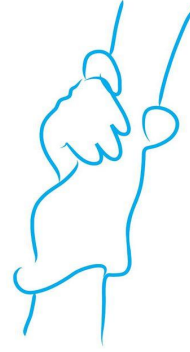


ANTI-POVERTY NETWORK SOUTH AUSTRALIA



SUBMISSION TO REVIEW OF SOUTH AUSTRALIAN *RESIDENTIAL* *TENANCY ACT 1995*

1. Introduction

Thank you for the opportunity to contribute to the current, much-needed review of South Australia's rental laws.

For the past 9 years, Anti-Poverty Network SA¹ has advocated for people directly affected by poverty, which we do from a critical and unique position: our members and supporters, who drive our work, largely are people living in poverty.

People living in poverty are more likely to be renters, and renters are more likely to be living in poverty. Renters on very low incomes experience many of the severe difficulties that renters face in the current, deeply competitive, stressful, unfair rental environment. In particular, they are highly likely to be experiencing 'housing stress' (spending more than 30% of their income on rent), or 'housing crisis' (spending more than 50 percent of their income on rent), which has a profound impact on their health and wellbeing.

The growing level of financial and personal hardship and insecurity faced by renters, especially renters living in poverty, has become a major advocacy focus for Anti-Poverty Network SA.

In September 2022, we released the results of a survey of 288 low-income renters, a snapshot of renters' experiences across a wide range of rental issues, including:

- The impact of high rents and large rent increases on renters' health and wellbeing
- Renters' difficulties keeping themselves warm during winter, and cool during the summer
- Renters' experiences as pet-owners
- Renters' relationships with landlords and real estate agents

¹ For further info about Anti-Poverty Network SA and its submission: info@apnsa.org, or 08 8451 1589, or 0402 681 352.

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We have linked to our full report, [‘Broke, Cold, Stressed’](#), but here is a summary of the key findings:

Broke:

- **78%** were experiencing 'housing stress' – spending more than 30% of income on rent.
- **44%** were experiencing 'housing crisis' – spending more than 50% of income on rent.
- **79%** said the amount of rent they paid affected how much they could spend on food.
- **68%** said high rents impacted their ability to cover medical costs.

Cold:

- **65%** said their rental did not have adequate heating or cooling.
- **74%** told us they found it difficult to afford to stay warm in winter.

Stressed:

- **1 in 3** offered to pay more than the stated bond, in order to secure a rental.
- **64%** felt they were discriminated against when searching for rentals, mostly due to receiving Centrelink payments.
- **70%** said having a pet made it either ‘much harder’ (**25%**) or ‘extremely difficult’ (**45%**) to secure a rental.

Below, we outline our views. Section 2 provides comment on matters which are not highlighted in the Discussion Paper published as part of the Review. Section 3 discusses minimum housing standards. Section 4 provides response to the questions proposed in the Discussion Paper and Section 5 is a summary statement.

1. Recommended Amendments Beyond Scope of Discussion Paper

Rent Control

“I currently pay \$370 per fortnight in rent. After our most recent rent increase, that will rise to \$430 per fortnight. My most recent rent increase was \$60 per week or \$120 per fortnight. That was after a \$35 a week increase the previous time. This means a \$95 per week increase in 13 months which is over 25% increase from what we were paying. This leaves me with \$18 a week, after rent and bills.”²

“One set of neighbours had their lease renewal withdrawn after they asked to negotiate a \$40 a week increase (they had lived there for 8 years and did all the external gardening). The husband had just had a heart attack and was medically only allowed to work 2 days a week down from full time. The wife and son were both studying full-time.”

“Our rent went up a few months back to \$250 from \$190. The house is disintegrating due to cheap fixtures, riddled with dust in the roof, completely unsealed leading to large power bills, and doesn't meet my basic access

² All quotes are from ‘Broke, Cold, Stressed’, Anti-Poverty Network SA’s results of its survey of 288 low-income renters, published in September 2022.

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needs. We can't afford anywhere else and given we are 2 pensioners we would never be accepted for another property. I know because we've been trying to move since before the pandemic."

Rents have long increased at a much faster rate than incomes, including a [20 percent increase over the last 2 years](#), an increase 7 times greater than wages, and more than double the rate of inflation.

According to [Anglicare's Rental Affordability Snapshot](#), for those on the very lowest of incomes – such as single people on JobSeeker, Youth Allowance, Parenting Payment, and Pensions – less than 1 percent of rental properties are considered affordable (in fact, the figure is infinitesimally close to zero).

Currently, landlords must give 60 days' notice of rent increases, and can only increase rent once per year. Aside from that, however, there is no limit on what that rent increase might be.

Controlling rent increases through regulation is an important and necessary strategy. Options include capping rents to inflation, and a temporary rent-freeze during periods of extreme rent rises and cost of living pressures.

