

TENANCY STATUTES AMENDMENT ACT, 2017, (BILL 16 – 2017)

This Act is current to December 6, 2017

It amended the following Act.

Manufactured Home Park Tenancy Act

[SBC 2002] CHAPTER 77

Assented to November 26, 2002

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Part 1 — Introductory Provisions

Division 1 — General

Definitions

1 In this Act:

"**application for dispute resolution**" means an application to the director under section 51 (1) [*determining disputes*];

"**approved form**" means the form approved by the director under section 10 (1) [*director may approve forms*] for the purposes of the section in which it appears;

"**common area**" means any part of a manufactured home park the use of which is shared by tenants, or by a landlord and one or more tenants;

"**director**" means the director appointed under section 8 [*appointment of director*] and, in relation to a power, duty or function of the director given to an employee referred to in section 9 (2) or delegated to a person retained under that section, includes that employee or person;

"**dispute resolution proceeding**" means a proceeding started by making an application under section 51 (1) [*determining disputes*];

"**fixed term tenancy**" means a tenancy under a tenancy agreement that specifies the date on which the tenancy ends;

"**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;

"**landlord**", in relation to a manufactured home site, includes any of the following:

- (a) the owner of the manufactured home site, the owner's agent or another person who, on behalf of the landlord, permits occupation of the manufactured home site under a tenancy agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- (c) a person, other than a tenant whose manufactured home occupies the manufactured home site, who
 - (i) is entitled to possession of the manufactured home site, and
 - (ii) exercises any of the rights of a landlord under a tenancy agreement or this Act in relation to the manufactured home site;
- (d) a former landlord, when the context requires this;

"**manufactured home**" means a structure, **other than a float home**, whether or not ordinarily equipped with wheels, that is

- (a) designed, constructed or manufactured to be moved from one place to another by being towed or carried, and
- (b) used or intended to be used as living accommodation;

"manufactured home park" means the parcel or parcels, as applicable, on which one or more manufactured home sites that the same landlord rents or intends to rent and common areas are located;

"manufactured home site" means a site in a manufactured home park, which site is rented or intended to be rented to a tenant for the purpose of being occupied by a manufactured home;

"periodic tenancy" means

(a) a tenancy on a monthly or other periodic basis under a tenancy agreement that continues until it is ended in accordance with this Act, and

(b) in relation to a fixed term tenancy agreement that does not provide that the tenant will vacate the manufactured home site at the end of the fixed term, a tenancy that arises under section 37 (3) [*how a tenancy ends*];

"registered mail" includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available;

"rent" means money paid or agreed to be paid, or value or a right given or agreed to be given, by or on behalf of a tenant to a landlord in return for the right to possess a manufactured home site, for the use of common areas and for services or facilities, but does not include a fee prescribed under section 89 (2) (k) [*regulations in relation to fees*];

"service or facility" includes any of the following that are provided or agreed to be provided by a landlord to the tenant of a manufactured home site:

(a) water, sewerage, electricity, lighting, roadway and other facilities;

(b) utilities and related services;

(c) garbage facilities and related services;

(d) laundry facilities;

(e) parking and storage areas;

(f) recreation facilities;

"standard terms" means the standard terms of a tenancy agreement prescribed in the regulations;

"tenancy" means a tenant's right to possession of a manufactured home site under a tenancy agreement;

"tenancy agreement" means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a manufactured home site, use of common areas and services and facilities;

"tenant" includes

(a) the estate of a deceased tenant, and

(b) when the context requires, a former or prospective tenant.

What this Act applies to

2 (1) Despite any other enactment but subject to section 4 [*what this Act does not apply to*], this Act applies to tenancy agreements, manufactured home sites and manufactured home parks.

(2) Except as otherwise provided in this Act, this Act applies to a tenancy agreement entered into before or after the date this Act comes into force.

Act applies to tenancy agreement with a minor

3 A person who has not reached 19 years of age may enter into a tenancy agreement, and the agreement and this Act and the regulations are enforceable by and against the person despite section 19 of the [Infants Act](#).

What this Act does not apply to

4 This Act does not apply with respect to any of the following:

(a) a tenancy agreement under which a manufactured home site and a manufactured home are both rented to the same tenant;

(b) prescribed tenancy agreements, manufactured home sites or manufactured home parks.

This Act cannot be avoided

5 (1) Landlords and tenants may not avoid or contract out of this Act or the regulations.

(2) Any attempt to avoid or contract out of this Act or the regulations is of no effect.

Application of Administrative Tribunals Act

5.1 Sections 1, 44, 46.3, 48, 56 to 58 and 61 of the [Administrative Tribunals Act](#) apply to the director as if the director were a tribunal 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.

Enforcing rights and obligations of landlords and tenants

6 (1) The rights, obligations and prohibitions established under this Act are enforceable between a landlord and tenant under a tenancy agreement.

(2) A landlord or tenant may make an application for dispute resolution if the landlord and tenant cannot resolve a dispute referred to in section 51 (1) [*determining disputes*].

(3) A term of a tenancy agreement is not enforceable if

(a) the term is inconsistent with this Act or the regulations,

(b) the term is unconscionable, or

(c) the term is not expressed in a manner that clearly communicates the rights and obligations under it.

Liability for not complying with this Act or a tenancy agreement

7 (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Division 2 — Administration of this Act

Appointment of director

8 A director must be appointed in accordance with the [Public Service Act](#) for the purposes of this Act.

Director's powers and duties

9 (1) The director is responsible for the administration and management of all matters and persons appointed or retained under this Act.

(2) Employees may be appointed under the [Public Service Act](#), and the director may retain other persons, whom the director considers necessary to exercise the director's powers and perform the director's duties and functions under this Act.

(3) The director may establish and publish rules of procedure for the conduct of proceedings under Parts 6 [*Resolving Disputes*] and 6.1 [*Administrative Penalties*].

(4) The director may not assign or delegate to the same person both the function of conducting investigations under section 80.1 [*investigations*] into a matter and the power to impose penalties under section 80.3 [*administrative penalties*] in relation to that matter.

(5) The director may do one or more of the following:

- (a) provide information to landlords and tenants about their rights and obligations under this Act;
- (b) help landlords and tenants resolve any dispute in relation to which an application for dispute resolution has been or may be made;
- (c) publish, or otherwise make available to the public, decisions or orders under Part 6 or summaries of them;
- (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.

Director's power to delegate to contractors

9.1 (1) The director may delegate to a person retained under section 9 (2) any of the director's powers, duties or functions under this Act, except the power under section 9 (3) and the power to delegate under this section.

(2) A delegation under subsection (1)

- (a) may be cancelled,
- (b) does not prevent the director from carrying out the delegated power, duty or function, and
- (c) may be subject to the terms or conditions the director considers appropriate.

(3) If the director ceases to hold office, a delegation under this section continues in effect

- (a) for the duration of the contract, or
 - (b) until cancelled by a succeeding director.
- (4) A person who claims to be carrying out a power, duty or function delegated by the director under this section, on request, must produce evidence of the delegation.

Director may approve forms

- 10** (1) The director may approve forms for the purposes of this Act.
- (2) Deviations from an approved form that do not affect its substance and are not intended to mislead do not invalidate the form used.

Director and staff must not be compelled in civil proceedings

- 11** (1) The director and persons employed, engaged or retained under section 9 (2) [*director's powers and duties*] must not be compelled in civil proceedings arising out of a dispute under this Act
- (a) to give evidence in respect of matters that come to his or her knowledge in the course of his or her employment, or
 - (b) to produce records that are in the possession of the director because of the director's powers or duties under this Act.
- (2) Despite subsection (1), the court may require the director to produce the record of a dispute resolution proceeding that is the subject of an application for judicial review under the [*Judicial Review Procedure Act*](#).

Part 2 — Manufactured Home Site Tenancies — Rights and Obligations

Division 1 — Creating a Tenancy Agreement

Tenancy agreements include the standard terms

- 12** The standard terms are terms of every tenancy agreement
- (a) whether the tenancy agreement was entered into on or before, or after, January 1, 2004, and
 - (b) whether or not the tenancy agreement is in writing.

