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**LANDLORD AND TENANT (PROTECTED TENANCIES)  
AMENDMENT BILL 1985**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Landlord and Tenant (Amendment) Act 1948 so as—

- (a) to prevent the creation of new protected tenancies under that Act from 1 January 1986; and
- (b) to phase-out the arrangements for the registration of leases under section 5A of that Act (registration in some cases preventing the creation of protected tenancies).

Clause 1 specifies the short title of the proposed Act.

Clause 2 is a formal provision that gives effect to the Schedule of amendments.

Schedule 1 (1) inserts proposed sections 5AA and 5AB into the Principal Act. Proposed section 5AA will prevent the creation of new protected tenancies from 1 January 1986 by providing that the protected tenancy provisions of the Principal Act are not to apply to premises unless the premises are the subject of a lease immediately before 1 January 1986 and are to cease for all time to apply to such premises when the lessor lawfully obtains vacant possession of the premises on or after that date. Existing protected tenancies are therefore not affected by the Bill. Proposed section 5AB is an evidentiary provision whereby a statement signed by a lessee of premises which states that the lessee did not enter into possession of the premises until on or after 1 January 1986 shall be presumed to be correct unless evidence is given to the contrary. Such a statement will be relevant for the purposes of proposed section 5AA. The statement will only be of use to a person who becomes the lessor of the premises after the statement is signed by the lessee.

Schedule 1 (2) (a)–(c) and (3) make amendments which are consequential on the enactment of proposed section 5AA. The effect of the amendments will be that certain provisions of the Principal Act which continue to apply to premises exempt under section 5A will also continue to apply to premises exempt under proposed section 5AA. Section 95 (which provides for the penalty to be imposed for offences against the Principal Act, including past offences) and section 81A (which enables a Local Court to preserve a protected tenancy where vacant possession is obtained by unfair or improper means) are examples.

Schedule 1 (2) (d) amends section 5A of the Principal Act by inserting proposed subsections (9A)–(9C). The proposed subsections will have the effect of discontinuing the arrangements for the registration of leases under section 5A of the Principal Act after a phasing-out period. They provide that the Rent Controller shall not register a lease unless it was entered into before 1 January 1986 and lodged for registration on or before 30 June 1986. Provision is however made for the acceptance of applications after that date and up to 1 January 1989 if the applicant has a reasonable excuse for the delay. Under proposed section 5AA a protected tenancy will not be able to be created by a lease entered into on or after 1 January 1986. In such cases the proposed subsections will prevent the registration of a lease because registration would be of no practical effect. In those cases where the lease was entered into before 1 January 1986 any exemption from the protected tenancy provisions of the Principal Act which registration of the lease would have attracted will not operate where the application for registration is made out of time and rejected.

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