

# Caravan Parks and Movable Dwellings (Amendment) Bill

## EXPLANATORY MEMORANDUM

### Clause 1. Purpose of Act.

The purpose of the Act is to amend the *Caravan Parks and Movable Dwellings Act 1988* and the *Health Act 1958*.

### Clause 2. Commencement.

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

### Clause 3. Principal Act.

The Principal Act is the *Caravan Parks and Movable Dwellings Act 1988*.

### Clause 4. Definitions and Applications.

The Clause amends definitions in section 3 of the Principal Act.

- (a) (i) The definition of caravan park is amended to clarify that a person occupying any dwelling in a caravan park in pursuance of a contract of employment is not a resident for the purposes of parts 2 and 5 of the Act.
  - (ii) The definition of caravan park is amended to cover all caravan parks except specified parks operating for a limited period or parks exempted by the Minister.
  - (iii) The definition of licensing authority is amended so as to refer only to parks run directly by councils or departments.
  - (iv) The definition of occupier is amended to reflect the new definition of caravan park.
  - (v) The definition of resident is amended to mean a person who occupies a site in a caravan park as his or her only main residence whether that occupation began before or after the commencement of this Act.
  - (vi) The definition of site is amended to reflect the new definition of caravan park.
- (b) Provides for the Minister to exempt caravan parks from the licensing requirements of the Act and delegates sub-section 3 (2) (3) (4) of the Act consequential or the amendment to the definition of resident.

### Clause 5. Entitlement to Bond.

Amends section 15 of the Principal Act to clarify that bonds may be retained by a caravan park owner and caravan owner where a resident agrees in writing or to satisfy outstanding rent or hiring charges without the need to apply to the Tribunal.

### Clause 6. Maintenance and Repairs of Caravans.

Amends section 22 of the Principal Act so that a caravan park owner or his or her agent will have responsibility for maintenance and repair of caravans, and also sets out procedures for Rent Special Account along the lines of the *Residential Tenancies Act 1980*.

### Clause 7. Insertion of new section 22A—Urgent Repairs to Caravans.

This clause provides for urgent repairs to caravans to be carried out by a resident and reimbursed by the caravan park owner or his or her agent.

*Clause 8. Termination Notice Following Sale Notice.*

This clause amends section 32 to clarify that a termination notice must not be given until after 60 days after a notice of intention to sell a caravan is given.

*Clause 9. Illegal Occupants.*

This clause repeals section 42 of the Principal Act.

*Clause 10.*

This clause amends section 43 (a) and (b) of the Principal Act to delete the reference to “sunset” in relation to the operation of possession orders.

*Clause 11. Warrant of Possession.*

This clause repeals the schedule setting out the warrant of possession and amends references thereto in section 44 of the Principal Act.

This form will now be set out as an approved form, and warrants may be enforced between 8.00 a.m. and 4.00 p.m.

*Clause 12. Removal of a Caravan from a Caravan Park.*

This clause removes the exclusive reference to the sheriff to give protection to any person exercising a warrant of possession.

*Clause 13. Transfer of Occupancy Right.*

This clause repeals Schedule 2 setting out the form of a transfer of occupancy right. The form will now be set as an approved form.

*Clause 14. Insertion of new section 49A—Statement of Rights.*

This clause provides for a statement of rights in a form approved by the Minister to be given to a resident.

*Clause 15. Application for Declaration that Caravan Park Rules are Unreasonable.*

This clause amends section 54 of the Principal Act to provide that a majority of residents in a caravan park of less than 10 residents may make an application to the Tribunal for an order declaring a caravan park rule to be unreasonable.

*Clause 16. Insertion of new section 60A—The Residential Tenancies Fund.*

This clause enables the Director of Consumer Affairs to provide financial assistance from the Residential Tenancies Fund to assist in informing and educating the public about the Principal Act and to conduct research.

*Clause 17. Delegation.*

This clause clarifies that a delegation may be made to an office not just the person.

*Clause 18. Compliance with the Regulations.*

This clause removes the need for prescriptive regulations.

*Clause 19. Upgrading of Caravan Parks.*

This clause extends the time during which an initial inspection of all caravan parks must be undertaken to 2 years.

*Clause 20. Location of Caravan Parks.*

This clause corrects a reference in section 68 to clarify locational criteria for caravan parks if the park is to be used mainly by tourists.

*Clause 21. Obligation to obtain licence.*

This clause provides for an appointed day, to be set by the Minister, for licensing of caravan parks which will now be covered under the amended definition and consequentially suspends penalties for being unlicensed until that day.

*Clause 22. Issue, Transfer and Renewal of Caravan Park Licences.*

This clause provides for licence and transfer of licence forms to be in a form approved by the Minister.

*Clause 23. Constitution of Caravan Parks Committee.*

This clause clarifies that the RACV representative on the Committee represents tourist park users and provides for the Minister to appoint acting members.

*Clause 24. Constitution of Caravan Parks Referee Board.*

This clause provides an option for caravan parks referee boards to consist of the chairperson of the Caravan Parks Committee sitting alone.

*Clause 25. Appeals to Caravan Parks Referee Boards.*

This clause extends the ability of the Caravan Parks Referee Boards to hear appeals in relation to decisions of licensing authorities.

*Clause 26. Compliance Notices and Closure Orders.*

This clause clarifies that a compliance notice or closure order may also be issued for a contravention of the Act and that it is the licensing authority of Minister that issues such notices or orders.

*Clause 27. Substitution of section 82—Delegations.*

This clause clarifies the delegation powers of the Minister and the municipal council and enables the Minister to enter agreements in relation to costs where the Minister exercises his or her power of delegation.

*Clause 28. Substitution of section 83—Inspections.*

This clause provides for entry powers to authorized persons to enable inspections of caravan parks.

*Clause 29. Statute Law Revision.*

This clause makes statute law revision amendments to the Principal Act and to the *Health (General Amendment) Act 1988*.

