

1982 BILL 34

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Fourth Session, 19th Legislature, 31 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 34

**MOBILE HOME SITES TENANCIES ACT**

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MR. ZAOZIRNY

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 34*  
*Mr. Zaozirny*

## **BILL 34**

1982

### **MOBILE HOME SITES TENANCIES ACT**

*(Assented to , 1982)*

#### **TABLE OF CONTENTS**

Definitions	1
Application of Act	2
Crown bound	3

#### **PART 1 PERIODIC TENANCIES**

Notice of termination of periodic tenancy	4
Notice to terminate monthly tenancy	5
Notice to terminate monthly tenancy not provided for under section 5	6
Notice to terminate yearly tenancy	7
Form of notice	8
Notice not served in sufficient time	9
Notice to terminate in order to use premises for another purpose	10
Notice to terminate tenancy of employee	11
Restrictions on termination	12
Implied periodic tenancy	13
Notice of increase in rent	14
Change in tenancy agreement	15

#### **PART 2 OBLIGATIONS OF LANDLORDS AND TENANTS**

Landlord's covenants	16
Copy of agreement for tenant	17
Disclosure of rules	18
Disclosure of fees, etc.	19
Tenant's covenants	20
Entry onto mobile home site	21
Tenant's rights to transfer	22
Acquisition of interest of landlord or tenant	23

**PART 3  
REMEDIES OF LANDLORD AND TENANTS**

Landlord's remedies	24
Repudiation of tenancy	25
Acceptance of payments	26
Termination of tenancy for substantial breach	27
Abandoned goods	28
Abandoned mobile home	29
Compensation by overholding tenant	30
Recovery of damages	31
Order for possession	32
Writ of possession	33
Tenant's remedies	34
Possession unobtainable	35
Compensation to tenant	36
Frustration of tenancy agreement	37
Application for remedy to court	38
Landlord's supporting affidavit	39
Tenant's supporting affidavit	40
Order of court	41

**PART 4  
SECURITY DEPOSITS**

Amount of security deposit	42
Interest on deposit	43
Return of security deposit	44
Obligations and rights of new landlord	45

**PART 5  
THE PROVINCIAL COURT**

Jurisdiction	46
Application of Act	47
Commencement of application	48
Notice of application	49
Hearing of application	50
Appeal	51
Entering of order	52

**PART 6  
GENERAL**

Service of notices	53
Mobile Home Sites Advisory Boards	54
Offences	55
Regulations	56
Application to Court of Queen's Bench	57
Non-application of other law	58
Application of Act on commencement	59
Consequential amendments	60

## SCHEDULE

Notice to landlord  
Notice to tenant

Form A  
Form B

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

Definitions

**1(1) In this Act,**

(a) “common areas” means areas controlled by a landlord and used for access to a mobile home site or for the service or enjoyment of a tenant;

(b) “council” means

(i) the council of a city, town, village, municipal district or county, or

(ii) the Minister of Municipal Affairs, in the case of an improvement district or special area;

(c) “court” means

(i) the Provincial Court, or

(ii) the Court of Queen’s Bench;

(d) “mobile home” means a structure whether ordinarily equipped with wheels or not, that

(i) is constructed or manufactured to be moved from one point to another, and

(ii) is intended to be occupied by one or more persons,

but does not include a holiday trailer or a recreational vehicle when the holiday trailer or recreational vehicle is being used for bona fide recreational purposes;

(e) “mobile home park” means a parcel of land that includes not less than 3 mobile home sites rented or held out for rent;

(f) “mobile home site” means land rented or intended to be rented as a site for the purpose of being occupied by a mobile home where

(i) the mobile home is used for residential purposes, and

(ii) the owner of the mobile home is not the same person as the owner of the site on which the mobile home is to be located;

(g) “security deposit” means any money, property or right paid or given by a tenant of a mobile home site to a landlord or to

anyone on his behalf to be held by or for the landlord as security for the performance of an obligation or the payment of a liability by the tenant or to be returned to the tenant on the happening of a condition;

(h) “substantial breach” means

(i) a breach of a covenant specified in section 20, or

(ii) a series of breaches of a tenancy agreement, the cumulative effect of which is substantial;

(i) “subtenancy” means a tenancy created by sublease of the mobile home site;

(j) “tenancy agreement” means a written, oral or implied agreement to rent a mobile home site and includes a licence to use a mobile home site;

(k) “tenancy month” means the monthly period on which a tenancy is based whether or not it is a calendar month, and unless otherwise specifically agreed on by the landlord and the tenant, the month is deemed to begin on the day on which rent is payable;

(l) “tenancy year” means the yearly period on which the tenancy is based whether or not it is a calendar year and, unless otherwise specifically agreed on by the landlord and the tenant, the year is deemed to begin on the day, or the anniversary of the day, on which the tenant first became entitled to possession.

(2) For the purposes of this Act a purchaser of a mobile home unit under a conditional sales contract is deemed to own the mobile home.

Application  
of Act

**2(1)** This Act applies only to tenancies of mobile home sites.

(2) If a tenancy is entered into for the purpose of enabling the tenant to operate a mobile home park, this Act

(a) applies to a subtenancy created by that tenant subletting the mobile home sites located in the mobile home park to his tenants, and

(b) subject to section 23, does not apply to the tenancy.

(3) Any waiver or release by a tenant of the rights, benefits or protections provided him under this Act is void.

Crown is bound

**3** The Crown in right of Alberta is bound by this Act.

**PART 1  
PERIODIC TENANCIES**

Notice of  
termination of  
periodic tenancy

**4(1)** A monthly or yearly tenancy may be terminated by either the landlord or the tenant on notice to the other and the notice

(a) shall be served in sufficient time to give the period of notice required by section 5, 6 or 7, as the case may be, and

(b) shall meet the requirements of section 8.

