

TENANCY STATUTES AMENDMENT ACT, 2017**CHAPTER 18***Assented to November 30, 2017*

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

Manufactured Home Park Tenancy Act***1 Section 1 of the Manufactured Home Park Tenancy Act, S.B.C. 2002, c. 77, is amended******(a) by adding the following definitions:***

“float home” means a structure that is

- (a) designed, constructed or manufactured to float on water,
- (b) used or intended to be used as living accommodation in a fixed location, and
- (c) not capable of movement under its own power;

“sublease agreement” means a tenancy agreement

- (a) under which
 - (i) the tenant of a manufactured home site transfers the tenant’s rights under the tenancy agreement to a subtenant for a period shorter than the term of the tenant’s tenancy agreement, and
 - (ii) the subtenant agrees to vacate the manufactured home site at the end of the term of the sublease agreement, and
- (b) that specifies the date on which the tenancy under the sublease agreement ends; , **and**

(b) in the definition of “manufactured home” by striking out “means a structure,” and substituting “means a structure, other than a float home,”.***2 Section 9 is amended******(a) in subsection (3) by striking out “under Part 6 [Resolving Disputes]” and substituting “under Parts 6 [Resolving Disputes] and 6.1 [Administrative Penalties]”,******(b) in subsection (4) by striking out “section 88.1” and substituting “section 80.1” and by striking out “section 86.1” and substituting “section 80.3”,******(c) in subsection (5) (c) by striking out “public, decisions under” and substituting “public, decisions or orders under”, and***

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(d) in subsection (5) by adding the following paragraph:

(d) publish, or otherwise make available to the public, the following:

- (i) notices, decisions, orders or agreements made under Part 6.1 or summaries of them;
- (ii) penalty payment status.

3 *Section 13 (2) (f) (iii) is repealed and the following substituted:*

- (iii) if the tenancy is a fixed term tenancy, the date on which the term ends;
- (iii.1) if the tenancy is a fixed term tenancy in circumstances prescribed under section 89 (2) (a.1), that the tenant must vacate the manufactured home site at the end of the term; .

4 *Section 35 (1) (a) is amended by striking out “the tenant’s rent was first established under the tenancy agreement” and substituting “the tenant’s rent was first payable for the manufactured home site”.*

5 *Section 37 (1) is amended*

(a) by repealing paragraph (b) and substituting the following:

- (b) the tenancy agreement is a fixed term tenancy agreement that, in circumstances prescribed under section 89 (2) (a.1), requires the tenant to vacate the manufactured home site at the end of the term; , ***and***

(b) by adding the following paragraph:

- (g) the tenancy agreement is a sublease agreement.

6 *Section 48 (2) (c) is repealed and the following substituted:*

- (c) the tenancy agreement is a fixed term tenancy agreement that, in circumstances prescribed under section 89 (2) (a.1), requires the tenant to vacate the manufactured home site at the end of the term;
- (c.1) the tenancy agreement is a sublease agreement; .

7 *Section 52 (5) (b) is amended by striking out “outstanding fees” and substituting “outstanding fees or administrative penalty amounts”.*

8 *Section 57 is amended by adding the following subsection:*

- (5) The director may order that a landlord be given notice of a dispute resolution proceeding and an opportunity to be heard in the dispute resolution proceeding if, in the director’s opinion, the landlord
 - (a) is a landlord of a tenant who is a party to that dispute resolution proceeding,
 - (b) did not receive under section 52 (3) notice of that dispute resolution proceeding, and

(c) will be or is likely to be materially affected by the resolution of the dispute.

9 *Section 70 is amended*

(a) *in subsection (1) by striking out “the director must” and substituting “the director under this Part must”, and*

(b) *in subsection (3) by striking out “in this Act, a decision or an order of the director” and substituting “in this Part, a decision or an order of the director under this Part”.*

10 *The heading to Division 1.1 of Part 6 is repealed.*

11 *Section 71.1 is renumbered as section 5.1 and is amended by striking out “and to dispute resolution proceedings under Division 1 of this Part and reviews under Division 2 of this Part” and substituting “and to dispute resolution proceedings under Division 1 of Part 6, reviews under Division 2 of Part 6 and the imposition and review of administrative penalties under Part 6.1”.*

12 *The following Part is added:*

PART 6.1 – ADMINISTRATIVE PENALTIES

Investigations

80.1 The director may conduct investigations to ensure compliance with this Act and the regulations whether or not the director has accepted an application for dispute resolution in relation to the matter.

