

Caravan Parks and Movable Dwellings (Amendment) Bill

No.

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By Authority Jean Gordon Government Printer Melbourne

LEGISLATIVE ASSEMBLY

Read 1° 12 April 1989

(Brought in by Mr McCutcheon and Mr Roper)

A BILL

to amend the *Caravan Parks and Movable Dwellings Act 1988* and the
Health (General Amendment) Act 1988

Caravan Parks and Movable Dwellings (Amendment) Act 1989

The Parliament of Victoria enacts as follows:

Purposes

1. The purposes of this Act are to make general amendments to the
Caravan Parks and Movable Dwellings Act 1988 and to amend the
5 *Health (General Amendment) Act 1988*.

Commencement

2. This Act comes into operation on a day or days to be proclaimed.

Principal Act

3. In this Act, the *Caravan Parks and Movable Dwellings Act 1988* No. 51 of 1988.
10 is called the Principal Act.

Definitions and application

4. In section 3 of the Principal Act—
(a) in sub-section (1)—
15 (i) in the definition of “Caravan”, in paragraph (b), for “a
caravan park (other than the dwelling of the caravan

park owner or the manager or a person employed at the caravan park)” substitute—

“a caravan park—

but in Parts 2 to 5 does not include such a dwelling occupied in pursuance of a contract of employment”; and 5

(ii) for the definition of “Caravan park” substitute—

‘ “**Caravan park**” means an area of land on which movable dwellings are situated for occupation on payment of consideration, whether or not immovable dwellings are also situated there, but in Division 3 of Part 6 does not include— 10

(a) a caravan park that operates for a limited period to house seasonal agricultural workers or workers engaged in short-term construction jobs; or 15

(b) a caravan park that operates for a limited period in conjunction with a festival or other similar event; or

(c) a caravan park exempted by the Minister administering Part 6.’; and 20

(iii) in the definition of “Licensing authority”, in paragraph (a), for “or on behalf of”; and

(iv) for the definition of “Occupier” substitute—

‘ “**Occupier**” means a person who occupies a site or caravan in a caravan park.’; and 25

(v) for the definition of “**Resident**” substitute—

‘ “**Resident**” means a person who occupies a site in a caravan park as his or her only or main residence, whether that occupation began before or after the commencement of this Act.’; and 30

(vi) in the definition of “Site”, omit “designed for a movable dwelling, not being a site designed for short-term camping only”; and

(b) for sub-sections (2), (3) and (4) substitute— 35

“(2) The Minister administering Part (6) may—

(a) exempt a caravan park from compliance with Division 3 of Part 6; and

(b) revoke any such exemption.”.

Entitlement to bond 40

5. (1) In section 15 of the Principal Act, after sub-section (1) insert—

“(1A) A caravan park owner or caravan owner is entitled to the whole or a part of the bond paid by a resident if the resident agrees that the owner is so entitled. 45

(1B) Any such agreement must be in writing dated not earlier than 30 days before the resident's term of occupancy is to end.

(1C) If when a site or caravan is vacated or abandoned rent or hiring charges have accrued and are unpaid, the caravan park owner or caravan owner is entitled to—

(a) so much of the bond paid by the resident as equals the outstanding sum; or

(b) to the whole of the bond if the outstanding sum is greater than or equal to the amount of the bond.”.

(2) In section 15 of the Principal Act—

(a) in sub-section (2), for “sub-section (1)” substitute “sub-sections (1) to (1C)”; and

(b) at the foot of sub-section (2), insert—

“Penalty: 10 penalty units.”; and

(c) in sub-section (3), for “To make a claim for compensation under sub-section (1),” substitute “A claim under sub-section (1) must be determined by the Tribunal, and”.

Maintenance and repair of caravans

6. In section 22 of the Principal Act, after sub-section (6) insert—

“(6A) A resident who has given a notice under sub-section (2) to a caravan owner or caravan park owner may apply to the Tribunal for an order authorizing payment of the hiring charges for the caravan into the Rent Special Account under section 53 of the *Residential Tenancies Act* 1980.