(2) A tenancy not referred to in subsection (1) that is terminable on notice shall, unless otherwise agreed on, be terminated as provided by section 8 and the notice shall be served on the landlord or tenant, as the case may be.

(3) If a periodic tenancy is for a period of less than one year, that tenancy is for the purposes of terminating the tenancy deemed to be a monthly tenancy.

Notice to  
terminate  
monthly tenancy

**5(1)** Subject to section 6, a notice to terminate a monthly tenancy must be served

(a) by a tenant on his landlord, prior to the commencement of a tenancy month to be effective on the last day of the second tenancy month following the day on which the notice is served, or

(b) by a landlord on his tenant, prior to the commencement of a notice period to be effective on the last day of the notice period.

(2) Notwithstanding subsection (1)(a), if a person has been a tenant of the landlord for not more than 4 consecutive tenancy months, a notice to terminate a monthly tenancy served by the tenant on the landlord within the first 4 months of the tenancy is effective on the last day of

(a) the fourth tenancy month from the commencement of the tenancy, or

(b) the second tenancy month following the day on which the notice is served,

whichever is the greater period from the commencement of the tenancy.

(3) Notwithstanding subsection (1)(b), if a person has been a tenant of the landlord for not more than 12 consecutive tenancy months, a notice to terminate a monthly tenancy served by the landlord on the tenant within the first 12 months of the tenancy is effective on the last day of

(a) the twelfth tenancy month from the commencement of the tenancy, or

(b) the sixth tenancy month of the tenancy following the day on which the notice is served,

whichever is the greater period from the commencement of the tenancy.

(4) In this section and section 9(1)(a), "notice period" means a period of 6 consecutive tenancy months.

Notice to terminate a monthly tenancy not provided for under section 5

**6(1)** This section applies only to

(a) a tenancy of a mobile home site if the mobile home site is not located in a mobile home park, or

(b) a subtenancy that is not referred to in section 2(2).

(2) A notice to terminate a monthly tenancy must be served

(a) by a tenant on his landlord, prior to the commencement of a tenancy month to be effective on the last day of that tenancy month, or

(b) by a landlord on his tenant, prior to the commencement of a notice period to be effective on the last day of the notice period.

(3) In this section and section 9(2)(b), "notice period" means a period of 3 consecutive tenancy months.

Notice to terminate yearly tenancy

**7** A notice to terminate a yearly tenancy must be served

(a) by a tenant on his landlord, on or before the 60th day before the last day of any tenancy year, or

(b) by a landlord on his tenant, on or before the 180th day before the last day of any tenancy year,

to be effective on the last day of the tenancy year.

Form of notice

**8(1)** A notice to terminate a tenancy shall

(a) be in writing,

(b) be signed by the person giving the notice or his agent,

(c) identify the mobile home site in respect of which the notice is served, and

(d) state the date on which the tenancy is to terminate.

(2) A notice need not be in any particular form, but

(a) a notice by a tenant to his landlord may be in Form A of the Schedule, and

(b) a notice by a landlord to his tenant may be in Form B of the Schedule.

Notice not served in sufficient time

**9(1)** If a notice to terminate a monthly or yearly tenancy is not served in sufficient time to give the period of notice required by section 5 or 7, as the case may be, the notice is still effective to terminate

(a) the monthly tenancy

(i) if the notice is served by a tenant on his landlord, on the last day of the second complete tenancy month following the date on which the notice is served, or

(ii) if the notice is served by a landlord on his tenant, on the last day of the first complete notice period following the date on which the notice is served,

or

(b) the yearly tenancy

(i) if the notice is served before the end of the tenancy year by a tenant on his landlord, 60 days from the date on which the notice is served, or

(ii) if the notice is served before the end of the tenancy year by a landlord on his tenant, 180 days from the date on which the notice is served.

**(2)** If a notice to terminate a monthly tenancy is not served in sufficient time to give the period of notice required by section 6 the notice is still effective to terminate the monthly tenancy

(a) if the notice is served by a tenant on his landlord, on the last day of the first complete tenancy month following the date on which the notice is served, or

(b) if the notice is served by a landlord on his tenant, on the last day of the first complete notice period following the date on which the notice is served.

Notice to terminate in order to use premises for another purpose

**10(1)** If after the commencement of a periodic tenancy of a mobile home site that is located in a mobile home park

(a) termination of that tenancy is sought for the purpose of obtaining vacant possession of the mobile home site to use it otherwise than as a mobile home site, and

(b) termination of that tenancy is sought as part of a plan or scheme to obtain vacant possession of all of the mobile home sites located in that mobile home park in order to use them otherwise than as mobile home sites,

the landlord may terminate that tenancy by serving a notice of termination on the tenant at least 365 days before the day named in the notice for the termination of the tenancy agreement.



(2) Notwithstanding subsection (1), if the tenancy agreement is terminated by the tenant before the day specified in the notice, the landlord may rent the mobile home site to another tenant for the period remaining until the day specified in the notice, if he gives that tenant notice of the termination date before entering into the tenancy agreement.

Notice to terminate tenancy of employee

**11** If a periodic tenancy has been entered into by reason of the tenant's employment by the landlord and that employment is terminated, either the landlord or the tenant may terminate the tenancy by serving notice on the other party in sufficient time to provide a period of notice of termination of the tenancy that is

(a) equal to the period of notice of termination of employment required under any law in force in Alberta that is applicable to the tenant's employment,

(b) equal to the period of notice of termination of employment agreed to by the landlord and the tenant, or

(c) of 30 days' duration,

whichever period is longest.

Restrictions on termination

**12** A periodic tenancy agreement cannot be terminated by a landlord for the reason that the tenant

(a) made an application or filed a statement under this Act, or

(b) made a complaint, assisted in an investigation or inquiry or gave evidence at a hearing under this Act.