Requirements for tenancy agreements

- 13** (1) A landlord must prepare in writing every tenancy agreement entered into on or after January 1, 2004.
- (2) A tenancy agreement must comply with any requirements prescribed in the regulations and must set out all of the following:
- (a) the standard terms;
 - (b) the correct legal names of the landlord and tenant;
 - (c) the address of the manufactured home site;
 - (d) the date the tenancy agreement is entered into;
 - (e) the address for service and telephone number of the landlord or the landlord's agent;

(f) the agreed terms in respect of the following:

(i) the date on which the tenancy starts;

(ii) if the tenancy is a periodic tenancy, whether it is on a monthly or other periodic basis;

(iii) if the tenancy is a fixed term tenancy,

(A) the date the tenancy ends, and

(B) whether the tenancy may continue as a periodic tenancy or for another fixed term after that date or whether the tenant must vacate the manufactured home site on that date;

(iv) the amount of rent payable for a specified period;

(v) the day in the month, or in the other period on which the tenancy is based, on which the rent is due;

(vi) which services and facilities are included in the rent;

(g) if a park committee or the landlord has established park rules in accordance with section 32 [*park rules*] for the manufactured home park, the park rules.

(3) Within 21 days after a landlord and tenant enter into a tenancy agreement, the landlord must give the tenant a copy of the agreement.

Changes to tenancy agreement

14 (1) A tenancy agreement may not be amended to change or remove a standard term.

(2) A tenancy agreement may be amended to add, remove or change a term, other than a standard term, only if both the landlord and tenant agree to the amendment.

(3) The requirement for agreement under subsection (2) does not apply to any of the following:

(a) a rent increase in accordance with Part 4 of this Act;

(b) a withdrawal of, or a restriction on, a service or facility in accordance with section 21 [*terminating or restricting services or facilities*];

(c) park rules established in accordance with section 32 [*park rules*];

(d) a term in respect of which a landlord or tenant has obtained an order of the director that the agreement of the other is not required.

Application and processing fees prohibited

15 A landlord must not charge a person anything for

(a) accepting an application for a tenancy,

(b) processing the application,

(c) investigating the applicant's suitability as a tenant, or

(d) accepting the person as a tenant.

Start of rights and obligations under tenancy agreement

16 The rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the manufactured home site.

Division 2 — Other Specific Terms in a Tenancy Agreement

Security deposits

17 (1) In this section, "**security deposit**" means money paid, or value or a right given, by or on behalf of a tenant to a landlord that is to be held as security for any liability or obligation of the tenant respecting the manufactured home park, but does not include

(a) post-dated cheques for rent, or

(b) a fee prescribed under section 89 (2) (k) [*regulations in relation to fees*].

(2) A landlord must not require or accept a security deposit in respect of a manufactured home site tenancy.

(3) If a landlord accepts a security deposit from a tenant, the tenant may deduct the amount of the security deposit from rent or otherwise recover the amount.

Terms respecting pets

18 (1) A tenancy agreement may include terms or conditions doing either or both of the following:

(a) prohibiting pets, or restricting the size, kind or number of pets a tenant may keep on the manufactured home site;

(b) governing a tenant's obligations in respect of keeping a pet on the manufactured home site.

(2) This section is subject to the [*Guide Dog and Service Dog Act*](#).

Prohibited terms of a tenancy agreement

19 (1) A tenancy agreement must not include a term that provides that all or part of the rent payable for the remainder of the period of the tenancy agreement becomes due and payable if a term of the tenancy agreement is breached.

(2) A tenancy agreement must not include a term that provides that the tenant must engage the landlord as the tenant's agent in the sale of the tenant's manufactured home.

Division 3 — During a Tenancy — Rights and Obligations

Rules about payment and non-payment of rent

20 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

(2) A landlord must provide a tenant with a receipt for rent paid in cash.

(3) Whether or not a tenant pays rent in accordance with the tenancy agreement, a landlord must not

- (a) seize the manufactured home or any other personal property of the tenant, or
 - (b) prevent or interfere with the tenant's access to the tenant's personal property.
- (4) Subsection (3) (a) does not apply if
- (a) the landlord has a court order authorizing the action, or
 - (b) the tenant has abandoned the manufactured home or the manufactured home site and the landlord complies with the regulations.

Terminating or restricting services or facilities

21 (1) A landlord must not terminate or restrict a service or facility if

- (a) the service or facility is essential to the tenant's use of the manufactured home site as a site for a manufactured home, or
- (b) providing the service or facility is a material term of the tenancy agreement.

(2) A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord

- (a) gives 30 days' written notice, in the approved form, of the termination or restriction, and
- (b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

Protection of tenant's right to quiet enjoyment

22 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the manufactured home site subject only to the landlord's right to enter the manufactured home site in accordance with section 23 [*landlord's right to enter manufactured home site restricted*];
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

Landlord's right to enter manufactured home site restricted

23 A landlord must not enter a manufactured home site that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
 - (i) the purpose for entering, which must be reasonable;
 - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;

- (c) the landlord has an order of the director authorizing the entry;
- (d) the tenant has abandoned the site;
- (e) an emergency exists and the entry is necessary to protect life or property;
- (f) the entry is for the purpose of collecting rent or giving or serving a document that under this Act must be given or served.

Tenant's right of access protected

24 (1) A landlord must not unreasonably restrict access to a manufactured home park by

- (a) the tenant of a manufactured home site that is part of the manufactured home park, or
- (b) a person permitted in the manufactured home park by that tenant.

(2) A landlord must not unreasonably restrict access to a manufactured home park by

- (a) a candidate seeking election to the Parliament of Canada, the Legislative Assembly or an office in an election under the [Local Government Act](#), the [School Act](#) or the [Vancouver Charter](#), or
- (b) the authorized representative of such a person

who is canvassing electors or distributing election material.

Prohibitions on changes to locks and other access

25 (1) A landlord must not change locks or other means that give access to a manufactured home park unless the landlord provides each tenant with new keys or other means that give access to the manufactured home park.

(2) A tenant must not change locks or other means that give access to common areas of a manufactured home park unless the landlord agrees in writing to the change.

Landlord and tenant obligations to repair and maintain

26 (1) A landlord must

- (a) provide and maintain the manufactured home park in a reasonable state of repair, and
- (b) comply with housing, health and safety standards required by law.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the manufactured home site and in common areas.

(3) A tenant must repair damage to the manufactured home site or common areas that is caused by the actions or neglect of the tenant or a person permitted in the manufactured home park by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord is not required to maintain or repair improvements made to a manufactured home site by a tenant occupying the site, or the assignee of the tenant, unless the obligation to do so is a term of their tenancy agreement.

(6) A landlord's obligations under subsection (1) (b) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Emergency repairs

27 (1) In this section, "**emergency repairs**" means repairs that are

(a) urgent,

(b) necessary for the health or safety of anyone or for the preservation or use of property in the manufactured home park, and

(c) made for the purpose of repairing

(i) major leaks in pipes,

(ii) damaged or blocked water or sewer pipes,

(iii) the electrical systems, or

(iv) in prescribed circumstances, the manufactured home site or the manufactured home park.

(2) The landlord must post and maintain in a conspicuous place in the manufactured home park, or give to a tenant in writing, the name and telephone number of a person the tenant is to contact for emergency repairs.

(3) A tenant may have emergency repairs made only when all of the following conditions are met:

(a) emergency repairs are needed;

(b) the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs;

(c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

(4) A landlord may take over completion of an emergency repair at any time.

(5) A landlord must reimburse a tenant for amounts paid for emergency repairs if the tenant

(a) claims reimbursement for those amounts from the landlord, and

(b) gives the landlord a written account of the emergency repairs accompanied by a receipt for each amount claimed.

(6) Subsection (5) does not apply to amounts claimed by a tenant for repairs about which the director, on application, finds that one or more of the following applies:

(a) the tenant made the repairs before one or more of the conditions in subsection (3) were met;

(b) the tenant has not provided the account and receipts for the repairs as required under subsection (5) (b);

(c) the amounts represent more than a reasonable cost for the repairs;

(d) the emergency repairs are for damage caused primarily by the actions or neglect of the tenant or a person permitted in the manufactured home park by the tenant.