(6B) The Tribunal may make that order if satisfied that the caravan owner or caravan park owner has not carried out the repairs specified in the notice within 14 days after it was given.

(6C) Such an order applies during the period specified by the Tribunal, and at the end of that period the amount of the hiring charges held in the Rent Special Account must be paid to the caravan owner or caravan park owner.

(6D) Despite sub-section (6C), if satisfied that the caravan owner or caravan park owner has fulfilled or is fulfilling the obligation to carry out repairs, the Tribunal may at any time on the application of the owner order that the whole or a part of the amount of the hiring charges held in the Rent Special Account be paid to the owner.

(6E) Section 53 of the *Residential Tenancies Act* 1980 applies, with such modifications as are necessary, to an order under sub-section (6B) or (6D) as if it were an order under section 101 of that Act.”.

Insertion of new section 22A

7. After section 22 of the Principal Act, insert—

Urgent repairs to caravans

‘22A. (1) If a resident is unable, after taking reasonable steps, to arrange for the immediate carrying out of urgent repairs to the caravan by the caravan owner or his or her agent— 5

- (a) the resident may carry out the repairs; and
- (b) subject to sub-section (2), the owner is liable to reimburse the resident for the reasonable cost of the repairs or \$500, whichever is less. 10

(2) A caravan owner is not liable under sub-section (1) until the expiration of 14 days after the resident gives the owner written notice of the repairs carried out and the cost.

(3) In this section, “urgent repairs” means any work necessary to repair or remedy— 15

- (a) a burst water service; or
- (b) a blocked or broken lavatory system; or
- (c) a serious roof leak; or
- (d) a gas leak; or
- (e) a dangerous electrical fault; or 20
- (f) flooding or serious flood damage; or
- (g) serious storm or fire damage; or
- (h) a failure or breakdown of the gas, electricity or water supply to the caravan; or
- (i) a failure or breakdown of any essential service or appliance provided by the caravan owner in the caravan for water, cooking, heating or laundering; or 25
- (j) any fault or damage that makes the caravan unsafe or insecure; or
- (k) any damage of a prescribed class. 30

(4) This section does not apply—

- (a) to equipment or appliances supplied by the resident himself or herself; or
- (b) if there is no immediate danger to health or safety and the resident is able to use facilities in the communal areas of the caravan park.’. 35

Termination notice following sale notice

8. In section 32 of the Principal Act, after sub-section (3) insert—

“(4) A termination notice must not be given until after 60 days after the notice of intention to sell was given.”. 40

Illegal occupants

9. (1) Section 42 of the Principal Act is repealed.

(2) In sections 43 and 44 of the Principal Act, omit “or illegal occupant” (wherever occurring).

5 Possession orders

10. In section 43 (a) and (b) of the Principal Act, omit “by sunset”.

Warrants of possession

11. (1) In section 44 (2) (a) of the Principal Act, for “of Schedule 1” substitute “approved by the Minister”.

10 (2) In section 44 (2) (c) of the Principal Act, for “sunrise and sunset” substitute “8.00 a.m. and 4.00 p.m.”.

(3) Schedule 1 to the Principal Act is repealed.

Removal of a caravan from a caravan park

15 12. In section 45 (8) of the Principal Act, for “the sheriff exercising” substitute “the exercise of”.

Transfer of occupancy right

13. (1) In section 46 (1) of the Principal Act, for “in Schedule 2” substitute “approved by the Minister”.

(2) Schedule 2 to the Principal Act is repealed.

20 Insertion of new section 49A

14. After section 49 of the Principal Act, insert—

Statement of rights

25 “49A. (1) A caravan park owner or caravan owner must give to a resident, not later than the day on which it is agreed the resident is to enter into occupation of the site or caravan, a written statement, in the form approved by the Minister, of the rights and obligations of owners and residents under this Act.

Penalty: 5 penalty units.

30 (2) The statement may be in English or in a language spoken by the resident.”.