Production of documents

- 80.2** (1) The director may require a person being investigated under this Part to provide to the director, within a reasonable time, all documents in the person’s possession or control related to the investigation in any way.
- (2) A person required under subsection (1) to provide documents must comply with the requirement.

Director’s decision

- 80.6** (1) A decision of the director under this Part must
- (a) be in writing,
 - (b) be signed and dated by the director, and
 - (c) include the reasons for the decision.
- (2) Except as otherwise provided in this Part, a decision or an order of the director under this Part is final and binding on the person subject to the decision or order.

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Correction or clarification of decisions or orders

- 80.7** (1) The director may, with or without a hearing,
- (a) correct typographic, grammatical, arithmetic or other similar errors in his or her decision or order,
 - (b) clarify the decision or order, and
 - (c) deal with an obvious error or inadvertent omission in the decision or order.
- (2) The director may take the steps described in subsection (1)
- (a) on the director's own initiative, or
 - (b) at the request of the person subject to the decision or order, which request, for subsection (1) (b) and (c), must be made within 15 days after the decision or order is received.
- (3) The director must not act under this section unless the director considers it just and reasonable to do so in all the circumstances.

13 *Section 82 (3) is amended by striking out "section 86.21" and substituting "section 80.5".*

14 *Section 83 is amended by striking out "or 82 [special rules for certain documents] is deemed to be received as follows:" and substituting "or 82 [special rules for certain documents], unless earlier received, is deemed to be received as follows:".*

15 *The heading to Division 2.1 of Part 7 is repealed.*

16 *Section 86.1 is renumbered as section 80.3.*

17 *Section 86.11 is repealed.*

18 *Section 86.2 is renumbered as section 80.4 and is amended by striking out "section 86.1" in both places and substituting "section 80.3".*

19 *Section 86.21 is renumbered as section 80.5.*

20 *Section 86.3 is renumbered as section 80.8 and is amended by striking out "section 86.21" and substituting "section 80.5".*

21 *Section 86.31 is renumbered as section 80.9 and is amended by striking out "section 86.21 and the time for requesting a review under section 86.3" and substituting "section 80.5 and the time for requesting a review under section 80.8".*

22 *Section 88.1 is repealed.*

23 *Section 89 (2) is amended by adding the following paragraph:*

- (a.1) prescribing the circumstances in which a landlord may include in a fixed term tenancy agreement a requirement that the tenant vacate a manufactured home site at the end of the term; .

24 *Section 89 (2) (r.1) is amended by striking out “section 86.1” in both places and substituting “section 80.3”.*

25 *The following section is added:*

Transition – fixed term tenancy agreements

- 96.2** (1) If a fixed term tenancy agreement entered into before this section comes into force requires that a tenant must vacate the manufactured home site on a specified date, the requirement to vacate the manufactured home site ceases to have effect as of the date this section comes into force, except
- (a) if the tenancy agreement is a sublease agreement,
 - (b) if circumstances prescribed under section 89 (2) (a.1) apply, or
 - (c) if, before the day this Act receives First Reading in the Legislative Assembly,
 - (i) the landlord entered into a tenancy agreement, to begin after the expiry of an existing tenancy agreement that includes a requirement to vacate the manufactured home site, with a new tenant for the manufactured home site, or
 - (ii) the director granted an order of possession to the landlord on the basis of a requirement to vacate the manufactured home site in an existing tenancy agreement.
- (2) For the purposes of enforcing a requirement that remains in effect under subsection (1), sections 37 and 48 continue to apply as they read immediately before this section comes into force.

Residential Tenancy Act

26 *Section 1 of the Residential Tenancy Act, S.B.C. 2002, c. 78, is amended by adding the following definition:*

“sublease agreement” means a tenancy agreement

- (a) under which
 - (i) the tenant of a rental unit transfers the tenant’s rights under the tenancy agreement to a subtenant for a period shorter than the term of the tenant’s tenancy agreement, and
 - (ii) the subtenant agrees to vacate the rental unit at the end of the term of the sublease agreement, and

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- (b) that specifies the date on which the tenancy under the sublease agreement ends; .

