prescribed by or under subsections (8) and (9).

PART 5—ENFORCEMENT PROVISIONS

Receipts to be given for rental bonds

18. (1) A lessor, or agent, receiving money deposited or paid as a rental bond shall, at the time of receiving that money, give or cause to be given to the person making that deposit or payment a receipt for that money.

(2) A receipt given under subsection (1) shall contain such particulars as are prescribed for the purposes of this subsection.

(3) A lessor, or agent, shall keep or cause to be kept, in the manner (if any) and for such term (if any) as are prescribed, a copy of each receipt given under this section.

Information to be furnished on request

19. (1) An authorised officer may orally or in writing require a person—

- (a) to furnish to the authorised officer such information as is required;
- (b) to answer any question put by the authorised officer; or
- (c) to produce for inspection any books, documents or other records in his/her custody or control,

in relation to the leasing or proposed leasing of residential premises.

(2) An authorised officer may make copies of or take extracts from books, documents or other records produced under subsection (1).

(3) A person shall not, in relation to a requirement under subsection (1) -

- (a) refuse or fail to furnish the information or to answer the question or to produce the books, documents or other records; or
- (b) give any information or make any answer which is false in any particular.

(4) Where information furnished, or an answer given, in response to a requirement under subsection (1) tends to incriminate the person giving the information or answer, neither the terms of the requirement, nor the information or answer may be used (whether or not that person objected to giving the information or answer) in any proceedings against that person except proceedings under paragraph (3) (b) in relation to that information or answer.

(5) A person is not obliged to furnish any information or to answer any question or to produce any books, documents or other records under this section unless he/she has first been informed by the authorised officer making the requirement that he/she is required and is obliged, by virtue of this section, to furnish the information or to answer the question or to produce the books, documents or other records.

Contracts to evade Act prohibited

20. (1) A person shall not enter into or make any contract or arrangement, whether orally or in writing, for the purpose of, or which has the effect of, in any way, and whether directly or indirectly, defeating, evading or preventing the operation of this Act in any respect.

(2) Any contract or arrangement referred to in subsection (1) is void whether or not a person has been convicted under that subsection in respect of that contract or arrangement.

Proof

21. A certificate purporting to be a certificate given by the Chairman of the Board or his delegate certifying that no rental bond has been deposited with, or that no rental bond was or is held on deposit by, the Board in relation to a tenancy of premises specified in the certificate during a period specified in the certificate shall be received in evidence in a Court and shall, until the contrary is proved, be accepted as evidence of the matters set out therein.

Offences and penalty

22. (1) Any person who contravenes, whether by act or omission, any provision of this Act is guilty of an offence against this Act.

(2) Any person who is guilty of an offence against this Act shall, upon conviction, be liable to a penalty not exceeding \$2,000.

Offences by corporations

23. (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

(4) This section does not apply to a person in the person's capacity as a director of, or as a person concerned in the management of, a corporation constituted by or under an Act.

Proceeding for offences

24. (1) Proceedings for offences against this Act or the regulations shall be disposed of in a summary manner before a Magistrate sitting alone.

(2) Notwithstanding anything in any Act, proceedings for an offence punishable under this Act may be brought -

(a) in the case of an offence in relation to a rental bond for a lease or a proposed lease - at any time before the expiration of the period of 3 years that next succeeds -

(i) the commission of the offence; or

(ii) the termination of the lease,

whichever is the later; or

(b) in any other case - at any time before the expiration of the period of 3 years that next succeeds the commission of the offence.

PART 6- ACCOUNTS AND FINANCE

Accounts

25. The Board shall establish a Rental Bond Account and a Rental Bond Interest Account.

Rental Bond Account

26. (1) There shall be paid into the Rental Bond Account all rental bonds deposited with the Board in accordance with Section 13.

(2) There shall be paid from the Rental Bond Account-

(a) rental bonds authorised to be paid out under section 17;

(b) any money that the Board is authorised to invest under subsection (3) for the purpose of that investment; and

(c) any other payments authorised by this Act to be made from that account.

(3) Subject to any specific or general direction given by the Minister, the Board may invest money from the Rental Bond Account –

(a) by way of deposit with or loan to a bank registered under the *Banking Act 1959* of the Commonwealth.

(b) in shares in, or by way of deposit with or loan to, a permanent building society registered under the *Cooperative Societies Act 1939*;

(c) in securities authorised by law for the investment of trust funds; or

(d) in any other manner prescribed for the purposes of this section.

Rental Bond Interest Account

27. (1) There shall be paid into the Rental Bond Interest Account all interest received on investments made by the Board under section 26 (3) and subsection (3).

(2) Subject to any specific or general direction given by the Minister, there shall be paid from the Rental Bond Interest Account –

(a) the costs of, or the expenses incurred in, the administration of this Act;

(b) any money that the Board is authorised to invest under subsection (3) for the purpose of that investment; and

(c) any other payments authorised by this Act to be made from that Account.

