

1981 BILL 240

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 240

THE TEMPORARY RENT REGULATION MEASURES ACT,
1981

MR. NOTLEY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 240
Mr. Notley

BILL 240

1981

THE TEMPORARY RENT REGULATION MEASURES ACT, 1981

(Assented to , 1981)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) "Board" means the Rent Regulation Appeal Board established pursuant to this Act;
- (b) "base rent" with reference to any residential premises means
 - (i) the rental rate for the residential premises which is in effect on July 1, 1981, or
 - (ii) where the residential premises are not rented on July 1, 1981, the rental rate for those premises in effect on the last date on which they were rented in 1981;
- (c) "landlord" includes the owner, lessor and person giving or permitting the use or possession of residential premises;
- (d) "Minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (e) "permitted increase" means the increase in the rental rate that is permitted under section 7;
- (f) "rental rate" means the rate at which rent is paid or payable in respect of residential premises;
- (g) "service" includes any service, privilege, benefit or other thing provided directly or indirectly by a landlord which is associated with the use or possession of residential premises and

without restricting the generality of the foregoing, includes any or all of the following:

- (i) furniture and furnishings in the residential premises;
- (ii) parking and related facilities;
- (iii) the provision of utilities and any service related to it;
- (iv) cleaning services;
- (v) storage facilities;
- (vi) laundry facilities; and
- (vii) recreational facilities;

(h) the noun "rent" includes any consideration paid, required or given or agreed or required to be paid or given to a landlord in respect of

(i) any privilege, accommodation or other thing provided directly or indirectly by the landlord to a tenant which is associated with the use or possession of residential premises; or

(ii) any service,

but does not include any consideration paid, required or given or agreed or required to be paid or given to a landlord in respect of any service where

(iii) the consideration for it is separately identified in the tenancy agreement, or

(iv) the consideration for it is payable under an agreement separate from the tenancy agreement;

(i) the verb "rent" includes the granting of a licence to use or occupy and "rented" has a corresponding meaning;

(j) "rent regulation officer" means a person designated as a rent regulation officer by the Minister pursuant to section 3(2);

(k) "residential premises" means

(i) premises used for residential purposes, or

(ii) land rented as a site for a mobile home used for residential purposes, whether or not the landlord also rents that mobile home to the tenant,

but does not include premises occupied for business purposes

with living accommodation attached and rented under a single tenancy agreement;

(1) "tenancy agreement" means an agreement between a landlord and a tenant for possession of residential premises, whether written, oral or implied.

PART 1 GENERAL

Application of Act **2** This Act and the regulations apply only to residential premises that are or were rented at any time during 1981.

Staff **3**(1) In accordance with *The Public Service Act*, there may be appointed such persons as are necessary for the purposes of this Act and the regulations, providing that money has been appropriated for that purpose.

(2) The Minister may designate any person as a rent regulation officer for the purposes of this Act and the regulations.

(3) the Minister may

(a) appoint such persons to assist and advise rent regulation officers, the Board or any person appearing before the Board as he considers necessary, and

(b) prescribe such remuneration and travelling and living expenses for persons appointed under clause (a) or any person designated as a rent regulation officer, as he considers reasonable.

Establishment of regions **4** The Minister may, by regulation, establish regions in Alberta for the purposes of ensuring the proper administration of this Act and the regulations.

Powers of rent regulation officers **5** For the purposes of this Act and the regulations, a rent regulation officer may

(a) inspect and examine all books, payrolls and other records of a landlord that in any way relate to the cost of administering or operating residential premises;

(b) require any landlord, tenant or other person in possession of books, records, documents, papers, payrolls, contracts of employment and any other record relating to residential premises to produce them for inspection;

(c) take extracts from or make copies of books, records, doc-

uments, papers, payrolls, contracts or any other records relating to residential premises;

(d) require any other person to make, furnish or produce full and correct statements either orally or in writing respecting any matter referred to in clauses (a) to (c) and may require the statements to be made on oath;

(e) at any reasonable time and upon giving notice to the occupier, enter, inspect and examine any residential premises;

(f) make such examination and inquiry and investigation as is necessary to determine whether

(i) any increase in a rental rate is permitted or should be approved, or

(ii) any person has contravened or is contravening any order of a rent regulation officer, the Board or any provision of this Act or the regulations.