(7) If a landlord does not reimburse a tenant as required under subsection (5), the tenant may deduct the amount from rent or otherwise recover the amount.

Assignment and subletting

28 (1) A tenant may assign a tenancy agreement or sublet a manufactured home site only if one of the following applies:

- (a) the tenant has obtained the prior written consent of the landlord to the assignment or sublease, or is deemed to have obtained that consent, in accordance with the regulations;
- (b) the tenant has obtained an order of the director authorizing the assignment or sublease;
- (c) the tenancy agreement authorizes the assignment or sublease.

(2) A landlord may withhold consent to assign a tenancy agreement or sublet a tenant's interest in a manufactured home site only in the circumstances prescribed in the regulations.

(3) A landlord must not charge a tenant anything for considering, investigating or consenting to an assignment or sublease under this section.

Division 4 — At the Beginning or End of a Tenancy — Rights and Obligations

Moving insurance or bond

29 On the request of the landlord, a tenant who is moving a manufactured home, or is having a manufactured home moved, on or off a manufactured home site must provide the landlord with a prescribed form of security against damage caused by the move.

Leaving a manufactured home site

30 When a tenant vacates a manufactured home site at the end of a tenancy, the tenant must

- (a) leave the site reasonably clean, and undamaged except for reasonable wear and tear, and
- (b) give the landlord all the keys or other means of access that are in the possession or control of the tenant and that allow access to and within the manufactured home park.

Part 3 — Manufactured Home Parks

Establishment of park committee

31 In accordance with the regulations, the landlord and tenants of a manufactured home park may establish and select the members of a park committee.

Park rules

32 (1) In accordance with the regulations, a park committee, or, if there is no park committee, the landlord may establish, change or repeal rules for governing the operation of the manufactured home park.

(2) Rules referred to in subsection (1) must not be inconsistent with this Act or the regulations or any other enactment that applies to a manufactured home park.

(3) Rules established in accordance with this section apply in the manufactured home park of the park committee or landlord, as applicable.

(4) If a park rule established under this section is inconsistent or conflicts with a term in a tenancy agreement that was entered into before the rule was established, the park rule prevails to the extent of the inconsistency or conflict.

Park committee role in dispute resolution

33 Subject to the regulations, the park committee for a manufactured home park may assist the landlord and a tenant of the park to reach a voluntary resolution of a dispute between them.

Part 4 — Rent Increases

Rent increases

34 A landlord must not increase rent except in accordance with this Part.

Timing and notice of rent increases

35 (1) A landlord must not impose a rent increase for at least 12 months after whichever of the following applies:

(a) if the tenant's rent has not previously been increased, the date on which the tenant's rent was first established under the tenancy agreement;

(b) if the tenant's rent has previously been increased, the effective date of the last rent increase made in accordance with this Act.

(2) A landlord must give a tenant notice of a rent increase at least 3 months before the effective date of the increase.

(3) A notice of a rent increase must be in the approved form.

(4) If a landlord's notice of a rent increase does not comply with subsections (1) and (2), the notice takes effect on the earliest date that does comply.

Amount of rent increase

36 (1) A landlord may impose a rent increase only up to the amount

(a) calculated in accordance with the regulations,

(b) ordered by the director on an application under subsection (3), or

(c) agreed to by the tenant in writing.

(2) A tenant may not make an application for dispute resolution to dispute a rent increase that complies with this Part.

(3) In the circumstances prescribed in the regulations, a landlord may request the director's approval of a rent increase in an amount that is greater than the amount calculated under the regulations referred to in subsection (1) (a) by making an application for dispute resolution.

(4) [Repealed 2006-35-11.]

(5) If a landlord collects a rent increase that does not comply with this Part, the tenant may deduct the increase from rent or otherwise recover the increase.

Part 5 — How to End a Tenancy

Division 1 — Ending a Tenancy

How a tenancy ends

37 (1) A tenancy ends only if one or more of the following applies:

(a) the tenant or landlord gives notice to end the tenancy in accordance with one of the following:

(i) section 38 [*tenant's notice*];

(ii) section 39 [*landlord's notice: non-payment of rent*];

(iii) section 40 [*landlord's notice: cause*];

(iv) section 41 [*landlord's notice: end of employment*];

(v) section 42 [*landlord's notice: landlord's use of property*];

(vi) section 43 [*tenant may end tenancy early*];

(b) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the manufactured home site on the date specified as the end of the tenancy;

(c) the landlord and tenant agree in writing to end the tenancy;

(d) the tenant vacates the manufactured home site or abandons a manufactured home on the site;

(e) the tenancy agreement is frustrated;

(f) the director orders that the tenancy is ended.

(2) [Repealed 2003-81-7.]

(3) If, on the date specified as the end of a fixed term tenancy agreement that does not require the tenant to vacate the manufactured home site on that date, the landlord and tenant have not entered into a new tenancy agreement, the landlord and tenant are deemed to have renewed the tenancy agreement as a month to month tenancy on the same terms.

Tenant's notice

38 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice,

(b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and

(c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

(3) If a landlord has failed to comply with a material term of the tenancy agreement and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

(4) A notice to end a tenancy given under this section must comply with section 45 [*form and content of notice to end tenancy*].

Landlord's notice: non-payment of rent

39 (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

(2) A notice under this section must comply with section 45 [*form and content of notice to end tenancy*].

(3) A notice under this section has no effect if the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from rent.

(4) Within 5 days after receiving a notice under this section, the tenant may

(a) pay the overdue rent, in which case the notice has no effect, or

(b) dispute the notice by making an application for dispute resolution.

(5) If a tenant who has received a notice under this section does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the manufactured home site to which the notice relates by that date.

(6) If

(a) a tenancy agreement requires the tenant to pay utility charges to the landlord, and

(b) the utility charges are unpaid more than 30 days after the tenant is given a written demand for payment of them,

the landlord may treat the unpaid utility charges as unpaid rent and may give notice under this section.

Landlord's notice: cause

40 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(a) the tenant is repeatedly late paying the rent;

(b) there are an unreasonable number of occupants on the manufactured home site;

(c) the tenant or a person permitted in the manufactured home park by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park,

- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - (iii) put the landlord's property at significant risk;
- (d) the tenant or a person permitted in the manufactured home park by the tenant has engaged in illegal activity that
- (i) has caused or is likely to cause damage to the landlord's property,
 - (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the manufactured home park, or
 - (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (e) the tenant or a person permitted in the manufactured home park by the tenant has caused extraordinary damage to a manufactured home site or the manufactured home park;
- (f) the tenant does not repair damage to the manufactured home site, as required under section 26 (3) [*obligations to repair and maintain*], within a reasonable time;
- (g) the tenant
- (i) has failed to comply with a material term, and
 - (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;
- (h) the tenant purports to assign the tenancy agreement or sublet the manufactured home site without first obtaining the landlord's written consent or an order of the director as required by section 28 [*assignment and subletting*];
- (i) the tenant knowingly gives false information about the manufactured home park to a prospective tenant or purchaser viewing the manufactured home park;
- (j) the manufactured home site must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority;
- (k) the tenant has not complied with an order of the director within 30 days of the later of the following dates:
- (i) the date the tenant receives the order;
 - (ii) the date specified in the order for the tenant to comply with the order.
- (2) A notice under this section must end the tenancy effective on a date that is
- (a) not earlier than one month after the date the notice is received, and
 - (b) the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.
- (3) A notice under this section must comply with section 45 [*form and content of notice to end tenancy*].
- (4) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.
- (5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the manufactured home site by that date.

Landlord's notice: end of employment with the landlord

41 (1) A landlord may end the tenancy of a person employed as a caretaker, manager or superintendent of the manufactured home park of which the manufactured home site is a part by giving notice to end the tenancy if

- (a) the manufactured home site was rented or provided to the tenant for the term of his or her employment,
- (b) the tenant's employment as a caretaker, manager or superintendent is ended, and
- (c) the landlord intends in good faith to rent or provide the manufactured home site to a new caretaker, manager or superintendent.