Implied periodic tenancy

**13** When a periodic tenancy is implied by operation of law after the expiration or termination of a prior tenancy agreement for a fixed term, the implied tenancy, in the absence of facts showing a contrary intention, is a monthly tenancy.

Notice of increase in rent

**14(1)** A landlord shall not increase the rent payable under a tenancy agreement or recover any additional rent resulting from the increase

(a) in the case of a mobile home site located in a mobile home park, unless he gives to the tenant a written notice of the increase in rent at least 180 days before the date on which the increase is to be effective, and

(b) in the case of a mobile home site not located in a mobile home park, unless he gives to the tenant a written notice of the increase in rent at least 90 days before the date on which the increase is to be effective.

(2) Notwithstanding subsection (1), if the tenancy agreement provides for a period of notice longer than

(a) 180 days, in the case of a mobile home site located in a mobile home park, or

(b) 90 days, in the case of a mobile home site not located in a mobile home park,

the landlord must give at least that longer period of notice before increasing the rent payable or recovering any additional rent resulting from the increase.

(3) A tenant under a periodic tenancy who receives a notice under subsection (1) or (2) and who fails to give to the landlord notice of termination effective on or before the date the rent increase is to be effective is deemed to have agreed to the increase of rent.

(4) A tenant who pays rent in excess of that permitted by subsections (1) and (2) may recover the excess rent from the landlord by commencing an action in a court.

Change in tenancy agreement

**15(1)** This section applies only to a tenancy of a mobile home site if the mobile home site is located in a mobile home park.

(2) If a person has been a tenant of a landlord for not more than 12 consecutive tenancy months, any increase in rent or other change in the terms of a tenancy agreement that is imposed by the landlord for the purpose of causing the tenant to terminate his tenancy agreement is void.

## **PART 2 OBLIGATIONS OF LANDLORDS AND TENANTS**

Landlord's covenants

**16** The following covenants of the landlord form part of every tenancy agreement:

(a) that the mobile home site will be available for occupation by the tenant at the beginning of the tenancy;

(b) that, subject to section 21, neither the landlord nor a person having a claim to the mobile home site under the landlord will in any significant manner disturb the tenant's possession or peaceful enjoyment of the mobile home site;

(c) that, at the commencement of the tenancy, the mobile home site will be sound and fit;

(d) that throughout the tenancy the landlord shall take all reasonable steps

(i) to maintain the mobile home site sound and fit,

(ii) to maintain the common areas habitable and in good repair,

(iii) to maintain all electrical, plumbing, sanitary, heating, fuel and other facilities supplied by him sound and fit for the purposes for which they are intended,

(iv) to provide for, or ensure the provision of means for, the removal or disposal of garbage at reasonable intervals,

(v) to maintain proper access to the mobile home site.

Copy of  
agreement for  
tenant

**17(1)** If a tenancy agreement is in writing and the tenant has signed and returned the written tenancy agreement to the landlord, the landlord shall, within 21 days of the written tenancy agreement being returned to the landlord, serve on the tenant a copy of the written tenancy agreement signed by the landlord.

(2) A tenant may withhold payment of rent until he is served with a copy of the tenancy agreement under subsection (1).

Disclosure  
of rules

**18(1)** Prior to a person entering into a tenancy agreement, the landlord shall disclose in writing to that person all rules concerning the tenancy that exist at the time that the tenancy agreement is entered into.

(2) Subsequent to a tenant entering into a tenancy agreement, a landlord may from time to time make, amend or replace the rules if the rules or the amendment or replacement of the rules is reasonable in the circumstances and intended to

(a) promote the convenience, safety or welfare of the mobile home site residents;

(b) preserve the landlord's property from abusive use;

(c) make a fair distribution of services and facilities held out for the general use of the mobile home site residents.

(3) Rules made, amended or replaced pursuant to subsection (2) are enforceable against the tenant only if

(a) the rules apply and are applied to all mobile home site tenants of the landlord in a fair manner,

(b) the rules are sufficiently explicit in their prohibition, direction or limitation of the tenant's conduct so as to fairly inform the tenant of what he must or must not do in order to comply with the rules,

(c) reasonable notice in writing of the rules are given to the tenant, and

(d) the rules do not substantially modify the tenancy agreement of the tenant.

(4) Notwithstanding subsection (3)(c), a rule pertaining to the

- (a) safety of mobile home site residents, or
- (b) use of common areas,

may be made, amended or replaced by the landlord without notice.

Disclosure of  
fees, etc.

**19(1)** Prior to a person entering into a tenancy agreement, the landlord shall disclose in writing to that person all fees, charges and assessments payable by that person to the landlord in addition to the rent in respect of the tenancy at the time the tenancy agreement is entered into.

(2) Subsequent to a tenant entering into a tenancy agreement, no fees, charges or assessments disclosed under subsection (1) may be increased or additional fees, charges or assessments may be imposed, without written notice being given to the tenant.

(3) Written notice under subsection (2) shall be given to the tenant at least

- (a) 180 days, in the case of a mobile home site located in a mobile home park, and
- (b) 90 days, in the case of a mobile home site not located in a mobile home park,

before the date the increase or addition is to be effective.

Tenant's  
covenants

**20** The following covenants of the tenant form part of every tenancy agreement:

- (a) that the rent will be paid when due;
- (b) that the tenant will not in any significant manner interfere with the rights of the landlord on the mobile home site, the common areas or the property of which they form a part;
- (c) that the tenant will not in any significant manner interfere with the rights of other tenants of the landlord;
- (d) that the tenant will not perform illegal acts or carry on an illegal trade, business or occupation on the mobile home site, the common areas or the property of which they form a part;
- (e) that the tenant will not endanger persons or property on the mobile home site, the common areas or the property of which they form a part;
- (f) that the tenant will not do or permit significant damage to the mobile home site, the common areas or the property of which they form a part;
- (g) that the tenant will maintain the mobile home site and any property rented with it in a reasonably clean condition;

(h) that the tenant will vacate the mobile home site at the expiration or termination of the tenancy.

