

Legislative Council—No 72

As introduced and read a first time, 23 September 2020

South Australia

**Residential Tenancies (Renting with Pets)
Amendment Bill 2020**

A BILL FOR

An Act to amend the *Residential Tenancies Act 1995*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Residential Tenancies (Renting with Pets) Amendment Act 2020*.

2—Commencement

This Act comes into operation 1 month after the day on which it is assented to by the Governor.

3—Amendment provisions

- 10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Residential Tenancies Act 1995*

4—Amendment of section 49—Residential tenancy agreements

Section 49—after subsection (1) insert:

- 15 (1a) It will be taken to be a term of every residential tenancy agreement entered after the commencement of this subsection that the landlord, any agent of the landlord and the tenant must comply with an order of the Tribunal under this Act relating to the residential tenancy agreement.

5—Insertion of Part 4 Division 6A

After section 66 insert:

Division 6A—Keeping of pets on rented premises

66A—Keeping of pets on rented premises

- 5 (1) Subject to this section, a tenant may keep a pet or pets at premises
rented under a residential tenancy agreement if—
- 10 (a) the landlord (whether as part of the agreement, on an
application under this section or otherwise by written notice)
consents to the keeping of a pet or pets (as the case requires)
of the relevant kind; or
- (b) the Tribunal (whether on an application by the tenant or
otherwise) makes an order permitting the tenant to keep a
pet or pets (as the case requires) of the relevant kind.
- 15 (2) A tenant may apply to the landlord, or an agent of a landlord, for
consent to keep a pet, or specified number of pets, of a specified kind
on premises rented under a residential tenancy agreement.
- (3) An application under subsection (2)—
- 20 (a) must be made in the prescribed form; and
- (b) must be given personally to the landlord or an agent of the
landlord; and
- (c) must comply with any other requirements set out in the
regulations.
- 25 (4) A landlord, or an agent of the landlord, must, on receipt of an
application under subsection (2), give written consent to the keeping
of the pet or pets specified in the application on the relevant
premises.
- (5) However, subsection (4) does not apply—
- 30 (a) if the Tribunal makes an order under this Act—
- (i) allowing the landlord to refuse consent to the
keeping of a pet or pets generally, or pets of the
relevant kind, or the pet or pets specified in the
application on the premises; or
- (ii) excluding all pets, or pets of the relevant kind, or
the pet or pets specified in the application from the
premises; or
- 35 (iii) that is otherwise inconsistent with the granting of
consent to the keeping of the pet or pets specified in
the application on the premises; or
- (b) in any other circumstances prescribed by the regulations.

(6) The landlord, or agent of the landlord, may impose conditions of the following kinds on a consent under this section:

- (a) a condition reasonably limiting the number of pets that may be kept on the premises;
- (b) a condition imposing reasonable requirements in respect of cleaning and maintenance of the premises in relation to the keeping of pets on the premises;
- (c) any other condition approved by the Tribunal on an application under section 66B.

(7) If a landlord, or an agent of the landlord, has not, within 14 days after receipt of an application under subsection (2)—

(a) given written consent to the keeping of the pet or pets specified in the application; or

(b) made an application to the Tribunal under section 66B,

the landlord will be taken to have granted consent, without conditions, to the keeping of the pet or pets specified in the application on the relevant premises.

(8) This section is in addition to, and does not derogate from, a provision of any other Act or law that relates to the keeping of animals.

66B—Landlord etc or tenant may seek Tribunal orders

(1) A landlord, an agent of a landlord or a tenant may, in a manner and form determined by the Tribunal, apply to the Tribunal for an order under this section.

(2) If a tenant makes an application for consent under section 66A(2), an application for an order referred to in subsection (4)(a) or (b) must be made within 14 days after the day on which the application for consent is given to the landlord or an agent of the landlord (or such longer period as may be allowed by the Tribunal).

(3) To avoid doubt, subsection (2) does not apply in relation to an application for an order referred to in subsection (4)(b) relating to a pet or pets being kept without consent on premises rented under a residential tenancy agreement.

(4) Subject to this section, the Tribunal may, on an application under this section, make 1 or more of the following orders:

(a) an order that the landlord, or an agent of the landlord, may refuse consent to the keeping of a pet or pets, or a pet of a specified kind, on premises rented under a residential tenancy agreement;

(b) an order excluding all pets, or pets of a specified kind, from premises rented under a residential tenancy agreement from the date specified in the order;

(c) an order revoking a consent under section 66A;

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- (d) an order varying or revoking a condition of a consent under section 66A;
 - (e) an order permitting a specified pet or pets, or pets of a specified kind, to be kept on premises rented under a residential tenancy agreement;
 - (f) such ancillary or other orders as the Tribunal considers appropriate.
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- (5) The Tribunal may only make an order under subsection (4)(a) or (b) if it is satisfied that it is reasonable to refuse consent to the keeping of a pet or pets, or pets of a specified kind, having regard to the following:
- (a) the type of pet or pets the tenant proposes to keep, or is keeping, on the premises;
 - (b) the suitability of the premises for the keeping of such pets;
 - 15 (c) the character and nature of the appliances, fixtures and fittings on the premises;
 - (d) whether keeping such pets on the premises would result in unreasonable damage to the premises or to fixtures, appliances and fittings on the premises;
 - 20 (e) whether keeping such pets on the premises would pose an unacceptable risk to public health or safety;
 - (f) the operation of any other Act or law relevant to the keeping of assistance animals or other animals of the relevant kind;
 - (g) any other matter the Tribunal considers relevant.
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- (6) The Tribunal may only make an order under subsection (4)(c) if it is satisfied that a pet or pets kept on the premises pursuant to the relevant consent has caused unreasonable damage to the premises or to fixtures, appliances and fittings on the premises, or poses an unacceptable risk to public health or safety.
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- (7) An order under subsection (4)(a), (b), (e) or (f) remains in force—
- (a) for the period specified by the Tribunal in the order; or
 - (b) if no such period is specified, until further order by the Tribunal,
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- whether or not a new residential tenancy agreement is entered in respect of the relevant premises during the period.
- (8) Subject to this section, the Tribunal may, on an application by the landlord, or an agent of a landlord, make orders under subsection (4)(a) in relation to multiple properties owned by the landlord (however, the Tribunal must separately have regard to the matters set out in subsection (5) in respect of each property to which the order relates).
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66C—Limitation of landlord's liability

A landlord, or an agent of a landlord, has no additional duty of care to a person arising in relation to a consent under section 66A or an order under section 66B.

66D—Pets to be restrained during inspections etc

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- (1) This section applies in relation to a pet kept on premises rented under a residential tenancy agreement pursuant to this Division.
- (2) A landlord, or an agent of a landlord, may, by notice in writing, require each tenant under a residential tenancy agreement to cause each pet to which this section applies on the premises to be restrained during—
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- (a) an inspection of the premises by the landlord or agent of the landlord in accordance with this Act; or
- (b) an inspection by prospective purchasers in accordance with this Act; or
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- (c) in any other circumstances prescribed by the regulations.
- (3) A requirement under subsection (2) has effect—
- (a) if a period is specified in the notice—until the end of that period; or
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- (b) until the termination of the residential tenancy agreement, whichever is the earlier.
- (4) A tenant must not, without reasonable excuse, refuse or fail to comply with a requirement under subsection (2).
Maximum penalty: \$1 250.
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- (5) A contravention of subsection (4) by a tenant will be taken to be a breach of a residential tenancy agreement.
- (6) This section is in addition to, and does not derogate from, a provision of any other Act or law that relates to the keeping or control of animals.