(2) An employer may end the tenancy of an employee in respect of a manufactured home site rented or provided by the employer to the employee to occupy during the term of employment by giving notice to end the tenancy if the employment is ended.

(3) A notice under this section must end the tenancy effective on a date that is

- (a) not earlier than one month after the date the tenant receives the notice,
- (b) not earlier than the last day the tenant is employed by the landlord, and
- (c) the day before the day in the month, or in the other period on which the tenancy is based, that rent, if any, is payable under the tenancy agreement.

(4) A notice under this section must comply with section 45 [*form and content of notice to end tenancy*].

(5) A tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice.

(6) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (5), the tenant

- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
- (b) must vacate the manufactured home site by that date.

Landlord's notice: landlord's use of property

42 (1) Subject to section 44 [*tenant's compensation: section 42 notice*], a landlord may end a tenancy agreement by giving notice to end the tenancy agreement if the landlord has all the necessary permits and approvals required by law, and intends in good faith, to convert all or a significant part of the manufactured home park to a non-residential use or a residential use other than a manufactured home park.

(2) A notice to end a tenancy under this section must end the tenancy effective on a date that

- (a) is not earlier than 12 months after the date the notice is received and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement, and
- (b) if the tenancy agreement is a fixed term tenancy agreement, is not earlier than the date specified as the end of the tenancy.

- (3) A notice under this section must comply with section 45 [*form and content of notice to end tenancy*].
- (4) A tenant may dispute a notice under this section by making an application for dispute resolution within 15 days after the date the tenant receives the notice.
- (5) If a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection (4), the tenant
- (a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and
 - (b) must vacate the manufactured home site by that date.

Tenant may end tenancy early following notice under section 42

43 (1) If a landlord gives a tenant notice to end a periodic tenancy under section 42 [*landlord's use of property*], the tenant may end the tenancy early by

- (a) giving the landlord at least 10 days' written notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice, and
- (b) paying the landlord, on the date the tenant's notice is given, the proportion of the rent due to the effective date of the tenant's notice, unless subsection (2) applies.

(2) If the tenant paid rent before giving a notice under subsection (1), on receiving the tenant's notice, the landlord must refund any rent paid for a period after the effective date of the tenant's notice.

(3) A notice under this section does not affect the tenant's right to compensation under section 44 [*tenant's compensation: section 42 notice*].

Tenant's compensation: section 42 notice

44 (1) A landlord who gives a tenant notice to end a tenancy under section 42 [*landlord's use of property*] must pay the tenant, on or before the effective date of the notice, an amount that is equivalent to 12 months' rent payable under the tenancy agreement.

(2) In addition to the amount payable under subsection (1), if steps have not been taken to accomplish the stated purpose for ending the tenancy under section 42 within a reasonable period after the effective date of the notice, the landlord must pay the tenant an amount that is the equivalent of 6 times the monthly rent payable under the tenancy agreement.

Form and content of notice to end tenancy

45 In order to be effective, a notice to end a tenancy must be in writing and must

- (a) be signed and dated by the landlord or tenant giving the notice,
- (b) give the address of the manufactured home site,
- (c) state the effective date of the notice,
- (d) except for a notice under section 38 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and
- (e) when given by a landlord, be in the approved form.

Incorrect effective dates automatically changed

46 (1) If a landlord or tenant gives notice to end a tenancy effective on a date that does not comply with this Division, the notice is deemed to be changed in accordance with subsection (2) or (3), as applicable.

(2) If the effective date stated in the notice is earlier than the earliest date permitted under the applicable section, the effective date is deemed to be the earliest date that complies with the section.

(3) In the case of a notice to end a tenancy, other than a notice under section 38 (3) [*tenant's notice: landlord breach of material term*], 39 [*landlord's notice: non-payment of rent*] or 43 [*tenant may end tenancy early*], if the effective date stated in the notice is any day other than the day before the day in the month, or in the other period on which the tenancy is based, that the rent is payable under the tenancy agreement, the effective date is deemed to be the day before the day in the month, or in the other period on which the tenancy is based, that the rent is payable under the tenancy agreement

(a) that complies with the required notice period, or

(b) if the landlord gives a longer notice period, that complies with that longer notice period.

Division 2 — Order of Possession of a Manufactured Home Site

Order of possession for the tenant

47 (1) A tenant who has entered into a tenancy agreement with a landlord may request an order of possession of the manufactured home site by making an application for dispute resolution.

(2) The director may grant an order of possession under this section to a tenant before or after the date on which the tenant is entitled to occupy the manufactured home site under the tenancy agreement, and the order is effective on the date specified by the director.

(3) The date specified under subsection (2) may not be earlier than the date the tenant is entitled to occupy the manufactured home site.

Order of possession for the landlord

48 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the manufactured home site if

(a) the landlord's notice to end tenancy complies with section 45 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

(2) A landlord may request an order of possession of a manufactured home site in any of the following circumstances by making an application for dispute resolution:

(a) a notice to end the tenancy has been given by the tenant;

(b) a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired;

(c) the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the manufactured home site at the end of the fixed term;

(d) the landlord and tenant have agreed in writing that the tenancy is ended.

(3) The director may grant an order of possession before or after the date when a tenant is required to vacate a manufactured home site, and the order takes effect on the date specified in the order.

(4) In the circumstances described in subsection (2) (b), the director may, without any further dispute resolution process under Part 6 [*Resolving Disputes*],

(a) grant an order of possession to the landlord, and

(b) if the application is in relation to the non-payment of rent, grant an order requiring payment of that rent.

Application for order ending tenancy early

49 (1) A landlord may make an application for dispute resolution to request an order

(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 40 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the manufactured home site.

(2) The director may make an order specifying the date on which the tenancy ends and the effective date of the order of possession only if satisfied that

(a) the tenant or a person permitted in the manufactured home park by the tenant has done any of the following:

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park;

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;

(iii) put the landlord's property at significant risk;

(iv) engaged in illegal activity that

(A) has caused or is likely to cause damage to the landlord's property,

(B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the manufactured home park, or

(C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(v) caused extraordinary damage to the manufactured home park, and

(b) it would be unreasonable, or unfair to the landlord or other occupants of the manufactured home park, to wait for a notice to end the tenancy under section 40 [*landlord's notice: cause*] to take effect.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

Order of possession: tenancy frustrated

49.1 (1) A landlord may make an application for dispute resolution requesting an order

(a) ending a tenancy because

(i) the manufactured home site is not capable of being occupied by a manufactured home, or

- (ii) the tenancy agreement is otherwise frustrated, and
 - (b) granting the landlord an order of possession of the manufactured home site.
- (2) If the director is satisfied that a manufactured home site is not capable of being occupied as a manufactured home site or the tenancy agreement is otherwise frustrated, the director may make an order
- (a) deeming the tenancy agreement ended on the date the director considers that performance of the tenancy agreement became impossible, and
 - (b) specifying the effective date of the order of possession granted to the landlord.

What happens if a tenant does not leave when tenancy ended

50 (1) In this section:

"**new tenant**" means a tenant who has entered into a tenancy agreement in respect of a manufactured home site but who is prevented from occupying the manufactured home site by an overholding tenant;

"**overholding tenant**" means a tenant who continues to occupy a manufactured home site after the tenant's tenancy is ended.

- (2) The landlord must not take actual possession of a manufactured home site that is occupied by an overholding tenant unless the landlord has a writ of possession issued under the Supreme Court Civil Rules.
- (3) A landlord may claim compensation from an overholding tenant for any period that the overholding tenant occupies the manufactured home site after the tenancy is ended.
- (4) If a landlord is entitled to claim compensation from an overholding tenant under subsection (3) and a new tenant brings proceedings against the landlord to enforce his or her right to possess or occupy the manufactured home site that is occupied by the overholding tenant, the landlord may apply to add the overholding tenant as a party to the proceedings.