Entry onto  
mobile home site

**21(1)** Except as otherwise permitted in this section, a landlord is not entitled to enter a mobile home site rented by him without the consent of the tenant or of an adult person lawfully on the mobile home site.

(2) A landlord is entitled to enter a mobile home site rented by him without consent or notice if he has reasonable grounds to believe that

- (a) an emergency requires him to enter the mobile home site, or
- (b) the tenant has abandoned the mobile home site.

(3) A landlord is entitled to enter a mobile home site rented by him without consent but after notice to the tenant

- (a) to inspect the state of repair of the mobile home site,
- (b) to make repairs to the mobile home site,
- (c) to show the mobile home site to prospective purchasers or mortgagees of the mobile home site, or
- (d) to show the mobile home site to prospective tenants after a landlord or tenant has served notice of termination of a periodic tenancy or during the last month of a tenancy for a fixed term.

(4) A notice under subsection (3) must

- (a) be in writing,
- (b) be served on the tenant at least 24 hours before the time of entry, and
- (c) name a reasonable time of entry.

Tenant's right  
to transfer

**22(1)** This section, other than subsection (8), applies only to a tenancy of a mobile home site if the mobile home site is located in a mobile home park.

(2) A tenant has the right

- (a) to assign or sublet the mobile home site, and
- (b) to sell, lease or otherwise part with the possession of his mobile home in conjunction with an assignment or subletting of the mobile home site.

(3) Notwithstanding subsection (2), a tenancy agreement may provide that the exercise of a right under subsection (2) is subject to the landlord's consent.

(4) A landlord shall not arbitrarily or unreasonably withhold the giving of his consent under subsection (3).

(5) Unless a contrary intention is expressed in the tenancy agreement, a provision requiring the landlord's consent to the exercise of a right under subsection (2) applies to a subsequent exercise of the same right.

(6) If a landlord does not answer a request for his consent within 15 days from the date he receives notice of the request, he is deemed to have given his consent.

(7) A landlord shall not charge or receive a commission or fee, other than his reasonable expenses actually incurred, in connection with the exercise by a tenant of a right under subsection (2) unless otherwise provided for in a separate written agency agreement that is entered into by the tenant

(a) subsequent to the tenant entering into the tenancy agreement, and

(b) at the time that the tenant decides that he wishes to offer his mobile home for sale or lease or otherwise part with possession of his mobile home.

(8) Nothing in this section prohibits a tenant in respect of a tenancy not referred to in subsection (1) from assigning or subletting his mobile home site.

Acquisition of interest of landlord or tenant

**23(1)** Subject to the *Land Titles Act* and the *Law of Property Act*, a person who acquires the reversionary interest of the landlord or the leasehold interest of the tenant has all the rights and is subject to all the obligations based on the real covenants relating to the tenancy, during the time that he holds the interest.

(2) The *Grantees of Reversion Act*, 32 Hen. 8, c.34, does not apply to the rights of a landlord or of a tenant.

### **PART 3 REMEDIES OF LANDLORDS AND TENANTS**

Landlord's remedies

**24** If a tenant commits a breach of a tenancy agreement, the landlord may apply to a court for one or more of the following remedies:

(a) recovery of arrears of rent;

(b) recovery of damages resulting from the breach;

(c) recovery of compensation for the use and occupation of the mobile home site by the overholding tenant after the tenancy has expired or been terminated;

(d) recovery of possession of the mobile home site from the overholding tenant;

(e) termination of the tenancy by reason of a substantial breach.

Repudiation  
of tenancy

**25(1)** If a tenant by abandonment of the mobile home site or otherwise gives the landlord reasonable grounds to believe that the tenant has repudiated the tenancy agreement, the landlord may either

- (a) accept the repudiation as a termination of the tenancy, or
- (b) refuse to accept the repudiation and continue the tenancy.

(2) In the case of a periodic tenancy, for the purposes of subsections (3) and (7), the tenant's acts of repudiation constitute a proper notice effective to terminate the tenancy on the earliest date that the tenant could have terminated the tenancy under this Act.

(3) A landlord who accepts the repudiation as a termination of the residential tenancy may recover

- (a) damages resulting from a breach of the tenancy agreement prior to the repudiation, and
- (b) damages for the loss of the benefit of the tenancy agreement
  - (i) in the case of fixed term tenancy, until it would have expired had the landlord not accepted the repudiation, or
  - (ii) in the case of a periodic tenancy, until the termination date.

(4) Notwithstanding subsection (3)(b), a landlord shall make reasonable efforts to mitigate the damages for the loss of the benefits of the tenancy agreement.

(5) A landlord who refuses to accept the repudiation and elects to continue the tenancy shall make reasonable efforts to mitigate the tenant's liability for rent under the tenancy agreement.

(6) A landlord who rents the mobile home site to a new tenant in order to mitigate a tenant's liability for rent under a tenancy agreement

- (a) is deemed to have accepted the repudiation of his previous tenant as terminating that tenancy at the time the new tenancy commences, and
- (b) may recover damages in the same manner as if the landlord had accepted the tenant's repudiation of the tenancy agreement.

(7) Subject to subsection (5), a landlord who refuses to accept the repudiation and elects to continue the tenancy may, so long as he has not rented the mobile home site to a new tenant, recover rent accruing under the tenancy agreement,

- (a) in the case of a fixed term tenancy, until it expires, or
- (b) in the case of a periodic tenancy, until the termination date.

Acceptance  
of payments

**26** The acceptance of payments by a landlord that he is entitled to receive either as compensation for use and occupation by an overholding tenant or for arrears of rent does not, unless the parties so agree, operate as

- (a) a waiver of a prior notice to terminate the tenancy, or
- (b) the creation of a new tenancy on the same terms as the prior tenancy or with modified terms.

