

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mrs Jacqui Burke)

Residential Tenancies (Assisted Tenants) Bill 2003

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Residential Tenancies (Assisted Tenants) Bill 2003

A Bill for

An Act relating to assisted residential tenancies

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

1 **1 Name of Act**

2 This Act is the *Residential Tenancies (Assisted Tenants) Act 2003*.

3 **2 Commencement**

4 This Act commences on the day after its notification day.

5 *Note* The naming and commencement provisions automatically commence on
6 the notification day (see Legislation Act, s 75 (1)).

7 **3 Dictionary**

8 The dictionary at the end of this Act is part of this Act.

9 *Note 1* The dictionary at the end of this Act defines certain terms used in this
10 Act, and includes references (*signpost definitions*) to other terms
11 defined elsewhere in this Act or in other legislation.

12 For example, the signpost definition '*residential tenancy agreement*—
13 see the Residential Tenancies Act, section 3.' means that the term
14 '*residential tenancy agreement*' is defined in that section and the
15 definition applies to this Act.

16 *Note 2* A definition in the dictionary (including a signpost definition) applies to
17 the entire Act unless the definition, or another provision of the Act,
18 provides otherwise or the contrary intention otherwise appears (see
19 Legislation Act, s 155 and s 156 (1)).

20 **4 Notes**

21 A note included in this Act is explanatory and is not part of this Act.

22 *Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

1 **5 Object of Act**

- 2 (1) The main objects of this Act are:
- 3 (a) to give effect to the principle that assisted tenants are entitled
- 4 to security of housing; and
- 5 (b) to maintain continued housing assistance for those most in
- 6 need; and
- 7 (c) to provide for an early intervention scheme for assisted tenants
- 8 who have difficulties in meeting their obligations under
- 9 tenancy agreements.
- 10 (2) This is to be achieved particularly by—
- 11 (a) providing opportunities for assisted tenants who may be in
- 12 breach of their tenancy agreements to meet their obligations
- 13 under the agreements; and
- 14 (b) enabling assisted tenants who have difficulties meeting their
- 15 obligations under tenancy agreements to obtain help and to
- 16 help themselves; and
- 17 (c) adopting a case management approach that—
- 18 (i) recognises the need for housing assistance to be given to
- 19 those most in need; and
- 20 (ii) has regard to the needs of all assisted tenants; and
- 21 (iii) involves community service providers.

22 **6 Application of Act**

23 This Act applies to residential tenancy agreements under which the

24 commissioner is the lessor.

1 **7 When may tenant ask for assistance plan referral?**

2 An assisted tenant may ask for a referral to establish an assistance
3 plan if—

- 4 (a) the tenant has failed to pay rent payable under a residential
5 tenancy agreement; or
- 6 (b) the tenant's circumstances have changed in a way that makes it
7 unlikely that the tenant will be able to pay rent under a
8 residential tenancy agreement as it becomes payable; or
- 9 (c) the tenant is, or is likely to be, otherwise in breach of a
10 residential tenancy agreement.

11 **Examples for par (b)**

- 12 1 ill-health
- 13 2 bereavement
- 14 3 separation from domestic partner

15 *Note* An example is part of the Act, is not exhaustive and may extend, but
16 does not limit, the meaning of the provision in which it appears (see
17 Legislation Act, s 126 and s 132).

18 **8 Referral to case manager**

- 19 (1) The commissioner may refer an assisted tenant to a case manager to
20 establish an assistance plan if the tenant asks for a referral under
21 section 7.
- 22 (2) The commissioner may also refer an assisted tenant to a case
23 manager to establish an assistance plan if the tenant agrees to a
24 referral.
- 25 (3) The commissioner may act under subsection (2) if—
- 26 (a) a family member of the assisted tenant asks the commissioner
27 to make the referral; or
- 28 (b) the commissioner is satisfied that it is in the interests of the
29 tenant or other tenants to make the referral.

- 1 (4) This section does not apply if the commissioner believes on
2 reasonable grounds that—
 - 3 (a) the tenant has abandoned the premises; or
 - 4 (b) the premises are not fit for habitation; or
 - 5 (c) the tenant has purported to assign or subset the premises in
6 breach of the tenancy agreement; or
 - 7 (d) the tenant has intentionally or recklessly caused or permitted,
8 or is likely to cause or permit, serious damage to the premises
9 or to other property of the lessor.

10 **9 Establishment of assistance plan**

- 11 (1) If an assisted tenant is referred to a case manager, the case manager
12 must, in consultation with the commissioner, establish an assistance
13 plan for the tenant.
- 14 (2) The case manager must give the commissioner and the tenant a copy
15 of the assistance plan.

16 **10 What is an assistance plan?**

- 17 (1) An assistance plan for an assisted tenant may include—
 - 18 (a) an education or training course or program;
 - 19 (b) a health or life skills program.

20 **Examples**

- 21 1 money management and budgeting skills
- 22 2 home economics
- 23 3 drug rehabilitation program

24 *Note* An example is part of the Act, is not exhaustive and may extend, but
25 does not limit, the meaning of the provision in which it appears (see
26 Legislation Act, s 126 and s 132).

- 1 (2) An assistance plan requested by a tenant because of failure to pay
2 rent must provide for the payment of any arrears of rent over a
3 reasonable period, and in the amounts that the commissioner is
4 satisfied are fair in the circumstances.