Part 6 — Resolving Disputes

Division 1 — Dispute Resolution Proceedings

Determining disputes

51 (1) Except as restricted under this Act, a person may make an application to the director for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:

- (a) rights, obligations and prohibitions under this Act;
- (b) rights and obligations under the terms of a tenancy agreement that
 - (i) are required or prohibited under this Act, or
 - (ii) relate to
 - (A) the tenant's use, occupation or maintenance of the manufactured home site, or
 - (B) the use of common areas or services or facilities.

(2) Except as provided in subsection (4), if the director accepts an application under subsection (1), the director must resolve the dispute under this Part unless

- (a) the claim is for more than the monetary limit for claims under the [Small Claims Act](#),
 - (b) the application was not made within the applicable period specified under this Act, or
 - (c) the dispute is linked substantially to a matter that is before the Supreme Court.
- (3) Except as provided in subsection (4), a court does not have and must not exercise any jurisdiction in respect of a matter that must be submitted to the director for dispute resolution under this Act.
- (4) The Supreme Court may
- (a) on application, hear a dispute referred to in subsection (2) (a) or (c), and
 - (b) on hearing the dispute, make any order that the director may make under this Act.
- (5) The [Arbitration Act](#) does not apply to a dispute resolution proceeding.

Starting proceedings

52 (1) [Repealed 2006-35-23.]

- (2) An application for dispute resolution must
- (a) be in the applicable approved form,
 - (b) include full particulars of the dispute that is to be the subject of the dispute resolution proceeding, and
 - (c) be accompanied by the fee prescribed in the regulations.
- (3) A person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making the application, or within a different period specified by the director.
- (4) The director may waive or reduce the fee if satisfied that
- (a) the applicant cannot reasonably afford to pay the fee, or
 - (b) the circumstances do not warrant the fee being collected.
- (5) The director may refuse to accept an application for dispute resolution if
- (a) in the director's opinion, the application does not disclose a dispute that may be determined under this Part,
 - (b) the applicant owes outstanding fees or administrative penalty amounts under this Act to the government, or
 - (c) the application does not comply with subsection (2).

Latest time application for dispute resolution can be made

53 (1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.

(2) Despite the [Limitation Act](#), if an application for dispute resolution is not made within the 2 year period, a claim arising under this Act or the tenancy agreement in relation to the tenancy ceases to exist for all purposes except as provided in subsection (3).

(3) If an application for dispute resolution is made by a landlord or tenant within the applicable limitation period under this Act, the other party to the dispute may make an application for dispute resolution in respect of a

different dispute between the same parties after the applicable limitation period but before the dispute resolution proceeding in respect of the first application is concluded.

Setting down dispute for hearing

54 If an application for dispute resolution is properly completed and is accepted by the director, the director must set the matter down for a hearing and,

- (a) if the hearing is to be oral, specify the date, time and place of the hearing, and
- (b) if the hearing is to be in writing, specify when written submissions are due.

Director's authority respecting dispute resolution proceedings

55 (1) The director has authority to determine

- (a) disputes in relation to which the director has accepted an application for dispute resolution, and
- (b) any matters related to that dispute that arise under this Act or a tenancy agreement.

(2) The director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this Act.

(3) The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement.

(4) The director may dismiss all or part of an application for dispute resolution if

- (a) there are no reasonable grounds for the application or part,
- (b) the application or part does not disclose a dispute that may be determined under this Part, or
- (c) the application or part is frivolous or an abuse of the dispute resolution process.

(5) [Repealed 2006-35-26.]

Opportunity to settle dispute

56 (1) The director may assist the parties, or offer the parties an opportunity, to settle their dispute.

(2) If the parties settle their dispute during dispute resolution proceedings, the director may record the settlement in the form of a decision or an order.

Dispute resolution proceedings generally

57 (1) [Repealed 2006-35-28.]

(2) The director must make each decision or order on the merits of the case as disclosed by the evidence admitted and is not bound to follow other decisions under this Part.

(3) Subject to the rules of procedure established under section 9 (3) [*director's powers and duties*], the director may

- (a) deal with any procedural issue that arises,

- (b) make interim or temporary orders, and
- (c) amend an application for dispute resolution or permit an application for dispute resolution to be amended.
- (4) If, in the director's opinion, another tenant of a landlord who is a party to a dispute resolution proceeding will be or is likely to be materially affected by the determination of the dispute, the director may
 - (a) order that the other tenant be given notice of the proceeding, and
 - (b) provide that other tenant with an opportunity to be heard in the proceeding.
- (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.

Director's orders: breach of Act, regulations or tenancy agreement

58 (1) Without limiting the general authority in section 55 (3) [*director's authority respecting dispute resolution proceedings*], if the director finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement, the director may make any of the following orders:

- (a) that a tenant must pay rent to the director, who must hold the rent in trust or pay it out, as directed by the director, for the costs of complying with this Act, the regulations or a tenancy agreement in relation to maintenance or repairs or services or facilities;
 - (b) that a tenant must deduct an amount from rent to be expended on maintenance or a repair, or on a service or facility, as ordered by the director;
 - (c) that any money paid by a tenant to a landlord must be
 - (i) repaid to the tenant,
 - (ii) deducted from rent, or
 - (iii) treated as a payment of an obligation of the tenant to the landlord other than rent;
 - (d) that any money owing by a tenant or a landlord to the other must be paid;
 - (e) that personal property seized or received by a landlord contrary to this Act or a tenancy agreement must be returned;
 - (f) that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement;
 - (g) that a tenancy agreement may be assigned or a manufactured home site may be sublet if the landlord's consent has been withheld contrary to section 28 (2) [*assignment and subletting*].
- (2) The director, in accordance with the regulations, must recover from a trust referred to in subsection (1) (a) the costs incurred in carrying out the order referred to in that subsection.

(3) When the purposes of an order referred to in subsection (1) (a) have been accomplished, the director must pay to the landlord, in accordance with the regulations, any amount of rent remaining in the trust, together with interest if interest is payable under the regulations.

Director's orders: changing time limits

59 (1) The director may extend a time limit established by this Act only in exceptional circumstances, other than as provided by section 52 (3) [*starting proceedings*] or 74 (4) [*decision on application for review*].

(2) Despite subsection (1), the director may extend the time limit established by section 39 (4) (a) [*landlord's notice: non-payment of rent*] for a tenant to pay overdue rent only in one of the following circumstances:

(a) the extension is agreed to by the landlord;

(b) the tenant has deducted the unpaid amount because the tenant believed that the deduction was allowed for emergency repairs or under an order of the director.

(3) The director must not extend the time limit to make an application for dispute resolution to dispute a notice to end a tenancy beyond the effective date of the notice.

Director's orders: compensation for damage or loss

60 Without limiting the general authority in section 55 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Director's orders: notice to end tenancy

61 (1) If a notice to end a tenancy does not comply with section 45 [*form and content of notice to end tenancy*], the director may amend the notice if satisfied that

(a) the person receiving the notice knew, or should have known, the information that was omitted from the notice, and

(b) in the circumstances, it is reasonable to amend the notice.

(2) Without limiting section 55 (3) [*director's authority respecting dispute resolution proceedings*], the director may, in accordance with this Act,

(a) order that a tenancy ends on a date other than the effective date shown on the notice to end the tenancy, or

(b) set aside or amend a notice given under this Act that does not comply with the Act.

Director's orders: rent increases

62 If the director is satisfied that circumstances prescribed for the purposes of section 36 (3) [*amount of rent increase*] apply, the director may order that a landlord is permitted to increase rent by an amount that is

(a) greater than the amount calculated under the regulations for the purpose of section 36 (1) (a), and

(b) not greater than the maximum rent increase authorized by the regulations prescribed for the purpose of this section.

Director's orders: landlord's right to enter manufactured home site

63 If the director is satisfied that a landlord is likely to enter a manufactured home site other than as authorized under section 23 [*landlord's right to enter a manufactured home site restricted*], the director may suspend or set conditions on the landlord's right to enter the manufactured home site.

Director's orders: delivery and service of documents

64 (1) The director may order that a notice, order, process or other document may be served by substituted service in accordance with the order.