Termination of  
tenancy for  
substantial  
breach

**27(1)** If a tenant commits a substantial breach under a tenancy agreement, the landlord may terminate the tenancy under subsection (2) or, in the case of a substantial breach other than a failure to pay rent, apply to a court for termination of the tenancy.

(2) The landlord may terminate the tenancy by serving the tenant with at least 14 days' notice in writing stating the details of the alleged substantial breach and the effective date of the termination.

(3) A notice served under subsection (2) is ineffective if, before the termination date given in the notice, the tenant either

- (a) serves the landlord with a notice in writing objecting to the termination and stating his reasons for objecting, or
- (b) if the alleged breach is a failure to pay rent, pays all arrears of rent.

(4) If the tenant serves the landlord with a notice under subsection (3)(a) objecting to the termination, the landlord may apply to a court for termination of the tenancy.

Abandoned  
goods

**28(1)** In this section, "abandoned goods" means goods, other than a mobile home, left on premises by a tenant who has

- (a) abandoned the mobile home site, or
- (b) vacated the mobile home site on the expiration or termination of the tenancy agreement.

(2) A landlord who believes on reasonable grounds that abandoned goods have a total market value of less than \$300 may dispose of the goods.

(3) Notwithstanding that abandoned goods have a value of \$300 or more, a landlord who on reasonable grounds believes

- (a) that the storage of the goods would be unsanitary or unsafe or would rapidly result in total or substantial depreciation in their market value, or
- (b) that the cost of removing, storing and selling the goods would exceed the proceeds of their sale,

may sell the goods by a means and for a price that he believes is reasonable.



- (4) If subsections (2) and (3) do not apply, the landlord
- (a) shall store or arrange for storage of the goods on behalf of the tenant until the expiration of a period of 60 days after the date of their abandonment, and
  - (b) thereafter may dispose of the goods by public auction or, with the approval of a court, by private sale.
- (5) If no bid is received for the abandoned goods at a public auction held under subsection (4)(b), the landlord may dispose of the goods.
- (6) No liability attaches to a person
- (a) making the sale of goods under subsection (3) or (4)(b), or
  - (b) disposing of goods under subsection (2) or (5).
- (7) On abandoned goods being disposed of or sold under this section, the person acquiring the goods on the disposal or sale acquires the tenant's interest in those goods and the tenant's interest in the goods is extinguished.
- (8) A landlord shall, on payment of his proper costs of removing and storing the abandoned goods, give up possession of the goods to the tenant or to the person entitled to them.
- (9) A landlord may apply the proceeds of any sale of abandoned goods
- (a) to his proper costs of removing, storing and selling the goods, and
  - (b) to any judgment obtained by him against the tenant in respect of the tenancy,
- and shall pay the surplus, if any, to the Provincial Treasurer.
- (10) The Provincial Treasurer shall retain the surplus on behalf of the tenant for 1 year and thereafter, if the tenant has not claimed it, pay the surplus into the General Revenue Fund.
- (11) On payment of the surplus into the General Revenue Fund under subsection (10) the tenant's claim to that surplus is extinguished.
- (12) This section does not apply to goods on a mobile home site against which a sheriff executes a writ of possession.

Abandoned  
mobile home

**29(1)** A landlord who believes on reasonable grounds that a mobile home has been abandoned on his property may apply to the Court of Queen's Bench for an order permitting the landlord to do one or both of the following:

- (a) sell or otherwise dispose of the abandoned mobile home;
- (b) remove and store the abandoned mobile home.

(2) In making an order under subsection (1) the Court of Queen's Bench may do one or more of the following:

(a) require the landlord to take those steps as the Court directs to locate the owner of the abandoned mobile home;

(b) require the landlord to take those steps as the Court directs to notify persons who have claims against the abandoned mobile home if those claims are registered in the Central Registry or Vehicle Registry constituted under the *Chattel Security Registries Act*;

(c) give directions with respect to the sale or disposal of the abandoned mobile home;

(d) give directions with respect to the distribution of the proceeds, if any, received in respect of the sale or disposal of the abandoned mobile home;

(e) give directions with respect to the removal and storage of the abandoned mobile home;

(f) give such other directions as the Court considers necessary in the circumstances.

(3) An application made to the Court of Queen's Bench

(a) under subsection (1)(a) shall be made upon notice to those persons, if any, as the Court may direct, and

(b) under subsection (1)(b) may be made ex parte.

(4) No liability attaches to a person

(a) making the sale or disposing of an abandoned mobile home, or

(b) removing and storing an abandoned mobile home,

as directed by the Court of Queen's Bench.

(5) On an abandoned mobile home being disposed of or sold under this section, the person acquiring the mobile home on the disposal or sale acquires the tenant's interest in the mobile home and the tenant's interest in the mobile home is extinguished.

(6) If, prior to an abandoned mobile home being sold or disposed of, the owner or other person entitled to the mobile home pays to the landlord his proper costs incurred in respect of the mobile home, including those costs, if any, of removing and storing the mobile home, the landlord shall give up possession of the mobile home to that person unless otherwise directed by an order of the Court of Queen's Bench.

(7) Subject to the order of the Court of Queen's Bench, a landlord may apply the proceeds of any sale of an abandoned mobile home

(a) to his proper costs of removing, storing and selling the abandoned mobile home, as the case may be, and

(b) to any judgment obtained by him against the tenant in respect of the tenancy.

(8) If any proceeds remain after the sale of an abandoned mobile home, those proceeds shall be paid to the Provincial Treasurer by the person holding those proceeds.

(9) The Provincial Treasurer shall retain any proceeds received under subsection (8) on behalf of the tenant for 1 year and thereafter, if the tenant has not claimed it, pay the surplus into the General Revenue Fund.

(10) On payment of the surplus into the General Revenue Fund under subsection (9) the tenant's claim to that surplus is extinguished.