(3) The Board may invest money from the Rental Bond Interest Account in the same manner as money from the Rental Bond Account may be invested under subsection 26 (3).

(4) The Board may make a grant or loan from the Rental Bond Interest Account for the purposes of–

(a) a scheme approved by the Minister for the provision of residential accommodation;

(b) research being conducted, with the approval of the Minister, into matters relevant to the relationship of landlord and tenant; or

(c) other activities approved by the Minister that are relevant to matters associated with the relationship of landlord and tenant,

subject to compliance with any conditions imposed by the Minister when giving the approval.

Rental advisory services

28. The Board may with the approval of the Minister and subject to compliance with any conditions imposed by the Minister when giving the approval, provide from the Rental Bond Interest Account money for the establishment or administration of community based rental advisory services.

Temporary accommodation

29. (1) For the temporary accommodation of the Board it may obtain advances by overdraft on current account in any bank or banks to such extent as may from time to time be approved by the Executive on the recommendation of the Treasurer.

(2) The Treasurer may advance such money to the Board, upon such terms and conditions as to repayment and interest, as may be agreed upon.

(3) Money advanced to the Board under this section for the purposes of the Rental Bond Account or the Rental Bond Interest Account shall be repaid from the Account in respect of which the money was advanced subject to any interest payments on those advances being paid from the Rental Bond Interest Account.

Financial year of the Board

30. The financial year of the Board shall be-

(a) where no period is prescribed as referred to in paragraph

(b) - the year commencing on 1st July; or

(b) the period prescribed for the purposes of this section.

Agents of the Board

31. Any money received, invested or paid out by an agent of the Board shall be deemed to have been received, invested or paid out, as the case may be, by the Board, and money received by an agent of the Board shall be deemed to have been received by the Board on the day that it is received by the agent.

PART 7-GENERAL

Exclusion from operation of Act

32. (1) The Minister may, by regulation made under this Act, exempt or exclude from the operation of all or any of the provisions of this Act -

(a) any person or class of persons;

(b) any statutory body or public authority or all statutory bodies or public authorities; or

(c) any rental bond or class of rental bond.

(2) For the purposes of, but without prejudice to the generality of, subsection (1), a class of rental bond may be described by reference to a class of lease or a class of premises in respect of which rental bonds are deposited or paid.

(3) For the purposes of, but without prejudice to the generality of, subsection (2), a class of lease may be described by reference to periods of continuous occupancy of premises under leases or by reference to terms or conditions of leases.

Continuous occupation

33. For the purposes of this Act and the regulations made under this Act, where the same lessee continuously occupies the same residential premises under a series of leases from the same lessor, those leases shall be deemed to be one lease.

Rent paid in advance

34. (1) Notwithstanding the terms or conditions of any lease, rent paid in advance, or money purporting to be rent paid in advance, in respect of a lease—

(a) shall not be appropriated by the lessor for any purpose other than the payment of rent; and

(b) shall (unless it is returned immediately to the payer) be applied by the lessor in respect of a period for which rent has not already been paid, being the first such period after the date of payment.

(2) Notwithstanding the terms or conditions of any lease, where a lessee has paid an amount of rent in advance in accordance with the terms or conditions of a lease, the lessor, by him/herself or agent, shall not require that lessee to pay further rent in advance otherwise than at or immediately before the expiration of the period for which the first mentioned amount was paid.

(3) Subsection (2) does not prevent a lessee, of his/her own volition, paying rent in advance at any time.

False or misleading statements

35. A person shall not, in any notification lodged with a rental bond deposited with the Board or in any application or direction to the Board to pay out a rental bond, wilfully make a false or misleading statement.

Annual report

36. (1) The Board shall, as soon as practicable after 30th June in each year, prepare and forward to the Minister a report of its work and activities from the 12 months preceding that date.

(2) The Minister shall lay the report, or cause it to be laid, before the Assembly as soon as practicable after the receipt by him of the report.

Service of notices etc.

37. (1) Any notice, summons, writ or other proceeding to be served on the Board may be served—

- (a) by being left; or
- (b) in the case of a notice, by posting it addressed to the Board,

at its office.

(2) A letter giving a notice in writing to a lessor or lessee by post under section 17 shall be deemed to be properly addressed if it is addressed to that lessor or lessee at his/her last known address according to the records of the Board.

Recovery of money

38. Any charge, fee or money due to the Board may be recovered as a debt or liquidated demand in a court of competent jurisdiction.

Regulations

39. (1) The Minister may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of subsection (1), wherever a provision of this Act requires a form to be prescribed or a document to be in writing the Minister may make regulations, not inconsistent with this Act, prescribing—

- (a) a form to be used for that purpose;
- (b) where that form or document is required to be lodged with or served on or sent to any person – the manner of lodgment, service or sending; and
- (c) particulars or information to be provided by a person completing that form or document.

(3) Regulations may be made so as to apply differently in different circumstances according to such factors as may be specified in the regulations.

(4) A regulation may impose a penalty not exceeding \$300 for any contravention thereof, whether by act or omission.