(2) In addition to the authority under subsection (1), the director may make any of the following orders:

(a) that a document must be served in a manner the director considers necessary, despite sections 81 [*how to give or serve documents generally*] and 82 [*special rules for certain documents*];

(b) that a document has been sufficiently served for the purposes of this Act on a date the director specifies;

(c) that a document not served in accordance with section 81 or 82 is sufficiently given or served for purposes of this Act.

Director's orders: fees and monetary orders

65 (1) The director may order payment or repayment of a fee under section 52 (2) (c) [*starting proceedings*] or 72 (3) (b) [*application for review of director's decision*] by one party to a dispute resolution proceeding to another party or to the director.

(2) If the director orders a landlord to pay an amount to a tenant, including an amount under subsection (1), the amount may be deducted from any rent due to the landlord.

Director may hear disputes together

66 (1) If 2 or more applications for dispute resolution are accepted in respect of related disputes with the same landlord, the director may hear the disputes at the same time.

(2) If 2 or more applications for dispute resolution are accepted in respect of disputes between the same landlord and tenant, the director may hear the disputes together.

How the hearing may be conducted

67 (1) Subject to the rules of procedure established under section 9 (3) [*director's powers and duties*], the director may conduct a hearing under this Division in the manner he or she considers appropriate.

(2) The director may hold a hearing

(a) in person,

(b) in writing,

(c) by telephone, video conference or other electronic means, or

(d) by any combination of the methods under paragraphs (a) to (c).

(3) The director may administer oaths for the purposes of this Act.

(4) A party to a dispute resolution proceeding may be represented by an agent or a lawyer.

Rules of evidence do not apply

68 The director may admit as evidence, whether or not it would be admissible under the laws of evidence, any oral or written testimony or any record or thing that the director considers to be

- (a) necessary and appropriate, and
- (b) relevant to the dispute resolution proceeding.

Director may require persons to attend and produce documents

69 (1) On the request of a party or on the director's own initiative, the director may issue a summons requiring a person

- (a) to attend a hearing under this Division and give evidence, or
 - (b) to produce before the director documents or any other thing relating to the subject matter of the dispute.
- (2) A party who requests that a summons be issued under subsection (1) must provide conduct money for the witness in accordance with the rules of procedure established under section 9 (3) [*director's powers and duties*].
- (3) If a person named in and served with a summons under subsection (1) does not comply with the summons, the person is liable, on application to the Supreme Court, to be committed for contempt as if in breach of a judgment or an order of the Supreme Court.

Director's decision

70 (1) A decision of the director under this Part must

- (a) be in writing,
 - (b) be signed and dated by the director,
 - (c) include the reasons for the decision, and
 - (d) be given promptly and in any event within 30 days after the proceedings conclude.
- (2) The director does not lose authority in a dispute resolution proceeding, nor is the validity of a decision affected, if a decision is given after the 30 day period in subsection (1) (d).
- (3) Except as otherwise provided in this Part, a decision or an order of the director under this Part is final and binding on the parties.

Correction or clarification of decisions or orders

71 (1) Subject to subsection (2), 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.

(1.1) The director may take the steps described in subsection (1)

- (a) on the director's own initiative, or

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

(2) A request referred to in subsection (1.1) (b) may be made without notice to another party, but the director may order that another party be given notice.

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

Division 1.1

Renumbered

71.1 [Renumbered as 5.1 by 2017-18-11.]

Division 2 — Review of Decisions and Orders

Application for review of director's decision or order

72 (1) A party to a dispute resolution proceeding may apply to the director for a review of the director's decision or order.

(2) A decision or an order of the director may be reviewed only on one or more of the following grounds:

(a) a party was unable to attend the original hearing because of circumstances that could not be anticipated and that were beyond the party's control;

(b) a party has new and relevant evidence that was not available at the time of the original hearing;

(c) a party has evidence that the director's decision or order was obtained by fraud.

(3) An application for review of a decision or order of the director

(a) must be made in the approved form and in the manner approved by the director,

(b) must be accompanied by the fee prescribed in the regulations,

(c) must be accompanied by full particulars of the grounds for review and the evidence on which the applicant intends to rely, and

(d) may be made without notice to any other party.

(4) The director may waive or reduce the fee if satisfied that

(a) the applicant cannot reasonably afford to pay the fee, or

(b) the circumstances do not warrant the fee being collected.

(5) The director may refuse to accept an application for review of a decision or order of the director if the application does not comply with subsection (3).

(6) [Repealed 2006-35-37.]

(7) A party to a dispute resolution proceeding may make an application under this section only once in respect of the proceedings.

Time limit to apply for a review

73 A party must make an application for review of a decision or order of the director within whichever of the following periods applies:

- (a) within 2 days after a copy of the decision or order is received by the party, if the decision or order relates to
 - (i) the withholding of consent, contrary to section 28 (2) [*assignment and subletting*], by a landlord to an assignment or subletting,
 - (ii) a notice to end a tenancy under section 39 [*landlord's notice: non-payment of rent*], or
 - (iii) an order of possession under section 47 [*order of possession for the tenant*], 48 [*order of possession for the landlord*], 49 [*application for order ending tenancy early*] or 49.1 [*order of possession: tenancy frustrated*];
- (b) within 5 days after a copy of the decision or order is received by the party, if the decision or order relates to
 - (i) repairs or maintenance under section 26 [*obligations to repair and maintain*],
 - (ii) services or facilities under section 21 [*terminating or restricting services or facilities*], or
 - (iii) a notice to end a tenancy agreement other than under section 39 [*landlord's notice: non-payment of rent*];
- (c) within 15 days after a copy of the decision or order is received by the party, for a matter not referred to in paragraph (a) or (b).

Decision on application for review

74 (1) At any time after an application for review of a decision or order of the director is made, the director may dismiss or refuse to consider the application for one or more of the following reasons:

- (a) the issue raised by the application can be dealt with by a correction, clarification or otherwise under section 71 [*correction or clarification of decisions or orders*];
- (b) the application
 - (i) does not give full particulars of the issues submitted for review or of the evidence on which the applicant intends to rely,
 - (ii) does not disclose sufficient evidence of a ground for the review,
 - (iii) discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied, or
 - (iv) is frivolous or an abuse of process;
- (c) the applicant fails to pursue the application diligently or does not follow an order made in the course of the review.

(2) A decision under subsection (1) may be based solely on the written submissions of the applicant.

(3) The director may order that a decision or order in relation to which a review has been requested be suspended, with or without conditions, until the review has been completed and a decision given to the parties.

(4) Within 3 days of receiving a decision to proceed with a review, or within a different period specified by the director, the applicant must give the other party a copy of the decision and of any order giving effect to the decision.

Review of director's decision or order

75 (1) Unless the director dismisses or refuses to consider an application for a review under section 74, the director must review the decision or order.

(2) The director may conduct a review

(a) based solely on the record of the original dispute resolution proceeding and the written submissions of the parties, if any,

(b) by reconvening the original hearing, or

(c) by holding a new hearing.

(3) Following the review, the director may confirm, vary or set aside the original decision or order.

Repealed

76 [Repealed 2006-35-42.]

Division 3 — Enforcement of Director's Orders

Director's orders may be filed in Supreme Court

77 (1) A decision or an order of the director may be filed in the Supreme Court and enforced as a judgment or an order of that court after

(a) a review of the director's decision or order has been

(i) refused or dismissed, or

(ii) concluded, or

(b) the time period to apply for a review has expired.

(2) Subsection (1) applies whether the decision or order is interim, temporary or final.

Exclusive jurisdiction of director

77.1 (1) The director has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in a dispute resolution proceeding under Division 1 of this Part or in a review under Division 2 of this Part and to make any order permitted to be made.

(2) A decision or order of the director on a matter in respect of which the director has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

Certain director's orders may be filed in Provincial Court

78 (1) This section applies to a decision or an order of the director if

(a) the decision or order is for financial compensation or the return of personal property, and

(b) the amount required to be paid under the decision or order, excluding interest and costs, or the value of the personal property is within the monetary limit for claims under the [Small Claims Act](#).