Compensation by  
overholding  
tenant

**30** In determining the amount of compensation recoverable by a landlord for the use and occupation of a mobile home site by an overholding tenant after the tenancy has expired or been terminated, the court shall consider the nature of the use and occupation by the overholding tenant and the rent payable under the prior tenancy.

Recovery of  
damages

**31** In an application to a court for the recovery of damages resulting from the tenant's breach of his covenant to vacate the mobile home site at the expiration or termination of the tenancy, a landlord may recover

(a) general damages he has suffered resulting from the tenant's failure to vacate the mobile home site, and

(b) special damages he has suffered resulting from his liability to a new tenant because of his failure to deliver possession of the mobile home site to the new tenant, if those damages could reasonably have been foreseen by the tenant as a consequence of his failure to vacate the mobile home site.

Order for  
possession

**32** An order for possession for the recovery of a mobile home site

(a) shall direct the tenant to deliver possession of the mobile home site to the landlord by a specified date or within a specified time after service of the order on the tenant,

(b) shall state that if the order is not obeyed by the specified date or within the specified time, a writ of possession will issue without a further order, and

(c) may be served in a manner provided for by section 53 or in any other manner that the court directs.

Writ of  
possession

**33** If an order for possession for the recovery of a mobile home site is not complied with by the specified date or within the specified time,

the landlord is entitled, without a further order, to a writ of possession on filing an affidavit showing that the order has been served and has not been complied with.

Tenant's remedies

**34** If a landlord commits a breach of a residential tenancy agreement or contravenes this Act, the tenant may apply to a court for one or more of the following remedies:

- (a) recovery of damages resulting from the breach or contravention;
- (b) abatement of rent to the extent that the breach or contravention deprives the tenant of the benefit of the tenancy agreement;
- (c) compensation for the cost of performing the landlord's obligations;
- (d) termination of the tenancy by reason of the breach or contravention if in the opinion of the court the breach or contravention is of such significance that the tenancy should be terminated.

Possession unobtainable

**35** If a landlord breaches his covenant that the mobile home site will be available for occupation by the tenant at the beginning of the tenancy, the tenant may

- (a) repudiate the tenancy agreement or apply to the Court of Queen's Bench for specific performance of the covenant,
- (b) recover general damages resulting from the breach, and
- (c) recover special damages resulting from the breach if those damages could reasonably have been foreseen by the landlord as a consequence of the breach.

Compensation to tenant

**36** On hearing an application by a tenant for the recovery of damages or for compensation for the cost of performing the landlord's obligations, a court may

- (a) direct that the tenant pay into the court, pending and after disposition of the application, those amounts of rent as they become due that the court considers appropriate, and
- (b) direct that any amount of rent paid into the court be disbursed
  - (i) to the tenant as damages, or
  - (ii) to the landlord, the tenant or a third party, for costs reasonably incurred in performing the landlord's obligations,

and that any remaining amount be paid to the landlord.

Frustration of tenancy agreement

**37(1)** A tenancy agreement is frustrated if

(a) the mobile home site that is the subject of the agreement is rendered unusable, or

(b) the mobile home site, the common areas or the property of which they form a part are damaged to such an extent that

(i) a reasonable landlord would not repair the damage, or

(ii) a reasonable tenant would not be willing to remain as a tenant.

(2) The law pertaining to frustration of a contract applies with respect to a tenancy agreement that is frustrated.

Application for  
remedy to court

**38** If a landlord or tenant applies to a court to obtain a remedy under section 24 or 34, he shall serve on the other party to the application a notice of the application and a supporting affidavit at least 3 days, exclusive of holidays and Saturdays, or such shorter period of time that the court may approve, before the day named in the notice for the hearing.

Landlord's  
supporting  
affidavit

**39** A landlord's application to obtain a remedy under section 24 shall be supported by an affidavit setting forth the following:

(a) if a claim is made for the recovery of arrears of rent, the amount of rent in arrears and the time during which it has been in arrears;

(b) if a claim is made for the recovery of damages resulting from a breach of the tenancy agreement, the details of the breach and the amount of damages claimed;

(c) if a claim is made for the recovery of compensation for the use and occupation of a mobile home site by an overholding tenant,

(i) the date of the expiration of the tenancy or, if the tenancy was terminated, the method of termination and the effective date of the termination,

(ii) the reasons for the tenant's failure to vacate the mobile home site, to the extent known,

(iii) the nature of the use and occupation by the overholding tenant, to the extent known,

(iv) the rent payable under the prior tenancy agreement, and

(v) the amount of compensation claimed;

(d) if a claim is made for recovery of possession of the mobile home site from an overholding tenant,

(i) the date of the expiration of the tenancy or, if the tenancy was terminated, the method of termination and the effective date of the termination, and

(ii) the reasons for the tenant's failure to vacate the mobile home site, to the extent known;

(e) if a claim is made for the termination of the tenancy by reason of a substantial breach of the tenancy agreement, the details of the breach and the requested termination date.

Tenant's  
supporting  
affidavit

**40** A tenant's application to obtain a remedy under section 34 shall be supported by an affidavit setting forth the following:

(a) if a claim is made for the recovery of damages resulting from a breach of the tenancy agreement or a contravention of this Act, the details of the breach or contravention and the amount of damages claimed;

(b) if a claim is made for abatement of rent by reason of a breach of a tenancy agreement or a contravention of this Act,

(i) the rent payable under the tenancy agreement,

(ii) the details of the breach or contravention,

(iii) the benefit of the tenancy agreement that the tenant was deprived of, and

(iv) the amount of rent abatement claimed;

(c) if a claim is made for compensation for the cost of performing the landlord's obligations,

(i) the rent payable under the tenancy agreement,

(ii) the details of the breach of the tenancy agreement or of the contravention of this Act,

(iii) the obligations performed on the landlord's behalf, and

(iv) the amount of compensation claimed;

(d) if a claim is made for termination of the tenancy by reason of a breach of the tenancy agreement or a contravention of this Act, the details of the breach or contravention and the requested termination date.