27 Section 9 is amended

- (a) *in subsection (3) by striking out “under Part 5 [Resolving Disputes]” and substituting “under Parts 5 [Resolving Disputes] and 5.1 [Administrative Penalties]”,*
- (b) *in subsection (4) by striking out “section 96.1” and substituting “section 87.1” and by striking out “section 94.1” and substituting “section 87.3”,*
- (c) *in subsection (5) (c) by striking out “public, decisions under” and substituting “public, decisions or orders under”, and*
- (d) *in subsection (5) by adding the following paragraph:*
 - (d) publish, or otherwise make available to the public, the following:
 - (i) notices, decisions, orders or agreements made under Part 5.1 or summaries of them;
 - (ii) penalty payment status.

28 Section 13 (2) (f) (iii) is repealed and the following substituted:

- (iii) if the tenancy is a fixed term tenancy, the date on which the term ends;
- (iii.1) if the tenancy is a fixed term tenancy in circumstances prescribed under section 97 (2) (a.1), that the tenant must vacate the rental unit at the end of the term; .

29 Section 34 (2) is amended by striking out “is for 6 months or more” and substituting “has 6 months or more remaining in the term”.**30 The following section is added:****Order for return of security and pet damage deposit**

- 38.1** (1) A tenant, by making an application under Part 5 [Resolving Disputes] for dispute resolution, may request an order for the return of an amount that is double the portion of the security deposit or pet damage deposit or both to which all of the following apply:
- (a) the landlord has not applied to the director within the time set out in section 38 (1) claiming against that portion;
 - (b) there is no order referred to in section 38 (3) or (4) (b) applicable to that portion;
 - (c) there is no agreement under section 38 (4) (a) applicable to that portion.

- (2) In the circumstances described in subsection (1), the director, without any further dispute resolution process, may grant an order for the return of the amount referred to in subsection (1) and interest on that amount in accordance with section 38 (1) (c).

31 *Section 42 (1) (a) is amended by striking out “the tenant’s rent was first established under the tenancy agreement” and substituting “the tenant’s rent was first payable for the rental unit”.*

32 *Section 44 (1) is amended*

(a) by repealing paragraph (b) and substituting the following:

- (b) the tenancy agreement is a fixed term tenancy agreement that, in circumstances prescribed under section 97 (2) (a.1), requires the tenant to vacate the rental unit at the end of the term; , *and*

(b) by adding the following paragraph:

- (g) the tenancy agreement is a sublease agreement.

33 *Section 55 (2) (c) is repealed and the following substituted:*

- (c) the tenancy agreement is a fixed term tenancy agreement that, in circumstances prescribed under section 97 (2) (a.1), requires the tenant to vacate the rental unit at the end of the term;
- (c.1) the tenancy agreement is a sublease agreement; .

34 *Section 59 (5) (b) is amended by striking out “outstanding fees” and substituting “outstanding fees or administrative penalty amounts”.*

35 *Section 64 is amended by adding the following subsection:*

- (5) The director may order that a landlord be given notice of a dispute resolution proceeding and an opportunity to be heard in the dispute resolution proceeding if, in the director’s opinion, the landlord
- (a) is a landlord of a tenant who is a party to that dispute resolution proceeding,
- (b) did not receive under section 59 (3) notice of that dispute resolution proceeding, and
- (c) will be or is likely to be materially affected by the resolution of the dispute.

36 *Section 77 is amended*

(a) in subsection (1) by striking out “the director must” and substituting “the director under this Part must”, and

(b) in subsection (3) by striking out “in this Act, a decision or an order of the director” and substituting “in this Part, a decision or an order of the director under this Part”.

37 *The heading to Division 1.1 of Part 5 is repealed.*

38 *Section 78.1 is renumbered as section 5.1 and is amended by striking out “and to dispute resolution proceedings under Division 1 of this Part and reviews under Division 2 of this Part” and substituting “and to dispute resolution proceedings under Division 1 of Part 5, reviews under Division 2 of Part 5 and the imposition and review of administrative penalties under Part 5.1”.*

39 *The following Part is added:*

PART 5.1 – ADMINISTRATIVE PENALTIES

Investigations

87.1 The director may conduct investigations to ensure compliance with this Act and the regulations whether or not the director has accepted an application for dispute resolution in relation to the matter.