PART 2

REGULATION OF RENT INCREASES

Notice to tenant of
base rent

6 A landlord shall, with respect to any residential premises rented by him under a tenancy agreement under which the tenancy commences on July 1, 1981 or any subsequent date, notify the tenant thereof in writing of the base rent of the residential premises within 10 days of the tenant taking possession of the premises or September 30, 1981, whichever is the later.

Increases in rent
limited

7(1) A landlord shall not increase the rental rate for residential premises effective as of any date during the period commencing July 1, 1981 and ending on January 1, 1984 unless

(a) notice of the increase is given in accordance with

(i) *The Landlord and Tenant Act, 1979*, or

(ii) subsection (4), where it applies, and

(b) the increase is

(i) permitted under subsection (2), or

(ii) approved by a rent regulation officer under section 11 or on appeal by the Board under section 27.

(2) A landlord may increase the rental rate for any residential premises

(a) during the period commencing July 1, 1981 and ending July 1, 1982, by not more than 10 per cent of the base rent of the residential premises, and

(b) during 1982, by not more than 9 per cent of the total of

(i) the base rent for the residential premises,

(ii) any increase in the rental rate made pursuant to clause (a), and

(iii) any increase in the rental rate made pursuant to an order of a rent regulation officer under section 11 or on appeal by the Board under section 27.

(3) Where, effective as of July 1, 1981 or any subsequent date, the tenancy period on which the rental rate is based is different from the tenancy period on which the base rent is based, then, for the purposes of subsection (2),

(a) the base rent shall be recalculated in accordance with the regulations so that it relates to the new tenancy period, and

(b) any increase permitted under subsection (2) shall be determined on the basis of base rent as so recalculated.

(4) Where a landlord of residential premises wishes to make a permitted increase and the premises are vacant or will become vacant by reason of a landlord having given notice of termination of tenancy, the landlord shall give to a rent regulation officer a written notice of the increase in the rental rate at least 90 days before the date on which the increase is to be effective.

(5) Notwithstanding subsection (4), no notice of a permitted increase is required to be given by a landlord

(a) to any person during any period that the residential premises are vacant, if the premises are vacant by reason of a tenant terminating the immediately preceding tenancy agreement under which the residential premises were rented, or

(b) to a tenant upon the commencement of a tenancy agreement, if the immediately preceding tenancy agreement under which the residential premises were rented was terminated by the tenant.

Application to
increase rent by
more than
permitted increase

8(1) Subject to the regulations, a landlord may apply to a rent regulation officer to increase the rental rate for any residential premises by a sum greater than the permitted increase.

(2) An application under subsection (1) shall

- (a) be in writing,
- (b) state the reasons why a greater increase in the rental rate than the permitted increase should be approved by the rent regulation officer,
- (c) be made at least 90 days before the increase is proposed to be effective,
- (d) state the base rent of the residential premises,
- (e) state whether or not the residential premises are vacant, and
- (f) state the number of increases in the rental rate that have come into effect in respect of the residential premises on or after July 1, 1981.

(3) Where residential premises in respect of which an application is made under this section are occupied, a copy of the application shall be sent to the tenant of the residential premises.

Limit on number of increases

9 Not more than 2 increases in the rental rate may be made effective during the period July 1, 1981 to June 30, 1982 and not more than 1 increase in the rental rate may be made effective during the period commencing July 1, 1981 and ending December 31, 1981, whether the increases are

- (a) permitted increases, or
- (b) increases made pursuant to an order of a rent regulation officer or, on appeal, pursuant to an order of the Board, or
- (c) a combination of both.

Tenant's right to file a statement of interest

10(1) A tenant of residential premises may, within 15 days of his receipt of a copy of the landlord's application for a greater increase in the rental rate than the permitted increase, file a written statement of interest with a rent regulation officer and shall, at the same time, give a copy of the statement of interest to the landlord of the residential premises.

(2) The landlord may, within 15 days of his receipt of a statement from a tenant under subsection (1)

- (a) reduce the proposed increase in the rental rate to such an amount, not exceeding the permitted increase and notify the rent regulation officer and the tenant in writing accordingly, or
- (b) notify the tenant and the rent regulation officer that the notice of increase in rent is withdrawn.

(3) Where a landlord takes no action under subsection (2), the landlord is deemed to wish his application for a greater increase in the rental rate than the permitted increase to proceed.

