

2025

**Legislative Assembly for the
Australian Capital Territory**

Residential Tenancies (Posting Termination) Amendment Bill 2025

Explanatory Statement

Presented by

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RESIDENTIAL TENANCIES (POSTING TERMINATION) AMENDMENT BILL 2025

This explanatory statement relates to the Residential Tenancies (Posting Termination) Amendment Bill 2025 ('the Bill') as presented to the Legislative Assembly for the Australian Capital Territory ('ACT'). It has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

OVERVIEW OF THE BILL

Purpose

The purpose of this Bill is to amend the *Residential Tenancies Act 1997* to modernise the posting termination clause to extend to recognised domestic partners of lessors being posted for work.

Background

The posting termination clause under Schedule 2, section 2.1 of the *Residential Tenancies Act 1997* provides for the termination of a tenancy agreement because of a posting to or away from the ACT in the course of employment. This optional clause must be agreed to by both the lessor and tenant under the tenancy agreement and provides for an eight-week notice period to vacate or intention to vacate depending on whether the lessor or tenant is providing the notice. The clause is most commonly utilised by members of the Australian Defence Force (ADF), but can extend to non-Defence professions, such as education or the public service.

This Bill seeks to address a situation that was raised by a constituent whose domestic partner serves in the ADF. The circumstances that impacted this constituent, as a lessor, involved them not being able to trigger the posting termination clause in their tenancy agreement with their tenant. The lessor and their domestic partner were required to relocate to the ACT due to the lessor's domestic partner's posting in the course of employment in the ADF, but the property was solely owned in the name of the lessor, who was not being posted in the course of employment. Note, the partnership is a formal civil partnership in the ACT and is formally recognised by the ADF. This situation highlights the issues with the scope of the posting termination clause being limited to the circumstances where the lessor is the one being posted in the course of employment.

This Bill seeks to resolve the impractical and outdated scope of the posting termination clause in its current form. This minor reform to the Act will better reflect contemporary families and households working in professions which may be posted in the course of employment, particularly families with ADF members.

Consultation

Consultation was undertaken with various non-government stakeholder groups, including from the legal profession, defence community, and real estate industry. None of those consulted raised objections and all were supportive of these amendments.

CONSISTENCY WITH HUMAN RIGHTS

The proposed amendments to this Bill are anticipated to have a minor impact on human rights as they exist in legislation, and they are consistent with the *Human Rights Act 2004* ('Human Rights Act').

The Bill promotes the right to movement provided by section 13 of the Human Rights Act by providing an enhanced pathway for people being posted in the course of employment to or away from the ACT to exercise their freedom to choose their residence in the ACT. It will also promote the right to work and other work-related rights provided by section 27B of the Human Rights Act, particularly the right to the enjoyment of just and favourable conditions of work, by ensuring the work-related accommodation conditions of people being posted in the course of employment to or away from the ACT are more accessible and achievable.

CLAUSE NOTES

Clause 1 – Name of Act

This clause provides for the name of the Act is the *Residential Tenancies (Posting Termination) Amendment Act 2025*.

Clause 2 – Commencement

This clause provides that the Act will commence on the seventh day after its notification day.

Clause 3 – Legislation amended

This Act amends the *Residential Tenancies Act 1997*.

Clause 4 – Posting termination clause Schedule 2, section 2.1, clause 102 (1) and (2)

This clause substitutes Schedule 2, section 2.1, clause 102 (1) and (2), to insert provisions incorporating the lessor's domestic partner into clause 102 (1), evidence of the domestic partnership into clause 102 (2) and examples of evidence of posting and evidence of domestic partnership into the posting termination clause.

Clause 5 – New part 20

This clause provides for transitional provisions for application of posting termination clause to residential tenancy agreement entered into before commencement day.