Production of documents

- 87.2** (1) The director may require a person being investigated under this Part to provide to the director, within a reasonable time, all documents in the person’s possession or control related to the investigation in any way.
- (2) A person required under subsection (1) to provide documents must comply with the requirement.

Director’s decision

- 87.6** (1) A decision of the director under this Part must
- (a) be in writing,
 - (b) be signed and dated by the director, and
 - (c) include the reasons for the decision.
- (2) Except as otherwise provided in this Part, a decision or an order of the director under this Part is final and binding on the person subject to the decision or order.

Correction or clarification of decisions or orders

- 87.7** (1) The director may, with or without a hearing,
- (a) correct typographic, grammatical, arithmetic or other similar errors in his or her decision or order,
 - (b) clarify the decision or order, and
 - (c) deal with an obvious error or inadvertent omission in the decision or order.
- (2) The director may take the steps described in subsection (1)
- (a) on the director’s own initiative, or

(b) at the request of the person subject to the decision or order, which request, for subsection (1) (b) and (c), must be made within 15 days after the decision or order is received.

(3) The director must not act under this section unless the director considers it just and reasonable to do so in all the circumstances.

40 *Section 89 (3) is amended by striking out “section 94.21” and substituting “section 87.5”.*

41 *Section 90 is amended by striking out “or 89 [special rules for certain documents] is deemed to be received as follows:” and substituting “or 89 [special rules for certain documents], unless earlier received, is deemed to be received as follows:”.*

42 *The heading to Division 2.1 of Part 6 is repealed.*

43 *Section 94.1 is renumbered as section 87.3.*

44 *Section 94.11 is repealed.*

45 *Section 94.2 is renumbered as section 87.4 and is amended by striking out “section 94.1” in both places and substituting “section 87.3”.*

46 *Section 94.21 is renumbered as section 87.5.*

47 *Section 94.3 is renumbered as section 87.8 and is amended in subsection (1) by striking out “section 94.21” and substituting “section 87.5”.*

48 *Section 94.31 is renumbered as section 87.9 and is amended in subsection (2) by striking out “section 94.21 and the time for requesting a review under section 94.3” and substituting “section 87.5 and the time for requesting a review under section 87.8”.*

49 *Section 96.1 is repealed.*

50 *Section 97 (2) is amended by adding the following paragraph:*

(a.1) prescribing the circumstances in which a landlord may include in a fixed term tenancy agreement a requirement that the tenant vacate a rental unit at the end of the term; .

51 *Section 97 (2) (p.1) is amended by striking out “section 94.1” in both places and substituting “section 87.3”.*

52 *The following section is added:***Transition – fixed term tenancy agreements**

- 104.3** (1) If a fixed term tenancy agreement entered into before this section comes into force requires that a tenant must vacate the rental unit on a specified date, the requirement to vacate the rental unit ceases to have effect as of the date this section comes into force, except
- (a) if the tenancy agreement is a sublease agreement,
 - (b) if circumstances prescribed under section 97 (2) (a.1) apply, or
 - (c) if, before the day this Act receives First Reading in the Legislative Assembly,
 - (i) the landlord entered into a tenancy agreement, to begin after the expiry of an existing tenancy agreement that includes a requirement to vacate the rental unit, with a new tenant for the rental unit, or
 - (ii) the director granted an order of possession to the landlord on the basis of a requirement to vacate the rental unit in an existing tenancy agreement.
- (2) For the purposes of enforcing a requirement that remains in effect under subsection (1), sections 44 and 55 continue to apply as they read immediately before this section comes into force.