(4) Where a landlord reduces an increase in the rental rate to an amount not exceeding the permitted increase pursuant to subsection (2)(a), the application made by the landlord under section 8 shall be deemed to have been a notice given to the tenant under *The Landlord and Tenant Act, 1979*, for the reduced rental rate notified to the rent regulation officer under subsection (2)(a) and shall take effect accordingly.

Decision of rent
regulation officer

11(1) The rent regulation officer shall within 60 days of his receipt of an application by a landlord under section 8, consider the application and any statement of interest filed and after making such inquiry as he considers necessary, may, by order,

- (a) grant, vary or refuse any application in whole or part;
- (b) direct the landlord to repay the tenant any moneys paid in excess of the amount which he has fixed in his order under this section or that the excess be set off by way of abatement of rent;
- (c) direct the tenant to pay the landlord any amount of money owing to the landlord by reason of the decision of the rent regulation officer,

and shall serve a copy of the order on the landlord and each tenant affected by it.

(2) An order under this section may

- (a) be made subject to such conditions as the rent regulation officer considers necessary, and
- (b) take effect retrospectively or from such other date or dates as are prescribed by the rent regulation officer.

(3) Where a rent regulation officer fails to give a decision within 60 days of his receipt of a landlord's application under section 8, the application shall be deemed

- (a) to have been refused with respect to that amount that is greater than the permitted increase, and
- (b) to have been a notice to the tenant in accordance with *The Landlord and Tennant Act, 1979*, for the permitted increase and shall take effect accordingly.

Notice of rental
increase

12(1) A permitted increase may be charged and collected by the landlord on and after the date the proposed increase is to be effective until

- (a) a rent regulation officer or on appeal, the Board, serves a copy of his or its order, or
- (b) the expiration of 60 days from the date the landlord's ap-

plication under section 8 was received by the rent regulation officer.

Reduction in service

13(1) Where, on or after April 1, 1981, any service

(a) is or was reduced below the level at which it was provided to a tenant before April 1, 1981, or

(b) ceases or has ceased,

the tenant may apply to a rent regulation officer for an investigation.

(2) Where, on or after April 1, 1981

(a) the consideration for any service is or has been increased by the landlord, or

(b) a landlord demands or has demanded consideration for a service for which, before October 1, 1981, no consideration was demanded,

a tenant may apply to a rent regulation officer for an investigation.

(3) Where a rent regulation officer receives an application under subsections (1) or (2), the officer may investigate the matter and endeavour to bring the parties to an amicable agreement.

(4) No applications may be made by a tenant under this section with respect to any reduction or cessation of service or increase or demand for consideration by a landlord after December 31, 1982.

Report and recommendations of rent regulation officer

14(1) Where a rent regulation officer is unable to settle a matter pursuant to section 13, he shall make a written report with recommendations and send it to the Board.

(2) The rent regulation officer shall send a copy of his report and recommendations to the landlord and the tenant concerned.

(3) No application may be made by a tenant under section 13 and no report and recommendations may be made by a rent regulation officer under this section with respect to any reduction in services by reason only of reasonable wear and tear of the residential premises or anything therein or by reason of normal deterioration due to use or lapse of time.

Subletting and assignment

15(1) No tenant shall

(a) sublet the balance of his term under a tenancy agreement for consideration that is greater than the rent that is lawfully charged by a landlord under this Act, or

(b) charge any consideration for an assignment or subletting of his tenancy agreement.

(2) Where upon investigation a rent regulation officer considers that a tenant has contravened subsection (1) he may order that the tenant return any moneys received by him under subsection (1) to the sub-tenant or assignee entitled to it.

PART 3

RENT REGULATION APPEAL BOARD

Rent Regulation
Appeal Board

16(1) There is hereby established a Rent Regulation Appeal Board consisting of such persons as are appointed by the Minister.

(2) The Minister may designate 1 member of the Board as Chairman and any other members as vice-chairmen.

(3) The Minister may prescribe such remuneration and living and travelling expenses to the Chairman and other members of the Board as he considers reasonable, out of money appropriated to that purpose.

Meetings of the
Board

17(1) The members of the Board shall meet at such times and places as the Chairman of the Board directs.

(2) At the direction of the Chairman, a vice-chairman shall

- (a) act as Chairman of the Board, or
- (b) act as Chairman of a division of the Board.

