

RESIDENTIAL PARKS (LONG-STAY TENANTS) AMENDMENT BILL 2018

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Alannah MacTiernan (Minister for Regional Development)**, read a first time.

Second Reading

HON ALANNAH MacTIERNAN (North Metropolitan — Minister for Regional Development) [10.08 pm]:
I move —

That the bill be now read a second time.

The purpose of this bill is to amend the Residential Parks (Long-stay Tenants) Act 2006 to implement the recommendations of a statutory review of the act. The act regulates the tenancy arrangements between park operators and long-stay tenants in residential parks. Residential parks in Western Australia provide an affordable housing option for many in our community who are looking for long-term, safe accommodation with a communal lifestyle. Residential parks range from long-stay only parks, established solely for the purpose of providing long-stay tenancies, to mixed-use parks that also provide holiday accommodation. The act covers tenants who rent both a site and an on-site home, and tenants who rent a site only from the park operator and own their relocatable dwelling. Tenancies may be periodic or fixed term, with some parks offering very long fixed-term leases of 30 years or more.

The statutory review identified issues around certainty of contract as a key area of concern for long-stay tenants. Those tenants who own their own home are in a particularly exposed position due to the fact that they do not own the land on which the home is situated. The costs and difficulties involved in moving a relocatable home mean that certainty of contract is of particular importance to this group. A comprehensive consultation and review process has been undertaken, resulting in a package of reforms aimed at improving certainty of contract and promoting fair dealing in relation to residential park tenancies in Western Australia. The bill aims to increase transparency by improving the disclosure obligations of park operators. Disclosure documents will be required to be provided at least five working days before a long-stay agreement is entered into, in order to give a potential tenant time to read and understand the long-stay agreement. An ongoing disclosure obligation will also be introduced to require a park operator to advise long-stay tenants of any material change that might affect their occupation of a site. Specific disclosure obligations will apply to exit fees and other voluntary sharing arrangements, requiring that tenants be given clear information on how much these fees will be over the life of their tenancy. Restrictions will apply to when these fees can be introduced so that long-stay tenants have the freedom to decide whether this type of fee structure suits their circumstances. Standard lease provisions will no longer be able to be varied and a core set of standard terms will apply to all long-stay agreements. This will ensure that basic contractual rights and obligations apply to all long-stay agreements. The bill will also include a power in the act to prescribe standard form long-stay agreements, which must be used by park operators. This will enable tenants to more easily understand and compare long-stay agreements.

Park rules set the standards of conduct specific to each park and are an essential part of community living. New provisions will be included in the act to regulate the nature, enforcement and amendment of park rules. Amendments will be made to improve certainty of contract for tenants by limiting the circumstances in which a long-stay agreement can be terminated and to ensure that successors in title are bound by long-stay agreements, particularly in relation to fixed-term long-stay agreements. Termination of fixed-term agreements will no longer be permitted upon the sale of a park; instead, the new owner will be required to take on the obligations of a park operator. The act will also be amended so that long-stay agreements are no longer automatically terminated when a mortgagee enters into possession. The right of a park operator to terminate a site-only agreement “without grounds” will be removed and replaced with a number of specific provisions setting out grounds for termination. New provisions will allow for termination if a park is to be closed or redeveloped, when the use of a site is to change and if vacant possession is required for works. Termination under these provisions will not be permitted before the end of a fixed-term agreement. Park operators will also be given the right to apply to the State Administrative Tribunal for an order terminating a long-stay agreement if a tenant repeatedly interferes with the quiet enjoyment of the park by other tenants.

The bill amends the act to clarify rights and obligations around the sale of relocatable homes on site and introduces mechanisms to ensure that potential purchasers are fully informed about tenancy arrangements. Amendments are also made to the act, where appropriate, for consistency with the Residential Tenancies Act 1987 so that tenants are treated equitably, irrespective of the nature of the premises that they lease.

The bill provides the State Administrative Tribunal with the power to make a number of specific orders and directions in relation to matters arising under long-stay agreements, including the power to declare a term of a long-stay agreement void if it is harsh or unreasonable, the power to make orders in relation to precontractual

representations and the power to terminate a long-stay agreement for breach of disclosure obligations. The tribunal will also be given the power to consider whether either party has engaged in unconscionable or misleading and deceptive conduct, made false or misleading representations, or used physical force, undue harassment or coercion. The purpose of these amendments is to ensure that the State Administrative Tribunal has the power to deal with all matters arising in relation to a dispute about a long-stay agreement.

Residential parks are an important and viable housing option for a number of Western Australians, particularly those on fixed incomes. The amendments in the bill aim to balance the interests of both operators and tenants while continuing to support the viability of the industry. Wherever possible, the potential cost burden on park operators has been minimised. At the same time, the amendments recognise that residents of residential parks are often older, vulnerable consumers who require certain protections.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper 2240.]

Debate adjourned, pursuant to standing orders.

House adjourned at 10.14 pm