Application for declaration that caravan park rules are unreasonable

15. In section 54 (2) of the Principal Act, for paragraph (a) substitute—

35 “(a) be signed by a majority of residents, in the case of a park with less than 10 residents, or by at least 5 residents, in any other case; and”.

Insertion of new section 60A

16. After section 60 of the Principal Act, insert—

The Residential Tenancies Fund

“60A. The Director may provide financial assistance from the Residential Tenancies Fund under the *Residential Tenancies Act* 1980 to government departments, statutory authorities, municipal councils and other persons engaged in— 5

- (a) informing and educating the public about this Act and the services provided under this Act; or
- (b) researching matters relating to caravan parks or publishing the results of such research.” 10

Delegation

17. In section 63 of the Principal Act, for “employee of” substitute “employee, or the holder of an office, in”.

Compliance with the regulations 15

18. (1) In section 64 of the Principal Act—

- (a) in sub-section (1), for “of the prescribed standard” substitute “in accordance with the regulations”; and
- (b) in sub-section (2), for “such health and safety requirements as are prescribed” substitute “the health and safety requirements of the regulations”; and 20
- (c) sub-section (3) is repealed; and
- (d) in sub-sections (4) and (5), for “the prescribed standards” substitute “the regulations”.

(2) In section 67 (2) of the Principal Act, for “prescribed standards” substitute “the regulations”. 25

(3) In section 85 (2) of the Principal Act, in paragraphs (a), (b), (c), (d), (e) and (f), for “prescribe” substitute “provide for”.

Upgrading of caravan parks

19. In section 67 (1) of the Principal Act, for “one year” substitute “two years”. 30

Location of caravan parks

20. In section 68 (1) (b) of the Principal Act, for “residents” substitute “tourists”.

Obligation to obtain licence 35

21. In section 69 of the Principal Act after sub-section (1) insert—

‘(1A) Until the appointed day, sub-section (1) does not apply to a caravan park owner who immediately before the commencement of

section 4 (a) (ii) of the *Caravan Parks and Movable Dwellings (Amendment) Act 1989* was not required to hold a licence under this Part.

5 (1B) In sub-section (1A), “the appointed day” means the day determined for the purposes of that sub-section by the Minister and published in the *Government Gazette*’.

Issue, transfer and renewal of caravan park licences

22. (1) In section 70 of the Principal Act, for sub-sections (1) and (2) substitute—

10 “(1) A caravan park owner may apply for the issue of a caravan park licence.

(1A) If the business which operates a caravan park is sold, the new owner may apply for transfer of the caravan park licence.

15 (1B) The holder of a caravan park licence may apply for renewal of the licence.

(1C) An application must be made to the licensing authority in the appropriate form approved by the Minister.

(2) The prescribed fee must be paid before a licence is issued, transferred or renewed.

20 (2A) If a licence is to be in force for less than 12 months, the fee payable must be calculated at the rate of one-twelfth of the prescribed fee for each whole month during which the licence will be in force.”.

(2) The Principal Act is amended as follows:

(a) In section 70 (3) of the Principal Act—

25 (i) after “issue” insert “or transfer”; and

(ii) paragraph (b) is repealed;

(b) In section 71 (2), before paragraph (a) insert—

“(aa) an instalment of the fee is not paid on the due date; or”;

30 (c) In section 73 (1), after “issue” insert “, transfer”;

(d) In section 74, after paragraph (c) insert—

“and

(ca) if the licence is to be transferred, the prescribed details of the transfer are displayed in a prominent position at the caravan park office or other place approved by the licensing authority for the prescribed period; and”;

35 (e) In sections 84 (b) (iii) and 85 (2) (h), after “issue” insert “, transfer”.

Constitution of the Caravan Parks Committee

23. In section 76 of the Principal Act—

(a) in sub-section (1), for paragraph (j) substitute—

“(j) one is to represent tourist park users, being a person
nominated by the Minister from a panel of three names
provided by the Royal Automobile Club of Victoria.”; 5
and

(b) in sub-section (6), for “duties of office, the Governor in
Council” substitute “duties of office (including, if relevant,
duties as a member of a Caravan Parks References Board), 10
the Minister”.