Order of court

**41** On hearing an application and considering in a summary manner the oral and affidavit evidence submitted, a court may

(a) make an order granting or denying the remedy in whole or in part, or

(b) direct a trial to determine an issue that remains unresolved by the evidence submitted.

**PART 4  
SECURITY DEPOSITS**

Amount of  
security deposit

**42** A landlord shall not require a tenant to provide a security deposit that is greater than one month's rent under the tenancy agreement or that is greater than the rent that would be payable for one month under the tenancy agreement if the rent were payable monthly.

Interest on  
deposit

**43(1)** Subject to subsection (2), a landlord shall pay annually to the tenant interest on a security deposit consisting of money held by him or anyone on his behalf calculated at the rate of 12% per year.

(2) If a security deposit consists of money, a tenant and his landlord may agree in writing that the interest on the security deposit shall not be paid annually and in that case the interest shall be compounded annually and be paid to the tenant on the termination or expiration of the tenancy.

(3) A landlord is entitled to retain any interest and profit resulting from the investment of a security deposit in excess of the amount of interest payable to the tenant under this section.

(4) If a landlord and tenant agree that interest shall be payable under this section at a rate higher than the rate prescribed in this section, subsections (1), (2) and (3) shall be deemed to refer to the higher rate.

Return of  
security deposit

**44(1)** A landlord who holds a security deposit shall within 10 days of the day that the tenant gave up possession of the mobile home site

(a) deliver the security deposit to the tenant,

(b) if all or part of the security deposit has been deducted in accordance with the conditions agreed to by the tenant, deliver to the tenant the balance of the deposit, if any, and a statement of account showing the amount of the deposit used, or

(c) if he is entitled to make a deduction from the security deposit in accordance with the conditions agreed to by the tenant but is unable to determine the correct amount of the deduction, deliver to the tenant the balance of the deposit, if any, that he does not intend to use and an estimated statement of account of the anticipated deduction and within 30 days after the day that the tenant gave up possession of the mobile home site deliver to the tenant the remaining balance of the deposit, if any, and a final statement of account.

(2) If a landlord fails to return all or part of a security deposit to a tenant in accordance with subsection (1), then, whether or not a statement of account was delivered to the tenant, the tenant may commence an action in a court to recover the whole of the deposit or that part of the deposit to which the tenant claims to be entitled.

- (3) In proceedings taken under subsection (2), the court
  - (a) shall determine the amounts, if any, that the landlord is entitled to deduct from the security deposit in accordance with the conditions agreed to by the tenant, and
  - (b) if the deductions so determined are less than the amount of the deposit, shall give judgment in favour of the tenant for the balance.
- (4) No deduction may be made from a tenant's security deposit for normal wear and tear to the mobile home site during the period of his tenancy.
- (5) In this section, "security deposit" includes any amount owing to the tenant as interest under section 43 at the time of termination or expiration of the tenancy.

Obligations and rights of new landlord

**45** A person who acquires the interest of a landlord in a mobile home site has the rights and is subject to the obligations of the previous landlord with respect to a security deposit paid to the previous landlord in respect of the mobile home site.

## PART 5 THE PROVINCIAL COURT

Jurisdiction

**46(1)** The Provincial Court has the jurisdiction to grant any remedy or relief under this Act other than

- (a) giving a judgment for debt or damages in excess of the amount prescribed under Part 4 of the *Provincial Court Act*,
- (b) granting an equitable remedy, or
- (c) granting a relief or remedy required by this Act to be granted in the Court of Queen's Bench.

(2) The Provincial Court may give an order for possession of a mobile home site under this Act only if

- (a) the rent is not more than \$500 per month, and
- (b) the term under the tenancy is for not more than 3 years.

(3) Nothing in this Part prohibits a landlord or a tenant from proceeding under this Act in the Court of Queen's Bench.

Application of Act

**47** The provisions of Part 4 of the *Provincial Court Act* and the regulations made under that Act, to the extent they are not changed by or provided for in this Act or the regulations under this Act, apply to proceedings before the Provincial Court and to appeals from decisions of the Provincial Court.



Commencement of application	<p><b>48</b> A person wishing to commence an application in the Provincial Court shall file with a clerk of the Provincial Court</p> <p style="padding-left: 40px;">(a) a written notice identifying the mobile home site in respect of which the application is being commenced and setting forth the remedy being applied for, and</p> <p style="padding-left: 40px;">(b) an affidavit referred to in section 39 or 40, as the case may be.</p>
Notice of application	<p><b>49(1)</b> On a notice and an affidavit being filed under section 48, a clerk of the Provincial Court shall issue a notice of application stating the time and place at which the application will be heard.</p> <p><b>(2)</b> A copy of the notice and the affidavit filed under section 48 shall be attached to and form a part of the notice of application issued by a clerk of the Provincial Court.</p>
Hearing of application	<p><b>50</b> On the notice of application issued under section 49 and the documents attached to it being served on the other party to the application, the Provincial Court shall hear the matter in accordance with Part 3.</p>
Appeal	<p><b>51(1)</b> A party to an order made by the Provincial Court may, within 30 days of the order being entered under section 52 and served, appeal the order to the Court of Queen's Bench by way of an originating notice.</p> <p><b>(2)</b> The party commencing an appeal under this section shall file with the Court of Queen's Bench copies of</p> <p style="padding-left: 40px;">(a) all notices, documents and affidavits filed in the Provincial Court in respect of the application made in the Provincial Court, and</p> <p style="padding-left: 40px;">(b) the order being appealed from.</p> <p><b>(3)</b> The originating notice and copies of the notices, documents and affidavits filed with the Court of Queen's Bench under subsection (2) shall be served on the other parties to the action at least 3 days, exclusive of holidays and Saturdays, before the day named in the originating notice for the hearing of the application.</p> <p><b>(4)</b> On hearing the matter the Court of Queen's Bench may make any order it could have made had the application for the order being appealed from been commenced in the Court of Queen's Bench instead of in the Provincial Court.</p> <p><b>(5)</b> The commencement of an appeal under this section does not stay the order being appealed except as directed by the Court of Queen's Bench.</p>
Entering of order	<p><b>52(1)</b> An order made by the Provincial Court may be entered in the Court of Queen's Bench and on being so entered it is enforceable in the same manner as an order of the Court of Queen's Bench.</p>

(2) An order made by the Provincial Court does not take effect until it is entered under subsection (1) and served under section 53 or as directed by the Provincial Court on the other parties to the application other than the party entering the order.

