

Supplementary submission to the Legislative Scrutiny Committee Inquiry into the Residential Tenancies Legislation Amendment Bill 2019

Residential tenancy legislation is about housing and homes, not investment and business opportunities. Housing is a fundamental social and economic determinant. Homelessness and insecure and substandard housing constitutes a significant impediment to productivity. It seems that the Committee struggled to see the tenants perspective in considering reforms needed. The Committee was not assisted by a lack of public consultation to help inform their views.

For the majority of Territorians renting and insecurity of housing is their reality. For the younger generation buying your own home is no longer a reality. While pets might be important, people are at the centre of tenancy legislation and the very significant impact of having access to housing that is fair, safer and certain to people's lives must be at the centre of reform. We have 20 year old legislation that is not fit for purpose and tinkering with the edges is not going to deliver reform that is relevant.

It is time for the Government to explain how they will deliver on their promise for comprehensive reform and for the Committee to test this Bill against the areas they have previously identified as key issues; in particular, the establishment of a bond board; an increase in notice periods to terminate tenancies; and protections for victims fo domestic and family violence.

The following issues were raised in the Committee's hearing on Monday 9 December and we have taken this opportunity to provide some further clarification:

Bond Board

The introduction of a bond board was initially explored by the Attorney-General's Department in 2015 in an issues paper titled 'Development of a Central Bond Holding Scheme in the Northern Territory under the *Residential Tenancies Act*'.

The NT is the only Australian jurisdiction that does not have a bond board. Bond boards in other states and territories are independent bodies that are funded through the interests on bonds that they collect and hold. They also fund tenancy services and other information and support services. There has been no recent economic modelling done for the NT that we are aware of and this would appropriately inform how the service could be run in a way that involved no or limited investment from Government.

In our experience, the average time for returns of bond for our clients is at least 3 months. This results in homelessness and hardship for individuals and families. Scoping of jurisdictions with bond authorities show an average bond return time of between 2 to 10 days.

Notice periods

Extending the shortest notice periods in the country to terminate a tenancy for fixed term and a periodic tenancies is easily achievable within the Bill.

In 1995, the Commonwealth Department of Housing and Regional Development recommended a minimum notice period for 'no grounds evictions' was 90 days.¹ The report considered this recommendation was felt to offer sufficient protection to tenants, without 'unduly restricting the ability of the lessor to manage their investment'.

¹ *Minimum Legislative Standards for Residential Tenancies in Australia*, May 1995

Housing affordability has changed significantly since 1995, as has the proportion of renters. As legislation has been updated in other jurisdictions notice periods have been extended. The Department has recommended 120 days notice taking into account jurisdictional factors in the NT.

ACT currently have 180 days as it is a small market, subject to ebbs and flows, and often experiencing periods of housing shortage. The NT faces similar market impediments, has the third highest rent costs in the country, with the regional areas of Katherine, Alice Springs and Nhulunbuy with extremely low or no vacancies and therefore no housing for the most vulnerable or those who come to work there.

In light of this, 120 days is not an unreasonable amount of time to enable people to find suitable alternative housing and arrange the move and better reflects the NT context.

Forced entry

Section 77 of the *Residential Tenancies Act* ('Act') already provides scope for the landlord to enter the property and section 72 of the Act provides for entry in emergency circumstances. All of the witnesses affirmed that section 77 was rarely used and so it is hard to understand the imperative in sanctioning use of force by an individual in this section. However, the foreseeable consequences of the use of force may be far more serious than the non-urgent repair that instigates use of this section.

Template documents

Lease agreements and other standard documents such as condition reports are provided freely and accessibly by the Commissioners of Tenancies or their equivalent in all other states and territories. These are of great benefit to tenants and landlords alike and there seems no reason why these documents could not be provided alongside the information on tenancy currently available on the NT Consumer Affairs website.

Domestic violence provisions

For a wide range of reasons victims of domestic violence victims may not want to go through court processes to secure a domestic violence order. We emphasise that the legislation currently proposed, in the *Justice Legislation Amendment (Domestic and Family Violence) Bill* merely rectifies some interpretation issues for victims who wish to make or amend a DVO application through the Local Court, but in our experience, many do not want to follow this process and will not benefit from these changes.

The importance of these provisions has been emphasised by the Committee and the Attorney-General and so it is hard to understand why they have been omitted. Legislation in Western Australia, for example, enables a tenant experiencing domestic violence to issue a notice of termination, with provision of prescribed evidence, to end their lease agreement.

Termination of public housing tenancies

It is important to note that the proposed provisions will relate to public housing tenants who have to leave their home because the Department is conducting renovations or relocating them elsewhere. It is not a means to deal with 'bad behaviour' tenants – the Act has existing provisions for termination in such situations. We are seeking consistency in the approach to these matters and the application of natural justice to ensure that tenants are consulted, have sufficient notice, are provided with an opportunity to challenge or make submissions on their termination and are protected by the relevant legislation when they are living in transitional accommodation. We note that a copy of the proposed Transitional Accommodation Agreement has not been made available for public scrutiny.

These concerns should be addressed and enshrined in the Act for the purpose of clarity and compliance. Addressing these issues in Departmental policy or guidelines is inadequate.