Meetings of
divisions of the
Board

18(1) The members of the Board shall, at the direction of the Chairman, meet as

- (a) the Board, or
- (b) a division of the Board, or
- (c) 2 or more divisions of the Board.

(2) A quorum of the Board or where the Board meets as a division of the Board, a quorum of a division of the Board, is the Chairman or vice-chairman and 2 other members.

(3) The Board may meet in 2 or more divisions simultaneously or at different times.

(4) A decision of a division of the Board is a decision of the Board.

(5) A decision of a majority of the members of the Board or a division of the Board present and constituting a quorum, is the de-

cision of the Board, but if there is a tie vote, the Chairman or vice-chairman may case a second vote.

One Board member
may conduct
inquiry

19(1) The Board or the Chairman of the Board may authorize any 1 or more of the members of the Board to make an inquiry and report to the Board upon any question or matter arising in connection with any inquiry, application or investigation under this Act or upon any matter or thing over which the Board has jurisdiction.

(2) A member authorized pursuant to this section to inquire and report to the Board upon any question or matter has and may exercise all the powers of the Board for the purpose of taking evidence or acquiring the necessary information for the purpose of his inquiry.

Witnesses and
documents

20(1) For the purposes of this Act the Board may

(a) summon and enforce the attendance of witnesses in the same manner as a court of record in civil cases;

(b) require any person to attend and produce such documents and things as it considers necessary for the purpose of hearing any appeal to it under this Act; and

(c) administer oaths.

(2) The Board

(a) may accept such oral or written evidence as it, in its discretion, considers proper whether admissible in a court of law or not, and

(b) is not bound by the law of evidence applicable to judicial proceedings.

Enforcing
attendance of
witnesses

21(1) Where, in the opinion of the Board,

(a) the attendance of a person is required, or

(b) the attendance of a person to produce a document or other thing is necessary,

the Board may cause to be served on the person concerned a notice to attend or a notice to attend and produce, as the case may be, signed by the Chairman or vice-chairman.

(2) Where a person fails or refuses to comply with

(a) a notice to attend, or

(b) a notice to attend and produce a document or thing,

issued by the Board, a judge of the Court of Queen's Bench, on application of the Board, may issue a bench warrant requiring the

attendance of the person or the attendance of the person to produce the document or other thing, as the case may be, before the Board.

Rules of procedure **22** The Board may make such rules of procedure for the conduct of its business and for hearing and conducting appeals and for other matters as it considers necessary.

Jurisdiction **23(1)** Each member of the Board

- (a) has the same powers as a rent regulation officer, and
- (b) has the powers of a commissioner under *The Public Inquiries Act*.

(2) The Board may exercise all the powers, duties and functions imposed or conferred upon it by this Act and the regulations and without restricting the generality of the foregoing, the Board is empowered

- (a) to make or issue such orders, decisions, approvals or notices as it considers necessary;

- (b) to receive and investigate complaints.

(3) In addition to the matters specified or referred to in this section the Board has the necessary jurisdiction and power to perform such duties as may be assigned to it by the Lieutenant Governor in Council.

Proof of documents **24(1)** An order purporting to be signed by the Chairman or vice-chairman of the Board on behalf of the Board shall be admitted in evidence in any court as prima facie proof

- (a) of the order, and

- (b) that the persons signing the order were duly authorized to do so,

without proof of the appointment or signature of the Chairman or vice-chairman.

(2) A copy of an order, having thereon a certificate purporting to be signed by the Chairman of the Board stating that the copy is a true copy, shall be received in any court as prima facie proof of the order and the contents thereof, without proof of the appointment or signature of the Chairman.

Board members and rent regulation officers not compellable witnesses **25** A member of the Board or a rent regulation officer is not a competent or compellable witness in proceedings before any court respecting

- (a) any information, material or report obtained by it or him as a result of any application being made or statement of interest or notice of appeal being filed under this Act, or

(b) any information or material obtained or report made by a rent regulation officer or a member of the Board as a result of any inquiry or investigation made under this Act, or

(c) any information, material, report or other document obtained by a rent regulation officer or the Board as a result of a hearing held under this Act.

