

## **FACT SHEET**

### **RESIDENTIAL TENANCY AMENDMENT BILL 2013**

The *Residential Tenancy Amendment Bill 2013* introduces a number of changes to the *Residential Tenancy Act 1997*. The changes are the culmination of three years of consultation between tenant and community groups, industry, government and the community.

The key amendments in the Bill are as follows:

- changes to notice periods;
- additional responsibilities for the Residential Tenancy Commissioner;
- clarification the existing law in relation to a number of matters;
- the establishments of minimum accommodation standards and
- creation of special rules for social housing.

#### **Changes to the Existing Law**

##### **Notice periods**

Changes to particular notice periods are intended to increase the certainty for both tenants and owners. A tenant enjoys certainty of tenure and quiet enjoyment, provided they pay the rent and do what is required under the agreement. Currently, there is certainty in a fixed term agreement because the tenant knows that the agreement ends on the expiry date. However, there is uncertainty about whether the agreement will be renewed or whether the tenant needs to start looking for a new property to rent. The property owner is currently required to give 14 days' notice that they will not renew the agreement. This means the tenant has only 14 days to find somewhere else to live. The amendments will require an owner to give 42 days' notice if they do not intend to renew the agreement.

The changes will also remove the confusion that is currently 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 28 days after the expiry date.

Also, where an agreement is not for a fixed term, there are a number of things, outside of the tenant's control, that can abruptly end the agreement. The notice periods for these matters will also be amended. For example, 60 days' notice will be required where there is foreclosure or a mortgagee sale by a mortgagor.

The changes to notice periods include:

- a requirement that owners give at least 42 days' 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).

### **Additional responsibilities for the Residential Tenancy Commissioner**

Responsibility for making orders for maintenance and making decisions about whether an increase in rent is reasonable will be transferred from the Magistrates Court to the Residential Tenancy Commissioner. This will result in quicker decisions and will reduce the cost.

### **Clarify Provisions within the Existing Law**

A number of changes will be made to clarify the meaning of some terms contained in the existing law. These changes 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 a 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*.

### **Minimum Standards**

The most significant change in this Bill is the establishment of minimum standards for residential tenancy accommodation.

It is currently possible for a property to be rented which does not have hot and cold running water and does not have a toilet. These minimum standards set a base line minimum standard for acceptable human habitation.

The minimum standards provide that each residential tenancy premises must:

- be weatherproof and structurally sound;
- be clean and adequately ventilated;
- be connected to a sewer, on site waste management or other council approved toilet system;
- have hot and cold running water;
- be connected to an electricity system;
- contain a separate bathroom and/or toilet;
- 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 the main living area of each residential tenancy premise. Adequate heating is:

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

For environmental and safety reasons, the minimum standards will not permit an open fireplace to count as adequate heating. Although it will continue to be possible to rent a property with an open fireplace, it will not be sufficient for this to be the only form of heating that is available.

### **Social Housing**

Traditionally, Public Housing has been provided by Government. However, new models of housing support are being developed where the owner of premises will be a community organisation or a private sector organisation. For this reason, the Act defines social housing to encompass these new arrangements. 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.

The amendments will make provision for a Magistrate to disallow an order for vacant possession where the vacation would result in significant financial or social hardship.