

EXPLANATORY NOTES

B I L L

No. 67

An Act to amend *The Victims of Interpersonal Violence Act*

Clause of Bill

1 *The Victims of Interpersonal Violence Amendment Act, 2017.*

2 *The Victims of Interpersonal Violence Act*

3 **Existing Provision**

Interpretation

2 In this Act:

(a) “cohabitants” means:

(i) persons who have resided together or who are residing together in a family relationship, spousal relationship or intimate relationship;

(ii) persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time; or

(iii) persons who are in an ongoing caregiving relationship, regardless of whether they have lived together at any time;

1994, c.V-6.02, s.2; 2010, c.15, s.8;
2015, c.24, s.5.

New

Explanation

The new definitions are needed for the new sections respecting termination of a tenancy and for the purposes of maintaining flexibility in the definition of “cohabitant”.

The only kind of tenancy agreement that will be affected by the new provisions is a fixed term tenancy agreement, because all others can be terminated on a month's notice or less.

The definition of "tenant" is modeled on provisions in *The Residential Tenancies Act, 2006*.

4 Existing Provision

New

Explanation

The new sections provide for the issuance of a certificate by an authorized person that permits a tenant who is the victim of interpersonal violence to end a tenancy on 28 days' notice.

Section 12.1 defines "authorized person" for the purposes of the new provisions.

Section 12.2 allows the minister to appoint the authorized person.

The form of the certificate will be set by the Director of Residential Tenancies.

Section 12.4 sets out the requirements for a victim of interpersonal violence to apply for a certificate. The tenant or a person acting on the tenant's behalf may apply.

The grounds for issuing a certificate are:

- The authorized person receives an emergency intervention order or victim's assistance order, a restraining order, peace bond or other similar court order for the tenant, a tenant's child or other person with whom the tenant has a caregiving relationship; or
- The authorized person receives a statement from a listed official with the opinion that the person is a victim of interpersonal violence; and
- The authorized person has completed an assessment and is satisfied of the risk to the safety of the tenant or a cohabitant of the tenant.

The authorized person must make a decision whether to issue the certificate or not, and notify the applicant if not.

The listed officials are who can provide statements are:

- Registered social workers;

- Registered psychologists;
- Doctors;
- Registered nurses;
- Registered psychiatric nurses;
- Police members; and
- Authorized staff of shelters, transition houses and victims' services.

Regulations are permitted to expand the list of officials who can provide a statement.

The authorized person, the listed official and the residential tenancies hearing officer cannot be compelled in a court or other proceeding to give evidence obtained for the purpose of this Part or to produce documents for the purpose of this Act or the interpersonal violence provisions of *The Residential Tenancies Act, 2006*.

5 Existing Provision

Immunity

15 No action lies or shall be instituted against a peace officer, a local registrar or any other person for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them:

(a) pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations; or

(b) in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or the regulations or any duty imposed by this Act or the regulations.

1994, c.V-6.02, s.15.

Explanation

The authorized person and listed officials are protected from actions or proceedings in respect of statements made in good faith.

6 Existing Provision

Regulations

16 The Lieutenant Governor in Council may make regulations:

1994, c.V-6.02, s.16; 2016, c28, s.24.

New

Explanation

New regulation-making powers give the Lieutenant Governor in Council the ability to make regulations:

- adding to the list of designated professionals who can give a statement that a victim of interpersonal violence is at risk;
- establishing a registry of protection orders and setting out the access and privacy requirements for the registry; and
- respecting any other thing that might be necessary for the operation of the registry.

7 Existing Provision

New

Explanation

The Act consequentially amends *The Residential Tenancies Act, 2006* to accommodate the certificates.

The Act uses definitions from *The Victims of Interpersonal Violence Act* for the new provisions of *The Residential Tenancies Act, 2006*.

A tenant may serve notice to end the tenancy on the landlord if, because of interpersonal violence, the tenant believes the safety of him or herself, a dependent child or an adult in a caregiving relationship who lives with the tenant is at risk.

The tenant must give the landlord at least 28 days' notice and provide the landlord with the certificate of the authorized person made pursuant to *The Victims of Interpersonal Violence Act*.

The notice to terminate must be in writing, dated, identified as originating from the tenant, state the effective date of the end of the tenancy, that the grounds to end the tenancy are interpersonal violence, and be accompanied by the certificate. It must be served within 90 days of the date of the certificate.

Upon giving the landlord the certificate and providing notice:

- the tenant is not responsible for paying rent beyond the period of notice; rent may be prorated if the normal rent period exceeds the period of notice;
- the tenant is not liable for any liquidated damages or penalty for early termination of the tenancy agreement;
- if the tenant makes a written request, the landlord shall apply the security deposit (which is a maximum of one month's rent) in payment of the rent during the notice period.

The tenancy is terminated for all tenants in the same premises, but the landlord and other tenants may enter into a new tenancy arrangement.

The authorized person may require the landlord to notify other tenants.

If the notice to terminate and certificate were not properly served on the landlord, the notice is effective 28 days after it is served or the date shown in the notice, whichever is later.

There can be no applications to the court or to the Office of Residential Tenancies to set aside the notice, either by the landlord or by other tenants.

The landlord must maintain confidentiality of any information from or about a tenant who is a victim of interpersonal violence unless authorized by the Act or the regulations.

The regulation-making authority is provided to permit the Lieutenant Governor in Council to make regulations establishing circumstances authorizing the landlord to disclose information pursuant to section 64.3; and respecting any other thing that would be necessary to facilitate the new provisions.

8 Coming into force.