## **PART 6 GENERAL**

Service of  
notices, etc.

**53(1)** Subject to subsections (4), (5) and (6), a notice, order or document under this Act shall be served personally, by registered mail or by certified mail.

(2) For the purpose of service by registered mail or certified mail

(a) a tenant's address is the address of the mobile home site rented by him, and

(b) a landlord's address is the address at which rent is payable.

(3) A landlord or a tenant may from time to time change his address for service by written notice served on the other party.

(4) If a landlord is unable to serve a tenant by reason of the tenant's absence from the mobile home site or by reason of his evading service, service may be effected

(a) on any adult person who apparently resides with the tenant, or

(b) by posting it in a conspicuous place on some part of the mobile home site.

(5) This section does not apply to service governed by the rules or practice of a court.

(6) If the landlord or tenant is a corporation, a notice, order or document may be served in the manner permitted under section 308 of the *Companies Act* or section 247 of the *Business Corporations Act*, as the case may be.

Mobile Home  
Sites Advisory  
Boards

**54(1)** A council may by by-law establish a Mobile Home Sites Advisory Board and provide for the remuneration of its members and any other matters pertaining to its procedures or incidental to the exercise of its functions.

(2) The functions of a Mobile Home Sites Advisory Board are as follows:

(a) to advise landlords and tenants in tenancy matters respecting mobile home sites;

(b) to receive complaints and seek to mediate disputes between landlords and tenants of mobile home sites;

(c) to disseminate information for the purpose of educating and advising landlords and tenants concerning rental practices, rights and remedies;

(d) to receive and investigate complaints of conduct in contravention of legislation governing tenancies to which this Act applies.

(3) Notwithstanding subsection (1), a Landlord and Tenant Advisory Board established under the *Landlord and Tenant Act* may, unless otherwise provided for by by-law of a council, perform the functions of a Mobile Home Sites Advisory Board.

Offences

**55** A person who contravenes

(a) section 42, 43(1) or (2) or 44(1), or

(b) an order of a court made under this Act,

is guilty of an offence and liable to a fine of not more than \$1000.

Regulations

**56** The Lieutenant Governor in Council may make regulations governing the practice and procedures in matters before the Provincial Court under this Act.

Application to Court of Queen's Bench

**57** An application made under this Act to the Court of Queen's Bench shall be by originating notice.

Non-application of other law

**58(1)** The doctrine of "interesse termini" is abolished.

(2) The *Landlord and Tenant Act*, 4 Geo. 2, c.28, and section 18 of the *Distress for Rent Act*, 11 Geo. 2, c.19, do not apply to tenancies to which this Act applies.

Application of Act on commencement

**59(1)** This Act applies to

(a) any tenancy entered into on or after January 1, 1983,

(b) a monthly tenancy entered into before January 1, 1983, and

(c) a yearly tenancy entered into before January 1, 1983, from and after the first anniversary of the tenancy occurring after January 1, 1983.

(2) This Act does not apply to a tenancy entered into for a fixed term before January 1, 1983, but applies to a renewal of that tenancy entered into on or after January 1, 1983.

(3) Notwithstanding that *The Landlord and Tenant Act* (R.S.A. 1970 c200) or any provision of it is repealed, that Act or provision, as the case may be, remains in force in respect of a tenancy of a mobile home site to which this Act does not apply.

**60** *The Landlord and Tenant Act is amended*

(a) *by repealing section 1(d) and (e) and substituting the following:*

(e) “residential premises” means a self-contained dwelling unit used for residential purposes but does not include premises occupied for business purposes with living accommodation attached and rented under a single agreement;

(b) *by repealing section 2(1) and substituting the following:*

**2(1)** This Act does not apply to

(a) minerals held separately from the surface of land or to any dealings in minerals;

(b) tenancies to which the *Mobile Home Sites Tenancies Act* applies.

(c) *in section 19(1) by adding “and the Law of Property Act” after “Land Titles Act”.*

**SCHEDULE  
FORM A  
NOTICE TO LANDLORD**

TO *(Name of Landlord)*

I hereby give you notice that I am giving up possession of the mobile home site which I hold

*(identify the premises)*

of you as tenant, on the ..... day of ..... next.

Dated this ..... day of ..... 19.....

.....  
*(Tenant)*

If this notice is not served on you in sufficient time to give the period of notice required by section 5, 6 or 7, as the case may be, of the *Mobile Home Sites Tenancies Act*, I will give up possession of the above premises on the date prescribed under section 9 of that Act.

**FORM B**  
**NOTICE TO TENANT**

TO *(Name of Tenant)*

I hereby give you notice to deliver up possession of the mobile home  
site \_\_\_\_\_ which you hold  
*(identify the mobile home site)*

of me as tenant, on the ..... day of ..... next.

Dated this ..... day of ..... 19.....

.....  
*(Landlord)*

If this notice is not served upon you in sufficient time to give the  
period of notice required by section 5, 6 or 7, as the case may be, of  
the *Mobile Home Sites Tenancies Act*, you are required to give up  
possession of the above premises on the date prescribed under section  
9 of that Act.