Hearing

26(1) The Board and a rent regulation officer have sole discretion to determine with respect to any application, statement of interest, investigation or inquiry as to

(a) whether or not to hold a hearing, and

(b) if a hearing is held,

(i) whether any hearing is held in public or in private,

(ii) the persons who may attend the hearing as a party to the proceedings, and

(iii) the persons who may observe without taking part in the proceedings.

(2) Where, in the opinion of a rent regulation officer or the Board it appears desirable to do so, the officer or the Board, as the case may be, may keep confidential the name of any person making an application, filing a statement of interest or assisting in any inquiry or investigation or giving evidence at any hearing.

PART 4

APPEALS

Appeal to the Board

27(1) A landlord or a tenant may, within 15 days of the date of an order of a rent regulation officer under section 11 or section 15, appeal to the Board by filing a written notice of the appeal with the Board.

(2) A notice of appeal filed with the Board under subsection (1) shall state the reasons for the appeal and a copy of the notice shall be given to the landlord or tenant affected by the appeal at the same time that the notice of appeal is filed.

(3) The Board, upon receipt of a notice of appeal under this section

(a) may hold a hearing, or

(b) may authorize 1 or more members of the Board to inquire and report pursuant to section 19,

or both.

(4) The Board may, by order

(a) affirm, vary or rescind any order of the rent regulation officer, or

(b) make any other order that a rent regulation officer is permitted to make under sections 11 or 15, or

(c) adopt all or part of the report of 1 or more members of the Board authorized to inquire and report under section 19 as an order of the Board,

or make any combination of orders under clauses (a) to (c) as it considers necessary and shall cause to be served on the landlord and each tenant affected thereby, a copy of its order.

(5) An order under this section or section 29 may

(a) be made subject to such conditions as the Board considers necessary, and

(b) take effect retrospectively or from such other date or dates as are prescribed by the Board.

(6) Any decision of the Board under this Act or the regulation is final and binding.

Board to act on
rent regulation
officer's report

28(1) Within 10 days of the date that a report and recommendations are sent to the Board pursuant to section 14, a landlord or a tenant affected by it may file with the Board written arguments with respect to the report and the recommendations or either of them.

(2) The Board, upon the expiration of 10 days from the date a report and recommendations are sent to it pursuant to section 14 may

(a) hold a hearing, or

(b) authorize 1 or more members of the Board to inquire and report pursuant to section 19.

Board order with
respect to services

29(1) After an inquiry and report or a hearing or both, the Board may, for the purpose of ensuring

(a) that no service is reduced below the level at which it was provided to a tenant before April 1, 1981, or

(b) that no services provided to a tenant before April 1, 1981 ceases, or

(c) that consideration is not increased for any service on or after April 1, 1981 unless the cost of operating the service has increased, or

(d) that consideration is not demanded for any service which was provided free of charge before October 1, 1981, unless there is a cost or increase in cost of providing the service,

make an order pursuant to subsection (2).

(2) The Board may, by order,

(a) direct a landlord to reinstate or restore a service wholly or partially;

(b) authorize a landlord to reduce or terminate a service;

(c) direct a landlord to reduce the rent payable with respect to the residential premises to reflect the reduction in services;

(d) direct the landlord to repay any consideration paid by a tenant;

(e) make such other order as seems reasonable to it in the circumstances.

Enforcement of orders

30 Where

(a) a rent regulation officer makes an order under section 11 and the period permitted for an appeal has expired, or

(b) the Board makes an order,

a rent regulation officer, the Board, or any landlord or tenant affected by the order may file the order with the clerk of the Court of Queen's Bench and thereupon the order is enforceable as a judgment or order of the court and may be enforced according to the ordinary procedure for enforcement of a judgment of that court.

Service of documents

31(1) Any statement, order, notice, application or other document or matter required or permitted to be given under this Act or the regulations

(a) by a tenant to a landlord, is sufficiently given if delivered personally to the landlord, or sent by ordinary mail addressed to the landlord at the address where the rent is payable;

(b) by a landlord to a tenant, is sufficiently given if delivered personally to the tenant, but, where the notice of application cannot be given by reason of the tenant's absence from his premises or by reason of his evading service, the notice or application may be given

