



ANNO TRICESIMO SECUNDO

**ELIZABETHAE II REGINAE**

A.D. 1993

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**No. 81 of 1993**

**An Act to amend the Landlord and Tenant Act 1936 and the Statutes Amendment  
(Shop Trading Hours and Landlord and Tenant) Act 1990.**

[Assented to 27 October 1993]

The Parliament of South Australia enacts as follows:

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *Statutes Amendment (Landlord and Tenant) Act 1993*.

**Interpretation**

2. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2  
AMENDMENT OF LANDLORD AND TENANT ACT 1936**

**Amendment of s. 65—Hours of business, etc.**

3. Section 65 of the principal Act is amended—

- (a) by striking out from subparagraph (i) of paragraph (a) of the definition of “core trading hours” “by tenants of the shopping complex”;
- (b) by striking out from subparagraph (ii) of paragraph (a) of the definition of “core trading hours” “has been passed” and substituting “is in force”;
- (c) by striking out subsections (5) and (6) and substituting the following subsections:

(5) A resolution is passed in pursuance of this subsection if the following conditions are satisfied:

- (a) the resolution must be put to a meeting of the tenants of the enclosed shopping complex (which the landlord of the shopping complex is entitled to attend) by one or more of the tenants;
  - (b) the landlord and all the tenants occupying shop premises in the enclosed shopping complex must have received at least seven days notice of the meeting;
  - (c) the notice must be in writing and must—
    - (i) state the time and place at which the meeting will be held;and
    - (ii) set out the text of the resolution that is to be put to the meeting;
  - (d) the resolution must not reduce the core trading hours to less than 50 hours per week;
  - (e) the persons present at the meeting must appoint one of their number to preside at the meeting;
  - (f) only the landlord and a tenant occupying shop premises in the enclosed shopping complex, or his or her proxy, is allowed to cast a vote at the meeting;
  - (g) voting on the resolution must be by secret ballot on the basis of one vote for the landlord and one vote per tenancy;
  - (h) the number of votes supporting the resolution must equal or exceed three-quarters of the number of votes cast at the meeting;
- and
- (i) every person who cast a vote is entitled to scrutinise the counting of votes.

(6) A resolution pursuant to subsection (5) may only be varied or revoked by a subsequent resolution passed pursuant to that subsection after the expiration of three months after the firstmentioned resolution was passed.

#### **Substitution of s. 69**

4. Section 69 of the principal Act is repealed and the following section is substituted:

##### **Commercial Tenancies Fund**

69. (1) The fund entitled the *Commercial Tenancies Fund* will be kept and administered by the Commissioner for Consumer Affairs.

(2) An amount paid under a security bond must, on receipt by the Tribunal, be paid into the Fund.

**Amendment of s. 71—Accounts**

5. Section 71 of the principal Act is amended by striking out from subsection (1) “The Registrar of the Tribunal” and substituting “The Commissioner for Consumer Affairs”.

**Substitution of s. 73a**

6. Section 73a of the principal Act is repealed and the following section is substituted:

**Annual reports**

73a. (1) The Commissioner for Consumer Affairs must, on or before 30 September in each year, deliver to the Minister an annual report—

- (a) containing a report on the application during the financial year ending on 30 June in that year of any income derived from the investment of the Commercial Tenancies Fund;

and

- (b) containing a copy of the accounts of the Commercial Tenancies Fund last audited by the Auditor-General.

(2) The Registrar of the Tribunal must, on or before 30 September in each year, deliver to the Minister an annual report containing a report on—

- (a) the work of the Tribunal and the Registrar under this Part during the financial year ending on 30 June in that year;
- (b) the administration and enforcement of this Part during the financial year ending on 30 June in that year;
- (c) any matters of general significance to landlords and tenants that, in the opinion of the Registrar, should be reported.

(3) The Minister must, within 12 sitting days after the receipt of a report under this section, cause a copy of the report to be laid before each House of Parliament.

**PART 3****AMENDMENT OF STATUTES AMENDMENT (SHOP TRADING HOURS AND LANDLORD AND TENANT) ACT 1990****Amendment of s. 2—Commencement**

7. Section 2 of the principal Act is amended by striking out “three” from subsection (2) and substituting “six”.

**Amendment of s. 11—Substitution of s. 65**

**8.** Section 11 of the principal Act is amended by striking out subsection (3) and substituting the following subsection:

(3) A commercial tenancy agreement to which section 65(4) (as inserted by the *Statutes Amendment (Shop Trading Hours and Landlord and Tenant) Act 1990*) applied is, if it is in force at the commencement of this section, reinstated to the form in which it operated immediately before the commencement of section 10 of the *Statutes Amendment (Shop Trading Hours and Landlord and Tenant) Act 1990* as though that section had not been enacted.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor