

SECOND READING SPEECH

RESIDENTIAL TENANCY AMENDMENT BILL 2013

Mr Speaker, I move that the *Residential Tenancy Amendment Bill 2013* be read a second time.

Mr Speaker, this *Residential Tenancy Amendment Bill*, is the culmination of three years of consultation by the Office of Consumer Affairs and Fair Trading with tenants, community organisations, industry, Government and the community. The issues to be addressed in this Bill have been discussed at length with these organisations and there is general support for the changes that are contained in this Bill.

Mr Speaker, the consultation process began with the release of a discussion paper in November 2009. A number of responses were received from stakeholders and a Conference was held in November 2010 to explore relevant issues. At this conference, Judy Yates, Associate Professor of Economics at the University of Sydney, spoke about the residential tenancy market and Peter Sutherland from the ACT spoke about the history of residential tenancy law reform in Australia. This conference was the first of its type held in Tasmania and forged a new relationship between industry and consumer organisations that laid the foundation for the reforms that are contained in this Bill.

Following the 2010 Conference, a stakeholder reference group was established to assist Consumer Affairs and Fair Trading to develop the detail of the policy. A further consultation paper was released in 2011 and the stakeholder reference group assisted in the development of the draft Bill. A draft Bill was released for comment in 2012.

Mr Speaker, the changes that are made by this Bill are as follows:

The most important thing for a tenant of residential premises is certainty. This means that if the tenant pays the rent and does what is required under the agreement, they will enjoy certainty of tenure. At present, there is certainty in a fixed term agreement because a tenant knows that the agreement ends on a date fixed in the agreement. However, the property owner is currently required to give only 14 days' notice that they will not renew the agreement. This means that the tenant has only 14 days to find somewhere else to live. These amendments will require an owner to give 42 days' notice if they do not intend to renew the agreement.

The amendments also remove the confusion that is caused by the existing 28 day transition period at the end of a fixed term agreement. Fixed term agreements will now automatically become agreements of 'no fixed term' on the day after expiry, instead of the current 28 days after the expiry. This change is supported by the Real Estate Institute and the Property Council of Tasmania. .

The changes to the notice periods include:

- a requirement that owners give 42 days of notice before ending a fixed term agreement;
- a requirement that tenants give 14 days' notice of their intention to vacate the premises at the end of a fixed term agreement;
- a requirement that mortgagors give 60 days' notice instead of the current 28 day notice where there is a foreclosure or a mortgagee sale; and
- a provision that allows for an agreement of no fixed term to be terminated by the owner where the property is to be occupied by family members (90 days' notice).

Mr Speaker, this Bill makes a number of changes that will clarify the meaning of the law where ambiguity has caused confusion for tenants and owners. These amendments include:

- clarification of the meaning of 'renovated' or 'another purpose' as grounds for vacation;
- clarification of the meaning of 'function' in relation to maintenance of essential services;
- clarification of the meaning of 'repair' to ensure it includes the obligation to 'replace' to an equivalent standard in relation to maintenance; and
- making it clear that owners are responsible for replacing tap washers and tenants are responsible for replacing light globes.

Other changes include:

- a requirement that evidence of a sale agreement is provided where the ground for termination is that the property is to be sold;
- a requirement that the permission of the tenant is obtained before photographs can be published that identify the tenant or any of the tenant's goods;
- the addition of penalties where these did not previously exist;
- a requirement that when a rental property is advertised or offered for rent it must be advertised at a fixed price; and
- a provision that an agreement is terminated on the death of a tenant or where the premises are subject to a closure order that forbids human occupation under the *Public Health Act 1997*.

Mr Speaker, there are a two areas where people need a quick and low cost decision. Currently, orders for maintenance and decisions as to whether a rent increase is unreasonable are determined in the Magistrates Court. Although the court deals with these matters as efficiently as it can, there is agreement that it would be easier and less costly if these decisions were made by the Residential Tenancy Commissioner. However, if a

party disagrees with the Commissioner, there remains a right of appeal to the Magistrates Court.

Mr Speaker, although the changes that have already been mentioned are important, the most significant part of this Bill is the establishment of minimum standards for residential tenancy premises. During the consultation process, some people voiced concern that minimum standards would add to the cost of providing rental accommodation and would restrict the number of premises available.

However, it is currently possible to rent premises without hot or cold running water and without a toilet. These minimum standards are simply minimum standards for basic acceptable human habitation. The Real Estate Institute of Tasmania supports these standards and no one has suggested that there are circumstances where it would not be appropriate for these standards to be met.

The minimum standards provide that each residential tenancy premise:

- must be weatherproof and structurally sound;
- must be clean and adequately ventilated;
- must be connected to a sewer, on site waste management or other council approved toilet system;
- have hot and cold running water and be connected to an electricity system;
- must contain a separate bathroom and/or toilet;
- must have cooking facilities which include an appropriate number of hotplates and an appropriate oven.

In addition, the most important standard, particularly in Tasmania's cooler climate relates to heating. The minimum standards will require that adequate heating is installed in each premise. Adequate heating is:

- a fixed electric or gas heater;
- a heat pump; or

- a wood heater.

The minimum standards will not permit an open fireplace to be counted as adequate heating. Although it will still be possible to rent a property with an open fireplace, it will not be sufficient to comply with the standards if this is the only form of heating that is available.

Mr Speaker, one of the key stakeholders in the development of this policy is Housing Tasmania. Housing Tasmania is the state's largest single property owner and the impact of changes to the law can have a significant impact on service delivery. Nevertheless, Housing Tasmania does not believe that these minimum standards will have a significant impact on their business.

Traditionally, Public Housing has been provided by Government. However, new models of housing support are being developed where the owner of a premise is likely to be a community organisation or a private sector organisation. For this reason, the Act defines social housing in a way that captures these changes.

The Bill also recognises that some specific rules need to apply only to social housing. The specific rules include:

- an ability to give notice to vacate where tenants exceed income and asset thresholds; and
- an ability to relocate tenants to other properties where the property is not fully occupied (e.g. a couple occupying a 4 bedroom house) or where modifications (such as disability aids) are not required by the current occupants.

Some stakeholders have raised concerns about the application of these changes but Government resources for housing are limited and housing needs to be provided to those most in need. As a safeguard for tenants, the amendments will make provision for a Magistrate to disallow an order for vacant

possession, where vacation would result in significant financial or social hardship.

Mr Speaker, as I said at the outset, these changes are the culmination of three years of consultation. However, they are not unique changes and largely reflect similar changes that have already taken place across Australia. The process of residential tenancy law reform at a national level is an iterative process. These particular reforms are mostly catching up where we have lagged behind other jurisdictions. At other times, other jurisdictions look to adopt changes that Tasmania has made. This is the case for minimum standards where Tasmania is the first jurisdiction to introduce standards in a clear and easily accessible form. It is likely that these standards will be a benchmark for other jurisdictions to emulate.

In this context, I would to thank all of the people who have contributed to the development of this Bill. This includes the Tenants' Union, the Real Estate Institute of Tasmania, the Property Council, TasCoss, Anglicare, Housing Tasmania and many others.

I would particularly like to thank people for their patience, as clearly the process of amending legislation takes time. Mr Speaker, this is a Bill which, if passed, will modernise Tasmania's residential tenancy laws, and which strikes an appropriate balance between the rights of tenants, and the needs of property owners.

I commend this Bill to the House.