Consequential Amendments

Administrative Tribunals Statutes Amendment Act, 2015

- 53 *Section 117 of the Administrative Tribunals Statutes Amendment Act, 2015, S.B.C. 2015, c. 10, as it enacts section 9 (3) of the Manufactured Home Park Tenancy Act, S.B.C. 2002, c. 77, is amended by striking out “Part 6 [Resolving Disputes]” and substituting “Part 6 [Resolving Disputes] and for the conduct of proceedings under Part 6.1 [Administrative Penalties]”.***
- 54 *Section 131 is amended by striking out “Section 71.1” and substituting “Section 5.1”.***
- 55 *Section 131, as it enacts section 5.1 of the Manufactured Home Park Tenancy Act, is amended***
- (a) by striking out “71.1” and substituting “5.1”,***
 - (b) in subsection (1) by striking out “and to dispute resolution proceedings under Division 1 of this Part and reviews under Division 2 of this Part” and substituting “and to dispute resolution proceedings under Division 1 of Part 6, reviews under Division 2 of Part 6 and the imposition and review of administrative penalties under Part 6.1”, and***

(c) *in subsection (2) by striking out “for the purposes of this Act” and substituting “for the purposes of Part 6” and by striking out “under this Act” and substituting “under that Part”.*

56 *Section 162, as it enacts section 9 (3) of the Residential Tenancy Act, S.B.C. 2002, c. 78, is amended by striking out “Part 5 [Resolving Disputes]” and substituting “Part 5 [Resolving Disputes] and for the conduct of proceedings under Part 5.1 [Administrative Penalties]”.*

57 *Section 177 is amended by striking out “Section 78.1” and substituting “Section 5.1”.*

58 *Section 177, as it enacts section 5.1 of the Residential Tenancy Act, is amended*

(a) *by striking out “78.1” and substituting “5.1”,*

(b) *in subsection (1) by striking out “and to dispute resolution proceedings under Division 1 of this Part and reviews under Division 2 of this Part” and substituting “and to dispute resolution proceedings under Division 1 of Part 5, reviews under Division 2 of Part 5 and the imposition and review of administrative penalties under Part 5.1”, and*

(c) *in subsection (2) by striking out “for the purposes of this Act” and substituting “for the purposes of Part 5” and by striking out “under this Act” and substituting “under that Part”.*

Civil Resolution Tribunal Act

59 *Section 3.6 (3) (a) of the Civil Resolution Tribunal Act, S.B.C. 2012, c. 25, is amended by striking out “Part 5 [Resolving Disputes] of the Residential Tenancy Act” and substituting “Part 5 [Resolving Disputes] or 5.1 [Administrative Penalties] of the Residential Tenancy Act or Part 6 [Resolving Disputes] or 6.1 [Administrative Penalties] of the Manufactured Home Park Tenancy Act”.*

Public Service Labour Relations Act

60 *Section 1 (1) of the Public Service Labour Relations Act, R.S.B.C. 1996, c. 388, is amended in paragraph (f.2) of the definition of “employee”*

(a) *in subparagraph (i) by striking out “Part 5” and substituting “Parts 5 and 5.1”, and*

(b) *in subparagraph (ii) by striking out “Part 6” and substituting “Parts 6 and 6.1”.*

Strata Property Act**61 *Section 175 (2) of the Strata Property Act, S.B.C. 1998, c. 43, is amended***

(a) in paragraph (a) by striking out “Part 5 of the Residential Tenancy Act” and substituting “Part 5 or 5.1 of the Residential Tenancy Act or Part 6 or 6.1 of the Manufactured Home Park Tenancy Act”, and

(b) in paragraph (b) by striking out “Part 5 of the Residential Tenancy Act does not apply” and substituting “Part 5 or 5.1 of the Residential Tenancy Act or Part 6 or 6.1 of the Manufactured Home Park Tenancy Act do not apply”.

Commencement**62 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:**

| Item | Column 1 Provisions of Act | Column 2 Commencement |
|------|--|---|
| 1 | Anything not elsewhere covered by this table | The date of Royal Assent |
| 2 | Section 1 | By regulation of the Lieutenant Governor in Council |
| 3 | Sections 3 to 6 | By regulation of the Lieutenant Governor in Council |
| 4 | Section 23 | By regulation of the Lieutenant Governor in Council |
| 5 | Sections 25 and 26 | By regulation of the Lieutenant Governor in Council |
| 6 | Sections 28 to 33 | By regulation of the Lieutenant Governor in Council |
| 7 | Section 50 | By regulation of the Lieutenant Governor in Council |
| 8 | Section 52 | By regulation of the Lieutenant Governor in Council |