

Mr Bailey

RENT APPEAL BOARDS

ANALYSIS

Title	7. Registrars of Boards
Preamble	8. Services for Boards, etc.
1. Short Title and commencement	9. Duties of Secretary of Labour
2. Interpretation	10. Appeal to Rent Board
3. Rents frozen	11. Determination of appeals
4. Rent Appeal Boards established	12. Appeal to Supreme Court
5. Procedure of Boards	13. Protection for tenant
6. Allowances and travelling expenses of members of Boards	14. Offence to demand certain payments
	15. Annual report
	16. Regulations

A BILL INTITULED

An Act to establish Rent Appeal Boards and to define their functions and powers

5 WHEREAS there is a a serious housing shortage in New Zealand: And whereas this housing shortage is causing an escalation of rents for residential dwellings: And whereas wage and salary earners and persons on fixed incomes are unable to continue to meet such escalating costs:

10 BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title and commencement**—(1) This Act may be cited as the Rent Appeal Boards Act 1972.

15 (2) Section 3 of this Act shall be deemed to have come into force on the date of its introduction to the House of Representatives.

No. 53—1

(3) The remainder of this Act shall come into force on the 1st day of October 1972.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Minister” means the Minister of Labour: 5

“Residential tenancy agreement” means any contract, agreement, lease, sub-lease, permit, or licence whereby one party occupies a residential dwelling in exchange for monetary consideration, but does not include any agreement with the Crown or with a local body, and “tenant” and “landlord” have a corresponding meaning: 10

“Residential dwelling” means any dwelling place whether house, flat, apartment, or other building or part of a building which is normally occupied or intended to be occupied by persons for the purposes of domestic residence, and includes any furniture or other chattels that may be let therewith, and also includes any land or outbuildings included in the residential tenancy agreement. 15 20

3. Rents frozen—(1) All rents in respect of any residential dwelling shall remain the same as on the date of the introduction of this Act.

(2) No such rent shall thereafter be altered except by appeal to a Rent Board, pursuant to section 10 of this Act. 25

(3) Any person who fails to comply with the provisions of this section commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding \$1,000. 30

4. Rent Appeal Boards established—(1) There is hereby established in each Department of Labour district a Rent Appeal Board.

(2) Each such Board shall consist of the following persons: 35

(a) One person, being a barrister or solicitor of the Supreme Court of New Zealand, who shall be appointed as Chairman:

(b) Two other persons.

(3) Every member of each such Board shall be appointed on the recommendation of the Minister for a period of 3 years. Any such member may from time to time be re-appointed, or may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Minister. 40 45

(4) If any member of a Board dies, resigns, or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed.

(5) Unless he sooner vacates his office as provided in subsection (4) of this section, every member of a Board shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

(6) The powers of the Boards shall not be affected by any vacancy in the membership thereof.

(7) The Boards shall have an official seal and every court shall take judicial notice thereof.

5. Procedure of Boards—(1) For the purpose of any appeal to a Board the provisions of the Commissions of Inquiry Act 1908 shall, so far as they are applicable and with the necessary modifications, apply as if the Boards were Commissions of Inquiry appointed under that Act.

(2) The presence of the Chairman or Deputy Chairman and of at least one other member shall be necessary to constitute a sitting of a Board.

(3) The decision of a majority of the members present at a sitting of a Board shall be the decision of the Board. If the said members are equally divided in opinion, the decision of the Chairman shall be the decision of the Board.

(4) Except as provided in this Act or as may be provided by regulations under this Act, the Boards may regulate their own procedure in such manner as they think fit.

(5) There shall be payable in connection with any appeal to a Board such fees as may be prescribed by regulations made under this Act.

(6) A Board may award such costs as it deems just either in favour of or against the party making any appeal.

(7) A Board may hear any appeal separately or may hear 2 or more appeals together which relate to the residential tenancies of 1 landlord.

(8) In addition to all other powers conferred upon it by this Act or otherwise, a Board shall have power to call in evidence upon any appeal any person who is experienced in matters relating to residential tenancies. Every person so called shall be subject to cross-examination by any party to the appeal, and shall be paid such fees and expenses in respect of his attendance as the Board may allow. All fees and expenses so paid shall form part of the costs of the appeal. 5

6. Allowances and travelling expenses of members of Boards—There shall be paid, out of moneys appropriated by Parliament for the purpose, to the members of the Boards remuneration by way of fees, salary, or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly, and the Boards shall be statutory Boards for the purposes of that Act. 10
15

7. Registrars of Boards—The Secretary of Labour shall designate officers of the Department of Labour to be Registrars of the Boards in each Department of Labour District.