(2) A decision or an order described in subsection (1) may be filed in the Provincial Court and enforced as a judgment or an order of that court after

(a) a review of the director's decision or order has been

(i) refused or dismissed, or

(ii) concluded, or

(b) the time period to apply for a review has expired.

Division 4

Repealed

79 [Repealed 2006-35-47.]

Repealed

79.1-79.3 [Repealed 2006-35-47.]

Repealed

80 [Repealed 2006-35-47.]

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.

Administrative penalties

80.3 (1) Subject to the regulations, the director may order a person to pay a monetary penalty if the director is satisfied on a balance of probabilities that the person has

(a) contravened a provision of this Act or the regulations, or

(b) failed to comply with a decision or order of the director.

(2) Before the director imposes an administrative penalty on a person, the director must

(a) give the person an opportunity to be heard, and

(b) consider all the following:

- (i) previous enforcement actions for contraventions of a similar nature by the person;
 - (ii) the gravity and magnitude of the contravention;
 - (iii) the extent of the harm to others resulting from the contravention;
 - (iv) whether the contravention was repeated or continuous;
 - (v) whether the contravention was deliberate;
 - (vi) any economic benefit derived by the person from the contravention;
 - (vii) the person's efforts to correct the contravention.
- (3) A penalty imposed under this section must be paid within the prescribed time.
- (4) Instead of enforcing a penalty under subsection (1), the director, subject to the regulations, may enter into an agreement with the person who would otherwise be liable for the penalty.
- (5) An agreement under subsection (4) may provide, in accordance with the regulations, for the reduction or cancellation of the penalty subject to the terms and conditions the director considers necessary or desirable.
- (6) An agreement under subsection (4) must specify the time for performing the terms and conditions and, if the person fails to perform those terms and conditions by the date specified, the penalty ordered under subsection (1) is due and payable on the date of the failure.
- (7) Neither the director's decision whether to enter into an agreement under subsection (4), nor the terms and conditions of such an agreement, may be the subject of an application for dispute resolution.
- (8) If a corporation contravenes the Act or the regulations or fails to comply with a decision or order as described under subsection (1), an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the contravention or failure is also liable under this section even though the corporation is liable for or pays a monetary penalty under this section.

Amount of penalty

80.4 (1) A monetary penalty imposed under section 80.3 (1) may not exceed \$5 000.

(2) If a contravention or failure referred to in section 80.3 (1) occurs over more than one day or continues for more than one day, separate monetary penalties, each not exceeding the maximum under subsection (1) of this section, may be imposed for each day the contravention or failure continues.

Notice of administrative penalty

80.5 If the director imposes an administrative penalty on a person, the director must give to the person a notice specifying each of the following:

- (a) the contravention or failure to which the penalty relates;
- (b) the amount of the penalty;
- (c) the date by which the penalty must be paid;
- (d) the person's right to have the director reconsider the decision imposing the penalty.

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.

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.

Review of administrative penalty

80.8 (1) A person who receives a notice under section 80.5 may apply to the director for a review of the matters set out in the notice.

(2) Division 2 [*Review of Decisions and Orders*] of Part 6 applies to a review referred to in subsection (1).

Recovery of administrative penalties

80.9 (1) An administrative penalty imposed under this Division is a debt due to the government.

(2) If a person fails to pay an administrative penalty as required by a notice under section 80.5 and the time for requesting a review under section 80.8 has expired, the director may file a certificate in a court that has jurisdiction and, upon filing, the certificate has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the court with which it is filed.

(3) A certificate under subsection (2) must be in the approved form, be signed by the director and set out

- (a) the name of the person who is liable for the penalty,
- (b) the contravention or failure in relation to which the penalty is imposed, and
- (c) the amount of the penalty.

Part 7 — General Matters

Division 1 — How to Give or Serve Documents

How to give or serve documents generally

81 All documents, other than those referred to in section 82 [*special rules for certain documents*], that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by ordinary mail or registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by ordinary mail or registered mail to a forwarding address provided by the tenant;
- (e) by leaving a copy at the person's residence with an adult who apparently resides with the person;
- (f) by leaving a copy in a mailbox or mail slot for the address at which the person resides or, if the person is a landlord, for the address at which the person carries on business as a landlord;
- (g) by attaching a copy to a door or other conspicuous place at the address at which the person resides or, if the person is a landlord, at the address at which the person carries on business as a landlord;
- (h) by transmitting a copy to a fax number provided as an address for service by the person to be served;
- (i) as ordered by the director under section 64 (1) [*director's orders: delivery and service of documents*];
- (j) by any other means of service prescribed in the regulations.

Special rules for certain documents

82 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 6, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 64 (1) [*director's orders: delivery and service of documents*].

(2) An application by a landlord under section 48 [*order of possession for the landlord*], 49 [*application for order ending tenancy early*] or 49.1 [*order of possession: tenancy frustrated*] must be given to the tenant in one of the following ways:

- (a) by leaving a copy with the tenant;
 - (b) by sending a copy by registered mail to the address at which the tenant resides;
 - (c) by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
 - (d) by attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
 - (e) as ordered by the director under section 64 (1) [*director's orders: delivery and service of documents*].
- (3) A notice under section 80.5 [*notice of administrative penalty*] must be given in a manner referred to in subsection (1).

When documents are considered to have been received

83 A document given or served in accordance with section 81 [*how to give or serve documents generally*] or 82 [*special rules for certain documents*], unless earlier received, is deemed to be received as follows:

- (a) if given or served by mail, on the 5th day after it is mailed;
- (b) if given or served by fax, on the 3rd day after it is faxed;
- (c) if given or served by attaching a copy of the document to a door or other place, on the 3rd day after it is attached;
- (d) if given or served by leaving a copy of the document in a mailbox or mail slot, on the 3rd day after it is left.

Division 2 — Application of Other Law

Common law applies

84 Except as modified or varied under this Act, the common law respecting landlords and tenants applies in British Columbia.

Frustrated Contract Act

85 The [*Frustrated Contract Act*](#) and the doctrine of frustration of contract apply to tenancy agreements.

Court proceedings affecting tenants

86 Despite any other enactment, no order of a court in a proceeding involving a foreclosure, an estate or a matrimonial dispute or another proceeding that affects possession of a manufactured home site is enforceable against a tenant of the manufactured home site unless the tenant was a party to the proceeding.

Division 2.1

Renumbered

86.1 [Renumbered as 80.3 by 2017-18-16.]

Repealed

86.11 [Repealed 2017-18-17.]

Renumbered

86.2 [Renumbered as 80.4 by 2017-18-18.]

Renumbered

86.21 [Renumbered as 80.5 by 2017-18-19.]

Renumbered

86.3 [Renumbered as 80.8 by 2017-18-20.]

Renumbered

86.31 [Renumbered as 80.9 by 2017-18-21.]

Division 3 — Offences, Penalties and Regulations

Offences and penalties

87 (1) A person who contravenes any of the following provisions commits an offence and is liable on conviction to a fine of not more than \$5 000:

- (a) section 13 (1), (2) or (3) [*requirements for tenancy agreements*];
- (a.1) section 15 [*no application or processing fees*];
- (b) section 17 (2) [*no security deposit*];
- (c) section 20 (3) [*seizing or interfering with access to tenant's property*];
- (d) section 21 (1) [*terminating or restricting services or facilities*];
- (e) section 23 [*landlord's right to enter a manufactured home site restricted*];
- (f) section 24 (1) or (2) [*tenant's right of access protected*];
- (g) section 25 (1) [*prohibitions on changes to locks*];
- (h) section 28 (3) [*assignment and subletting*];
- (i) section 35 (1) and (2) [*timing and notice of rent increases*];
- (j) section 36 (1) [*amount of rent increase*];
- (k) section 50 (2) [*what happens if a tenant does not leave when tenancy ended*].

(2) A person who coerces, threatens, intimidates or harasses a tenant or landlord

(a) in order to deter the tenant or landlord from making an application under this Act, or

(b) in retaliation for seeking or obtaining a remedy under this Act

commits an offence and is liable on conviction to a fine of not more than \$5 000.