Constitution of Caravan Parks Referees Board

24. In section 78 (2) of the Principal Act, after “consist of” insert
“, as the Minister determines, of the Chairperson of the Caravan Parks
Committee sitting alone or”. 15

Appeals to Caravan Parks Referees Boards

25. In section 79 (1) of the Principal Act—

(a) in paragraph (b), for “a caravan park owner” substitute
“caravan park owners, caravan owners, occupiers and
residents”; and 20

(b) in paragraph (d)—

(i) after “decisions” insert “, including decisions as to
conditions,”; and

(ii) after “issue,” insert “transfer,” and after “issue” (where
twice occurring) insert “, transfer”. 25

Compliance notices and closure orders

26. (1) In section 80 (1) of the Principal Act—

(a) for “The person or body administering the regulations”
substitute “A licensing authority or the Minister”; and

(b) after “contravened” insert “this Act or”. 30

(2) In section 81 (1) of the Principal Act—

(a) omit “after receiving a report from a licensing authority,”;
and

(b) in paragraph (a), after “against” insert “this Act or”.

Substitution of section 82

27. For section 82 of the Principal Act substitute—

Delegations

“82. (1) A municipal council that is a licensing authority may by instrument delegate to an officer of, or the holder of an office in, the council any of its powers, duties or functions under this Part, other than this power of delegation.

(2) The Minister may by instrument delegate—

(a) to an officer or employee, or the holder of an office, in the public service; or

(b) in agreement with any municipal council, to an officer of, or the holder of an office in, the council—

any of his or her powers, duties or functions under this Part as Minister or as a licensing authority, other than this power of delegation.

(3) An agreement under sub-section (2) (b) may provide for the Minister to bear the cost of the exercise or performance of the delegated powers, duties or functions, and in any such case the Consolidated Fund is appropriated accordingly.”.

Substitution of section 83

28. For section 83 of the Principal Act substitute—

Inspections

“83. (1) An authorised person may enter any land at any reasonable time for the purpose of making any inspection or test to find out whether this Part and the regulations are being complied with.

(2) A municipal council that is a licensing authority may authorise any of its officers to exercise the powers set out in sub-section (1), either generally or in a particular case.

(3) The Minister may authorise any officer or employee in the public service or, in agreement with any municipal council, any officer of the council to exercise the powers set out in sub-section (1), either generally or in a particular case.

(4) An agreement under sub-section (3) may provide for the Minister to bear the cost of the exercise of powers under sub-section (1), and in any such case the Consolidated Fund is appropriated accordingly.”.

Regulation-making powers

29. In section 85 of the Principal Act, after sub-section (4) insert—

“(4A) The regulations may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by any government department, municipal council or public authority or any officer thereof.”.

Statute law revision

30. (1) The Principal Act is amended as follows:

- (a) In section 14 (4), for “tenant” substitute “resident”;
- (b) In section 26 (3), for “paid to the Director” substitute “dealt with”;
- (c) In section 36 (4), for “purported” substitute “proposed”;
- (d) In section 59, for “of this Part” substitute “or this Part”;
- (e) In section 67 (9)—
 - (i) for “71 (b)” substitute “72 (b)”;
 - (ii) for “65” substitute “66”;
- (f) In section 76 (1) (f), for “Park” substitute “Parks”;
- (g) In section 78 (2), for “75” (where three times occurring) substitute “76”;
- (h) In section 79 (1) (a), for “65” substitute “66”;
- (i) In section 84 (b) (v), for “72” substitute “73”.

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(2) In section 25 (2) of the *Health (General Amendment) Act 1988*, in the proposed section 209, in paragraph (b) of the definition of “Prescribed accommodation”, for “the proprietor and which is prescribed or is of a class prescribed to be subject to this Division” substitute—

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“the proprietor—

and which is prescribed or is of a class prescribed to be subject to this Division”.