5 **11 Commissioner's assistance plan obligations**

6 The commissioner must cooperate with a case manager in the
7 establishment and implementation of an assistance plan for an
8 assisted tenant.

9 **12 Tenant's assistance plan obligations**

- 10 (1) The tenant must cooperate in the establishment and implementation
11 of an assistance plan for the tenant.
- 12 (2) The tenant must comply with reasonable obligations imposed on the
13 tenant under the tenant's assistance plan.
- 14 (3) The tenant must tell the commissioner and the tenant's case
15 manager as soon as possible of any of the following events:
- 16 (a) a change in the tenant's income;
- 17 (b) a change in the number of people living with the tenant;
- 18 (c) a change in the tenant's circumstances that has, or is likely to
19 have, a substantial effect on the tenant's ability to meet his or
20 her obligations under the assistance plan or tenancy agreement.

21 **13 Effect of assistance plan**

- 22 (1) While an assistance plan is in force in relation to a residential
23 tenancy agreement—
- 24 (a) action may not be taken under the Residential Tenancies Act,
25 part 4 (Termination of residential tenancy agreements) in
26 relation to the termination of the tenancy or to obtain
27 possession of premises to which the tenancy agreement relates;
28 and

1 (b) action may not be taken under the Residential Tenancies Act,
2 division 6.4 (Tribunal hearings), division 6.5 (Procedural
3 powers and orders of tribunal) or division 6.6 (Enforcement) in
4 relation to the agreement; and

5 (c) the assistance plan prevails over any inconsistent provision of
6 the tenancy agreement.

7 **14 Review of assistance plan**

8 (1) A case manager must review the effectiveness of a tenant's
9 assistance plan at least once every 3 months.

10 (2) The case manager must report to the commissioner after each
11 review.

12 (3) The commissioner may at any time ask for a review of a tenant's
13 assistance plan.

14 **15 When does assistance plan end?**

15 (1) An assistance plan for a tenant ends—

16 (a) if the tenant tells the commissioner in writing that the tenant
17 wants the assistance plan to end; or

18 (b) 12 months after the day the assistance plan began, unless the
19 commissioner approves the extension of the assistance plan.

20 (2) The commissioner may end an assistance plan if the commissioner
21 is satisfied that—

22 (a) the tenant has failed to comply with the assistance plan; and

23 (b) there are no special circumstances justifying the continuation
24 of the assistance plan.

25 (3) The commissioner must end an assistance plan if the commissioner
26 is satisfied that—

27 (a) the tenant has abandoned the premises; or

- 1 (b) the premises are not fit for habitation; or
2 (c) the tenant has purported to assign or subset the premises in
3 breach of the tenancy agreement; or
4 (d) the tenant has intentionally or recklessly caused or permitted,
5 or is likely to cause or permit, serious damage to the premises
6 or to other property of the lessor; or
7 (e) it is in the public interest to do so.
8 (4) If the commissioner ends an assistance plan under subsection (2) or
9 (3), the commissioner must tell the tenant, in writing, that the
10 assistance plan has ended.

11 **16 Case managers—appointment and functions**

- 12 (1) The commissioner must appoint case managers for this Act.
13 (2) A case manager has the functions given to him or her under this Act.

14 *Note 1* For the making of appointments (including acting appointments), see
15 Legislation Act, pt 19.3.

16 *Note 2* In particular, a person may be appointed for a particular provision of a
17 law (see Legislation Act, s 7 (3)) and an appointment may be made by
18 naming a person or nominating the occupant of a position (see s 207).

19 **17 Delegation**

20 The commissioner may delegate the exercise of any function to a
21 public servant.

22 *Note* For the making of delegations and the exercise of delegated functions,
23 see Legislation Act, pt 19.4.

24 **18 Information to Minister**

25 The commissioner must give the Minister any information requested
26 by the Minister about any matter relating to the commissioner's
27 functions under this Act.

1 **19 Review by AAT**

2 A person may apply in writing to the administrative appeals tribunal
3 for review of a decision of the commissioner—

4 (a) not to refer a tenant to a case manager under section 8; or

5 (b) to end an assistance plan under section 15 (2) or (3).

6 **20 Transitional**

7 (1) This Act does not affect an application for resolution of a tenancy
8 dispute made under the Residential Tenancies Act, part 6 before the
9 commencement of this Act or any action taken by the registrar, a
10 referee or the tribunal in relation to the application.

11 (2) In this section:

12 *referee*—see the Residential Tenancies Act, section 3.

13 *registrar*—see the Residential Tenancies Act, section 3.

14 *tenancy dispute*—see the Residential Tenancies Act, section 3.

15 *tribunal*—see the Residential Tenancies Act, section 3.

16 (3) This section expires 1 year after the day it commences.

17 *Note* Transitional provisions are usually of transitional effect. They are kept
18 with the original provisions for a limited time to ensure people are
19 aware of them. However, the expiry of transitional provisions does not
20 end their effect (see Legislation Act, s 88).

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- commissioner for housing
- exercise
- function
- public servant.

assisted tenant means a tenant under a residential tenancy agreement under which the commissioner is the lessor.

assistance plan means an assistance plan in force under this Act.

commissioner means the commissioner for housing.

Residential Tenancies Act means the *Residential Tenancies Act 1997*.

residential tenancy agreement—see the Residential Tenancies Act, section 3.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2003.

2 Notification

Notified under the Legislation Act on 2003.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.