(3) A person who contravenes or fails to comply with a decision or an order made by the director commits an offence and is liable on conviction to a fine of not more than \$5 000.

(4) A person who gives false or misleading information in a proceeding under this Act commits an offence and is liable on conviction to a fine of not more than \$5 000.

(5) A tenant, or a person permitted in the manufactured home park by a tenant, who intentionally, recklessly or negligently causes damage to the manufactured home park commits an offence and is liable on conviction to a fine of not more than \$5 000.

(6) If a person convicted of an offence under this Act has failed to comply with or contravened this Act, the court, in addition to imposing a fine, may order the person to comply with or to cease contravening this Act.

(7) Section 5 of the [Offence Act](#) does not apply to this Act or the regulations.

Limitation period for prosecuting offences

88 (1) A prosecution of an offence under this Act must not be commenced more than 2 years after the facts on which the proceeding is based first come to the knowledge of the director.

(2) A document purporting to have been issued by the director, certifying the date on which the director became aware of the facts on which the information is based,

(a) is admissible without proof of the signature or official character of the person appearing to have signed the certificate, and

(b) is proof of the certified facts unless there is evidence to the contrary.

Repealed

88.1 [Repealed 2017-18-22.]

Power to make regulations

89 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the [Interpretation Act](#).

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) exempting tenancy agreements, manufactured home sites or manufactured home parks from all or part of this Act;

(b) respecting tenancy agreements, including prescribing

(i) standard terms that must be included in every tenancy agreement, and

(ii) formal requirements for tenancy agreements;

(c) respecting rights and obligations of landlords and tenants that are not inconsistent with this Act, and providing that those rights and obligations must be terms of tenancy agreements;

(d) prescribing a penalty for a breach of a regulation, subject to the restriction that the penalty must not be greater than the maximum penalty referred to in section 87 [*offences and penalties*];

(e) prescribing

(i) the circumstances in which a landlord may consider that a tenant has abandoned personal property,

(ii) the manner in which a landlord may dispose of personal property abandoned by a tenant, and

(iii) how competing claims on the property are to be resolved;

(f) prescribing

(i) the circumstances in which the purchaser of abandoned personal property acquires a marketable title free of all encumbrances,

(ii) how proceeds from disposing of the property are to be dealt with, and

(iii) imposing a duty of care on the landlord for that property;

(g) prescribing matters related to an assignment of a tenancy agreement or a sublease of a manufactured home site, including

(i) the process for obtaining the landlord's consent to an assignment or a sublease,

(ii) the procedures for determining whether that consent is given or withheld and related matters, and

(iii) the circumstances in which a landlord may withhold consent to an assignment or a sublease;

(h) respecting the return of trust funds collected under section 58 (1) (a) [*director's orders: breach of Act, regulations or tenancy agreement*], including prescribing the circumstances in which interest must be paid on the trust funds and how that interest is to be calculated;

(i) defining a word or phrase used but not defined in this Act;

(j) respecting matters related to reviews under Division 2 of Part 6;

(k) respecting refundable and non-refundable fees that a landlord may or may not impose on a tenant and limiting the amount of a fee that may be imposed;

(l) respecting park committees, including

(i) prescribing procedures for establishing park committees, selecting members and making rules, and

(ii) respecting the participation of a park committee in voluntary dispute resolution;

(m) respecting the procedures a landlord must follow to establish, change or repeal a park rule;

(n) respecting the security a landlord may require when a tenant is moving a manufactured home onto or off a manufactured home site;

(o) prescribing fees for anything done or any service provided under this Act;

(p) prescribing calculations for rent increases under section 36 (1) (a) [*amount of rent increase*];

(q) governing rent increases that may be approved by the director under section 62 [*director's orders: rent increases*] on application under section 36 (3) [*amount of rent increase*], including

(i) prescribing circumstances for the purpose of section 36 (3), and

(ii) respecting the maximum rent increase that may be approved by the director under section 62;

(r) prescribing other means of giving or serving documents, including prescribing when documents given or served by those means are deemed to be received;

(r.1) respecting administrative penalties, including, without limiting this,

- (i) establishing procedures for providing an opportunity to be heard for the purposes of section 80.3 (2) (a), which need not entail an oral hearing,
 - (ii) prescribing consequences for failing to appear or provide submissions, as applicable, on an opportunity prescribed under subparagraph (i), which may include, but are not limited to, proceeding in the absence of the person who fails to appear or without their submission, as applicable,
 - (iii) prescribing time limits for paying administrative penalties,
 - (iv) the matters that must be considered by the director in establishing a penalty in a particular case,
 - (v) prescribing a limitation period for imposing an administrative penalty and evidentiary matters in relation to that period,
 - (vi) respecting agreements, including prescribing terms and conditions that must be included in an agreement under section 80.3 (4), and
 - (vii) establishing consequences for failing to pay an administrative penalty which may include, but are not limited to, imposing additional penalties;
- (s) for any other purpose for which regulations are contemplated by this Act.
- (3) In making regulations under this Act, the Lieutenant Governor in Council may
- (a) delegate a matter to a person,
 - (b) confer a discretion on a person, and
 - (c) make different regulations for different manufactured home sites, manufactured home parks or tenancy agreements or for different classes of manufactured home sites, manufactured home parks or tenancy agreements.

Part 8 — Transitional Provisions

Meaning of "former Act"

90 In this Part, "**former Act**" means the [Residential Tenancy Act](#), R.S.B.C. 1996, c. 406.

Transitional: security deposits

91 (1) A landlord who holds a security deposit under the former Act in respect of a tenancy agreement to which this Act applies, despite section 17 (2) [*security deposits*], may hold that security deposit until the end of the tenancy.

(2) The following sections of the [Residential Tenancy Act](#) apply in respect of a security deposit referred to in subsection (1):

- (a) section 19 [*limits on amount*];
- (b) section 20 (a), (b) and (e) [*landlord prohibitions*];
- (c) section 21 [*tenant prohibition*];
- (d) section 38 [*return of security deposit*];
- (e) section 39 [*if forwarding address not provided*];

(f) section 72 (2) (b) [*director's orders: fees and monetary orders*];

(g) section 93 [*obligations pass with transfer or assignment of land*].

Repealed

92-94 [Repealed 2006-35-53.]

Transitional: agreements under Part 5 of former Act

95 A term of an agreement referred to in section 71 (1), (2) or (5) of the former Act is considered to be a term of the tenancy agreement of the landlord and tenant who made the agreement or who are deemed to have made the agreement and the term may be enforced under this Act.

Transitional regulations

96 (1) The Lieutenant Governor in Council may make regulations considered necessary or advisable to more effectively bring this Act into operation and to facilitate the transition from the operation of the former Act to the operation of this Act, including regulations prescribing the manner in which any transitional question or issue arising because of the repeal of the former Act is to be resolved.

(2) The Lieutenant Governor in Council, by regulation, may amend the following sections of this Act by striking out "the date this section comes into force" and substituting the actual date the applicable section comes into force:

(a) section 12 (a) [*tenancy agreements include the standard terms*];

(b) section 13 (1) [*requirements for tenancy agreements*].

(c) to (e) [Repealed B.C. Reg. 389/2007.]

Transition from arbitrators to director as decision maker

96.1 (1) Effective on the date this section comes into force, each arbitrator appointed under section 79, as it read immediately before its repeal, is deemed to have been retained under section 9 (2) for a term ending on the date the appointment under section 79 would otherwise have terminated.

(2) Despite section 9.1 (1), a person described in subsection (1) of this section has the powers and duties of the director necessary for the purposes of determining a dispute under Division 1 of Part 6, or a review under Division 2 of Part 6, delegated to the person under section 9.1 (1).

(3) Subsections (1) and (2) must not be construed as

(a) a termination for the purposes of section 14.9 (3) of the [*Public Sector Employers Act*](#), or

(b) a breach of the service contract related to the appointment of a person to whom subsection (1) applies.

(4) An order of an arbitrator made before the date this section comes into force is deemed to be an order of the director.

Commencement

97 This Act comes into force by regulation of the Lieutenant Governor in Council.