8. Services for Boards, etc.—The Secretary of Labour shall cause the Department of Labour to provide such secretarial, recording, and clerical services as may be necessary to enable the Boards to discharge their functions. 20

9. Duties of Secretary of Labour—(1) Within 3 months of the establishment of the Boards under this Act, the Secretary of Labour shall prepare a report containing such information as he considers relevant or necessary for the Boards to be able to exercise the functions required to be exercised under this Act, and such other information as is requested by any Board or by the Minister. 25
30

(2) Without limiting the provisions of subsection (1) of this section the report required to be prepared by that subsection shall contain figures relating to the average return on capital involved in rentals as a basis for providing a formula for assessing the rent of a residential tenancy agreement based on the particular needs of the area served by each Board: 35

(3) The Secretary of Labour shall prepare such other reports or papers and shall arrange meetings of the Boards from time to time for the purposes of reviewing the policies of the Boards or a Board to ensure consistency in the application of their powers by the Boards.

10 **10. Appeal to Rent Board**—Any person who is a party to any residential tenancy agreement may appeal to the Board in the Department of Labour district of the residence to which the agreement relates, against all or any of the provisions of that agreement by delivering or posting to the Registrar of that Board a written notice of the grounds of his appeal.

10 **11. Determination of appeals**—(1) Every appeal made under the provisions of this Act shall be heard by the Board to which it is made as soon as practicable after the date of the lodging thereof.

15 (2) At the hearing by the Board of any appeal, the Minister or any party or any public body or local authority or regional authority that is affected, may be represented by counsel or otherwise, and may call evidence on any matter that should be taken into account in determining the appeal.

20 (3) On the hearing of any appeal a Board may direct what amendments shall be made to the residential tenancy agreement including the rent to be paid in respect thereof and may make any such order either absolutely or subject to such conditions, restrictions, prohibitions, and modifications as the Board thinks just, and the decision of the Board shall be final and conclusive, except as provided in section 12 of this Act.

25 **12. Appeal to Supreme Court**—(1) Any party to a residential tenancy agreement who considers himself aggrieved by any decision or order of a Rent Appeal Board affecting that agreement may apply within 14 days of notification of that decision or order, to the Board for leave to appeal to the Administrative Division of the Supreme Court, stating the ground or grounds on which the decision or order is challenged.

30 (2) Any appeal for which leave is given under subsection (1) of this section, shall be in the form of a case stated for the opinion of the Supreme Court.

35 (3) The Supreme Court shall give its opinion, and the Board shall be bound to follow that opinion, and shall reverse, alter, modify, or confirm its own decision or order in accordance therewith.

40 **13. Protection for tenant**—No tenant shall be evicted from any residential dwelling place on the grounds that he has appealed to a Rent Board or to the Supreme Court.

14. Offence to demand certain payments—(1) Every person commits an offence against this Act who—

- (a) Demands or requires that any tenant or prospective tenant make payment of any sum of money in consideration of having located or assisted in the location of a residential dwelling for the tenant or prospective tenant; or accepts any such payment from the tenant or prospective tenant for such purpose; or 5
- (b) Demands or requires that a bond in excess of the equivalent of 1 week's rent be paid in respect of any residential tenancy agreement, or accepts any greater amount by way of such bond; or 10
- (c) Demands or requires that rent in respect of any residential tenancy agreement be paid more than 2 weeks in advance of the beginning of the period for which the rent is payment. 15

(2) Every person who commits an offence under subsection (1) of this section or shall be liable on summary conviction to a fine not exceeding \$1,000. 20

15. Annual report—The Secretary of Labour shall in the month of April in each year, or as soon thereafter as practicable, cause to be prepared a report of the operations of each Board for the year ending on the preceding 31st day of March, and a copy thereof shall be laid before the House of Representatives within 28 days after the receipt of the same by the Minister, if Parliament is then in session, and, if not, shall be laid before the House of Representatives within 28 days after the commencement of the next ensuing session. 25

16. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations not inconsistent with this Act for all or any of the following purposes: 30

- (a) Prescribing minimum conditions which must be contained in any residential tenancy agreement: 35
- (b) Prescribing the criteria to be used by the Boards in determining an appeal under this Act:
- (c) Prescribing penalties for the breach of any conditions of any tenancy agreement which has been considered or determined by a Board or any conditions required to be included in a residential tenancy by regulations under this Act: 40

(d) Prescribing the procedure to be adopted by the Boards:

(e) Prescribing fees payable in respect of appeals to the Board:

5 (f) Generally for any purposes for which regulations are required or contemplated by this Act, and for giving full effect to the provisions of this Act.

(2) All regulations made under this Act shall be laid before the House of Representatives within 28 days after the making thereof if Parliament is then in session, and, if not, shall be
10 laid before the House of Representatives within 28 days after the commencement of the next ensuing session.

(3) Regulations made under this Act may be so made as to apply generally throughout New Zealand or within any specified part or parts thereof, or within the whole of New
15 Zealand except such part or parts as may be specified in the regulations.