- (i) by giving it to any adult person who apparently resides with the tenant, or
 - (ii) by posting it up in a conspicuous place upon some part of the premises, or
 - (iii) by sending it by registered mail to the tenant at the address where he resides;
- (c) by a rent regulation officer or the Board to a landlord or tenant or both of them, is sufficiently given if delivered personally to the landlord or the tenant, or sent by ordinary mail addressed to
- (i) the landlord, at the address where rent is payable by his tenant or the address for service indicated on any application made by him under this Act, and
 - (ii) the tenant, at his ordinary place of residence or the address for service indicated on any statement or application made by him under this Act;
- (d) by a tenant or a landlord to a rent regulation officer, is sufficiently given if delivered personally to the officer, or sent by ordinary mail addressed to the rent regulation officer administering this Act and the regulations in the area in which the residential premises the subject of the notice are situated;
- (e) by a tenant or a landlord to the Board, is sufficiently given if it is delivered personally to an office of the Board or sent by ordinary mail to an address of the Board prescribed by the regulations.
- (2) Notwithstanding anything in this section, a notice to a corporation may be given in the manner permitted under section 289 of *The Companies Act* or section 247 of *The Alberta Business Corporations Act*, whichever applies to the corporation at the time in question.

PART 5

REGULATIONS, OFFENCES AND PENALTIES

- 32(1)** The Lieutenant Governor in Council may make regulations
- (a) exempting any residential premises or any class or type thereof from the operation of all or any provisions of this Act or the regulations;

- (b) without restricting the generality of clause (a), exempting residential premises from the operation of all or any provisions of this Act on the basis of
 - (i) the use of the residential premises, or
 - (ii) the amount of rent charged in respect thereof, or
 - (iii) the region or geographic area in Alberta in which they are situated, or
 - (iv) the number of residential premises in a building;
- (c) governing the reasons in respect of which a landlord may apply to a rent regulation officer to increase the rental rate of residential premises by an amount greater than the permitted increase;
- (d) prescribing forms and providing for their use;
- (e) governing the manner in which and the method by which an appeal may be made or a notice filed under this Act;
- (f) prescribing the matters
 - (i) that a rent regulation officer must take into consideration when conducting an inquiry, considering an application or making any investigation under this Act, and
 - (ii) that a Board must take into consideration when hearing an appeal or making an inquiry under this Act;
- (g) permitting a landlord to convert residential premises to some other use;
- (h) governing the method by which and the manner in which a landlord may apply for an increase in a rental rate greater than the permitted increase;
- (i) governing the method by which and the manner in which a tenant may file a statement of interest with respect to an application referred to in clause (h);
- (j) governing any proceedings, the service of any notices, applications or documents and any other matter in connection with an application, notice or objection, hearing or appeal under this Act or the regulations;
- (k) providing for types of applications, statements and objections that a landlord or a tenant may make to a rent regulation officer or the Board in addition to those prescribed in this Act;
- (l) authorizing a rent regulation officer, the Board or the Minister to extend such time periods specified in this Act that he is au-

thorized to extend by the regulations, subject to such conditions as may be prescribed in the regulations;

(m) prescribing the methods by which base rent shall be recalculated under section 7(3) and empowering a rent regulation officer to make any calculation or determination with respect thereto;

(n) respecting any matter of procedure relating to an application, complaint, inquiry, investigation, hearing, appeal, notice, statement, order or other proceeding under this Act or the regulations.

(2) Any regulation made pursuant to subsection (1) may be made to come into effect retroactive to the date this Act is assented to.

Offences and Penalties

General offence
and penalty

33 Any person who contravenes or fails to comply with any provision of this Act or the regulations for which no penalty is specifically provided is guilty of an offence and liable on summary conviction to a fine not exceeding \$2000 and in default of payment to imprisonment for a term not exceeding 1 year.

Penalty for failure
to comply with
order

34 Any person who

(a) fails or refuses to comply with an order of a rent regulation officer, or

(b) fails or refuses to comply with an order of the Board,

is guilty of an offence and liable on summary conviction to a fine not exceeding \$5000 and in default of payment to imprisonment for a term not exceeding 2 years.

Offences and
penalties

35 Any person who

(a) obstructs or hinders a rent regulation officer, or any member of the Board in the performance of his duties, or

(b) makes a false or misleading statement either orally or in writing to a rent regulation officer, the Board or any member thereof, or

(c) fails to notify a tenant of the base rent of residential premises in accordance with section 6, or

(d) makes a false or misleading notification of base rent to a tenant,

is guilty of an offence and liable on summary conviction to a fine not exceeding \$3000 and in default of payment to imprisonment for a term of 1 year or to both fine and imprisonment.

