

EXPLANATORY STATEMENT

Ordinance 2009 No. 3

Issued by the Authority of the Minister for Home Affairs

Jervis Bay Territory Acceptance Act 1915
Leases Amendment Ordinance 2009 (No. 1) (JBT)

Subsection 4F(1) of the *Jervis Bay Territory Acceptance Act 1915* (the Act) provides that the Governor-General may make Ordinances for the peace, order and good government of the Jervis Bay Territory (JBT).

The Lease Amendment Ordinance amends the *Leases Ordinance 1992(JBT)* (the Ordinance) to allow residential tenants and landlords with residential tenancy leases in the JBT to have access to the Australian Capital Territory (ACT) Residential Tenancy Tribunal.

Subsection 4A(1) of the Act provides for the laws of the ACT to apply in the JBT as if the JBT formed part of the ACT. In 1915 it was intended that JBT would provide access to the sea for the Federal Capital. JBT was regarded as part of the territory acquired by the Commonwealth for the seat of government (the ACT).

Previous there was an inconsistency between the *Residential Tenancy Act 1997* (ACT)(JBT) and the Ordinance that set the terms of a residential tenancy agreement in the JBT. The *Residential Tenancy Act 1997* (ACT)(JBT) sets standard terms into every ACT residential tenancy agreement. This was overridden by provisions within the Ordinance which allow the Minister to determine conditions for leases (which includes residential tenancy agreements) in the JBT.

The ACT Residential Tenancy Tribunal can only rule on standard ACT residential tenancy agreements. As a result of the inconsistencies between the Act and the Ordinance, the Residential Tenancy Tribunal has limited jurisdiction within the JBT.

The Leases Amendment Ordinance amends the *Leases Ordinance 1992 (JBT)* to excise residential leases within the JBT. The amendment removes the inconsistency that exists between the Ordinance and the *Residential Tenancy Act 1997* (ACT)(JBT). This allows the *Residential Tenancy Act 1997* (ACT)(JBT) to fully apply and allow the ACT Residential Tenancy Tribunal to have comprehensive jurisdiction over residential tenancies in the JBT.

No consultation was undertaken in relation to the Ordinance as the amendments are rectifying a legislative anomaly that currently does not allow tenants or landlords in the JBT access to the ACT Residential Tenancy Tribunal.

The Leases Amendment Ordinance is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Leases Amendment Ordinance commenced on the day after it was registered on the Federal Register of Legislative Instruments.

Details of the Leases Amendment Ordinance are set out in the [Attachment](#).

ATTACHMENT

Details of the *Leases Amendment Ordinance 2009 (No. 1)*

Section 1 – Name of Ordinance

This section provides that the name of the Ordinance is the *Leases Amendment Ordinance 2009 (No. 1)*.

Section 2 – Commencement

This section provides that the Ordinance is to commence on the day after it is registered.

Section 3 – Amendment of *Leases Ordinance 1992*

This section provides that Schedule 1 to the Ordinance amends the *Leases Ordinance 1992*.

Schedule 1

Item [1] – Section 5

Item 1 amends section 5 by omitting ‘land’ and substituting ‘land, other than Blocks 124 to 149 in Deposited Plan 9271/1 in the Jervis Bay Territory’ of the *Leases Ordinance 1992 (JBT)*. This has the effect of excluding specific land with residential tenancy leases from the *Leases Ordinance 1992 (JBT)* and allowing the *Residential Tenancy Act 1997 (ACT)(JBT)* to fully apply to the excluded land. This enables the standard ACT residential tenancy agreement to be applied and allows the ACT Residential Tenancy Tribunal comprehensive jurisdiction to rule on tenancy disputes in the Jervis Bay Territory.