

Australian Capital Territory
Legislative Assembly

**Housing and Consumer Affairs Legislation
Amendment Bill 2024**

Amendments to be moved by the Attorney-General

1

Clause 2 (1)
Page 2, line 6—

omit

section 5 and part 8

substitute

section 5 and parts 2, 8 and 8A

2

Clause 2 (3), except notes
Page 2, line 11—

omit clause 2 (3), except notes, substitute

- (3) Part 2 commences, or is taken to have commenced, on 1 July 2024.
- (4) Parts 8 and 8A commence on a day fixed by the Minister by written notice.

3
Proposed new clause 71A
Page 44, line 21—

insert

71A **New section 64AE**

in part 5, before section 64A, insert

64AE **Meaning of *rental rate increase*—pt 5**

In this part:

rental rate increase, for premises, means either of the following:

- (a) an increase in the rental rate for the premises under a residential tenancy agreement (including an existing consecutive tenancy agreement);
- (b) an increase in the rental rate for the premises that will take effect under a proposed consecutive tenancy agreement.

4
Clause 72
Page 44, line 22—

omit clause 72, substitute

72 **Section 64A**

substitute

64A **Pre-amendment fixed term agreements—increase in rent**

- (1) This section applies only in relation to a fixed term agreement entered into before the commencement of the *Housing and Consumer Affairs Legislation Amendment Act 2024*, section 75.
- (2) The rental rate under the agreement must not be increased during the fixed term unless the amount of the increase, or a method for working it out, is set out in the agreement.

5
Clause 73, proposed new section 64AAA (1)
Page 45, line 4—

omit

may increase the rental rate under a residential tenancy agreement only if

substitute

must not increase the rental rate under a residential tenancy agreement unless

6
Clause 73, proposed new section 64AAA (2)
Page 45, line 10—

omit

may increase the rental rate only if

substitute

must not increase the rental rate unless

7
Clause 75
Page 46, line 4—

omit clause 75, substitute

75 Section 64B (1)

omit everything before paragraph (b), substitute

- (1) A rental rate increase for premises must not be more than the amount prescribed by regulation unless—
 - (a) for a fixed term agreement to which section 64A applies—the agreement allows the lessor to increase the rental rate by the higher amount; or

8
Proposed new clauses 75A and 75B
Page 46, line 7—

insert

75A **Guideline for orders**
Section 68 (2)

substitute

- (2) The ACAT must allow a rental rate increase if—
- (a) for a fixed term agreement to which section 64A applies—the increase is allowed under the agreement and is not excessive; or
 - (b) in any other case—the increase is not excessive.

75B **Sections 71 (5) and 71AAA (5)**

omit

increase in the rental rate

substitute

rental rate increase

9
Proposed new clause 83A
Page 48, line 23—

insert

83A **Schedule 1, clause 34**

substitute

- 34 (1) The amount of rent under a residential tenancy agreement must not vary from period to period, except as provided by the Residential Tenancies Act.

- (2) Also, the amount of rent under a proposed or existing consecutive tenancy agreement must not vary from the amount of rent under a terminating or terminated residential tenancy agreement, except as provided by the Residential Tenancies Act (the meaning of consecutive tenancy agreement is set out in the Residential Tenancies Act).

10

Clause 84

Page 48, line 26—

omit

may not

substitute

must not

11

Clause 84

Page 49, line 1—

omit

may not

substitute

must not

12
Proposed new clauses 86A to 86C
Page 49, line 17—

insert

86A **Schedule 1, clause 37**

substitute

- 37 The restrictions on the amount and frequency of rental rate increases apply provided the identity of at least 1 of the tenants who occupy the premises remains the same as at the time of the last increase (the meaning of rental rate increase is set out in the Residential Tenancies Act).

86B **Schedule 1, clause 38**

substitute

- 38 (1) The lessor must give the tenant 8 weeks written notice of an intended:
- (a) increase in the rent under a residential tenancy agreement (including an existing consecutive tenancy agreement); or
 - (b) increase in the rent that will take effect under a proposed consecutive tenancy agreement.
- (2) The notice to the tenant must include the date when the increase is proposed to take effect, the amount of the proposed increase, whether the amount of the increase is more than the prescribed amount, and that ACAT's prior approval must be obtained for an increase that is more than the prescribed amount if the tenant does not agree to the increase.

86C **Schedule 1, new clause 41 (2)**

insert

- (2) However, for an increase in the rent that will take effect under a proposed consecutive tenancy agreement, the tenant may terminate the existing tenancy under clause 88 (for a periodic tenancy) or clause 89 (for a fixed term tenancy).

13

Clause 93

Proposed new dictionary definition of *consecutive tenancy agreement*, paragraph (b)

Page 53, line 25—

omit

a new residential tenancy agreement

substitute

the new agreement

14

Clause 97

Proposed new dictionary definition of *rental rate increase*

Page 55, line 12—

insert

rental rate increase, for premises, for part 5 (Rental rate increases)—
see section 64AE.

15

Proposed new part 8A

Page 56, line 18—

insert

Part 8A Residential Tenancies Regulation 1998

**101A Rental increase threshold—Act, s 64B and s 68
Section 5A (1)**

substitute

- (1) The prescribed amount is worked out as follows:

$$1.1 \times \text{current rental rate} \times \frac{\text{current index number} - \text{initial index number}}{\text{initial index number}}$$

101B Section 5A (2), new definition of *current rental rate*

insert

current rental rate, for premises under a residential tenancy agreement, means—

- (a) for a proposed consecutive tenancy agreement—the most recent rental rate for the premises under a terminating or terminated residential tenancy agreement; or
- (b) in any other case—the most recent rental rate for the premises under the residential tenancy agreement.

101C Section 5A (2), definition of *initial index number*

substitute

initial index number means the most recently published index number on—

- (a) for a proposed consecutive tenancy agreement—
 - (i) if the rental rate has not been increased under a terminating or terminated residential tenancy agreement—the day the original tenancy agreement started; or
 - (ii) if the rental rate has been increased under a terminating or terminated residential tenancy agreement—the day the lessor gave the tenant notice of the most recent increase; or
- (b) for an existing consecutive tenancy agreement—
 - (i) if the rental rate has not been increased under the existing agreement or a terminated residential tenancy agreement—the day the original tenancy agreement started; or
 - (ii) if the rental rate has been increased under the existing agreement or a terminated residential tenancy agreement—the day the lessor gave the tenant notice of the most recent increase; or

- (c) in any other case—
- (i) if the rental rate has not been increased under the residential tenancy agreement—the day the agreement started; or
 - (ii) if the rental rate has been increased under the residential tenancy agreement—the day the lessor gave the tenant notice of the most recent increase.

101D Section 5A (2), new definition of *original tenancy agreement*

insert

original tenancy agreement, for premises under an existing consecutive tenancy agreement or for which there is a proposed consecutive tenancy agreement, means the residential tenancy agreement that started immediately after the lessor last had possession of the premises.

101E Dictionary, note 2

insert

- consecutive tenancy agreement
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