Certain fees prohibited

36(1) No landlord shall charge, demand, require or collect any consideration

- (a) as a preparation or entry fee for the residential premises;
- (b) as a premium or other payment for the renting of residential premises;
- (c) for any club, membership or similar fee for the entry, use or possession of residential premises upon commencement of a tenancy agreement;
- (d) for any other reason, if the entry, use, possession or renting of the residential premises is dependent upon the payment or the giving of the consideration.

(2) This section does not apply to a security deposit as defined in *The Landlord and Tenant Act, 1979*.

Prohibition on conversion of residential premises

37(1) No landlord of residential premises shall cease to rent premises as residential premises unless

- (a) the landlord intends to use the premises for himself or his immediate family, or
- (b) he landlord intends to demolish the premises, or
- (c) the landlord intends to renovate the premises and
 - (i) the renovations cannot be made with a tenant in possession thereof, and
 - (ii) after the renovations are complete the premises will continue to be used as residential premises;

or

- (d) the landlord is permitted to do so in accordance with the regulations.

(2) Notwithstanding any other Act, where any residential premises are not, at the time this subsection comes into force, included as part of a condominium plan approved by a local authority, the local authority shall not thereafter direct the issue of a certificate of approval of a condominium plan pursuant to *The Condominium Property Act* where the plan includes those residential premises.

(3) In subsection (2), “condominium plan” and “local authority” have the meanings given to them in *The Condominium Property Act*.

(4) This section expires on December 31, 1982.

When notice of termination of offence

38 Any landlord who serves a notice of termination of a tenancy agreement by reason only that a tenant

- (a) makes an application or files a statement under this Act, or
- (b) makes any complaint, assists in any investigation or inquiry or gives any evidence at a hearing under this Act,

is guilty of an offence.

Action for recovery

39(1) Where the rental rate for residential premises is increased otherwise than in accordance with this Act, the increase is void and unenforceable and any amount paid by a tenant

- (a) is recoverable by the tenant by action, or
- (b) may be set off by the tenant against any further rent due by him to the landlord.

(2) No person shall demand, collect or attempt to collect rent in excess of that permitted pursuant to this Act.

PART 6

TRANSITIONAL, CONSEQUENTIAL AND COMMENCEMENT

Notice of increase effective after July 1, 1981

40(1) This section applies only where

- (a) a landlord serves a notice of increase in the rental rate in accordance with *The Landlord and Tenant Act, 1979* before July 1, 1981, and
- (b) the notice of increase is to come into effect on or after July 1, 1981.

(2) Where a notice referred to in subsection (1) provides

- (a) for a permitted increase, or
- (b) for an increase less than the permitted increase,

that increase in the rental rate shall take effect in accordance with the notice.

(3) Where a notice referred to in subsection (1)

(a) is for the permitted increase no further increase in rent shall be made by the landlord under section 7, before July 1, 1982.

(b) is for less than the permitted increase, the increase shall be deemed to be the first increase permitted pursuant to section 7.

(4) Where a notice referred to in subsection (1) provides for an increase greater than the permitted increase, the increase in the rental rate

(a) shall only be the permitted increase and the permitted increase shall be deemed to be substituted for the increase provided for in the notice,

(b) the landlord is not entitled to recover any rent in excess of the permitted increase and shall refund any rent previously collected that is in excess of the permitted increase, and

(c) no further increase in rent for the residential premises shall be made effective under section 7, before July 1, 1982.

Tenancy agreement before July 1, 1981

41 Where a tenancy agreement in existence before July 1, 1981

(a) provides for an increase in rent greater than the permitted increase, the permitted increase shall be deemed to be substituted therefor unless the landlord or tenant agree to an increase less than the permitted increase, or

(b) provides for an increase in rent of less than the permitted increase that agreement applies notwithstanding section 7 or 8.

References in The Landlord and Tenant Act, 1979

42 A reference in *The Landlord and Tenant Act, 1979*, to *The Temporary Rent Regulation Measures Act* shall be deemed to be a reference to *The Temporary Rent Regulation Measures Act, 1981* with respect to matters arising after June 30, 1981.

Coming into force

43 This Act comes into force on the day upon which it is assented to and shall be deemed to have been in force at all times from July 1, 1981.