Anti-Poverty Network SA is calling for the Residential Tenancy Act to be amended, to allow for the State Government to be able to regulate rent increases. Following this, we are calling for an emergency, 2-year rent-freeze to be introduced, transitioning to a rent-cap scheme where rent rises, generally, are limited to inflation.

Rent control mechanisms have been used by governments for over a century, and are currently in use in many jurisdictions. [There are dozens of models of rent regulation in place across the world.](#)

"The rents of about 3 million tenants in Sweden are set through collective bargaining between the national tenants union and rental providers. In the Netherlands, all dwellings rented out at less than roughly €740 per month are regulated, and can only be increased by inflation-plus 1 percent.

In Germany, where more households rent than own property, the rental market has been regulated for decades. In certain areas, a local authority sets a reference rent for different sized properties, and rents cannot exceed that level by more than 10 percent. The rental market in Germany, and the capital Berlin, has been heavily regulated for decades.

Ireland and Scotland have introduced regulations to cap annual rent increases at 4 percent in areas designated as "rent pressure zones", while some Canadian provinces set a rate of allowable annual rent increases."

Regulating rent increases will help create a more affordable rental market, reducing the need for renters to move, and improving their ability to maintain stable connections with the community, including school, health, and other services, as well as social connections.

The most common criticism of rent control by economists is that this regulatory approach will reduce supply. There is no clear evidence for this. It is important to note that landlords in European countries, where rent control is in place, experience steady growth. Rent control will also have a cooling effect on speculative buying of properties, which has driven up housing prices, and further increased the cost of rent.

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Besides, for landlords, the taxation system is geared to support any losses experienced in maintaining, renting, and investing in property.

Regulation to control rents through rent-capping is a realistic way of managing the current economic position facing many South Australians in the housing market.

However, it is worth noting that this type of regulation needs to be part of a more comprehensive housing strategy, including policy to increase public and social housing stock.

Costs of Moving

A key concern and financial burden for renters is the costs associated with moving. We recommend that landlords be required to share the costs of moving.

In NSW there has been consideration given to changing tenancy laws regarding 'no grounds' eviction provisions. The [Tenants Union of NSW has put forward 3 strategies](#): expanding the list of 'reasonable grounds' for ending a tenancy; requiring rental providers to cover basic moving costs for the household where a renting household is evicted for reasons other than breach; and establishing higher fees for applications for eviction.

Renters move more frequently than owner occupied dwellers and moving is stressful and costly. There are significant moves across Australia to seek support for moving costs from landlords across a number of jurisdictions. [Better Renting](#) provide information and resources regarding this matter, identifying that the costs of moving can include:

- *Moving costs like paying movers or hiring a van,*
- *End of lease cleaning costs, which might include carpet cleaning or fumigation,*
- *Disconnecting/reconnecting utilities, including potential fees for breaking a contract,*
- *Having to take time away from paid work, or use up leave*
- *The cost of paying rent at a new property while still paying rent at an old property,*
- *Buying takeaway food because a kitchen isn't available,*
- *Paying a new bond while waiting for a refund of the old bond, (also: likely to face some deduction of their old bond)*
- *Potentially paying storage costs in between tenancies*
- *Potentially paying costs for short-term accommodation while looking for a new long-term rental.*

Anti-Poverty Network SA recommends that changes to the tenancy laws include disincentives for landlords to make unnecessary, frivolous, or retaliatory evictions, and that renters' moving costs are compensated, where tenancy is ended early. Relatedly, later on, we also advocate for an end to no-cause evictions, and for landlords to be required to provide a prescribed reason for termination of a fixed term tenancy agreement.

Security of Tenure

To ensure renters are able to make effective decisions about undertaking a lease, they must be given information about the landlord's expectations regarding the property. For example, it is important for renters to know if and when a property is likely to be put on the market for sale, or be significantly renovated.

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Open inspections are intrusive on the lives of renters. [In Victoria](#), the notice period that agents or landlords must give renters before sales inspections has been increased, and agents or landlords must pay renters compensation for sales inspections.

This approach provides renters with both warning of impending inspections, and compensation for the effort required to prepare property and vacate during inspection.

Anti-Poverty Network SA recommends that greater transparency regarding potential sale of properties and fair warning of open inspection and compensation for inconvenience be included in the revised Residential Tenancy Act.

Support for Sustaining Tenancies

Homelessness due to rent in arrears, where renters experience personal crisis, or other unforeseen changes in life circumstances, is a catastrophic outcome for people already under stress.

The human cost of homelessness to individuals and ultimately the financial cost of reversing this for the state is significant.

Where renters are experiencing hardship to sustain their tenancies, [support options should be made available to ensure that renters are able to retain safe and secure housing while recovering from adverse life situations](#).

Anti-Poverty Network SA recommends that the Residential Tenancy Act be amended to include a mechanism and appropriate funding instrument to support renters at risk of eviction due to adverse life circumstances, thereby sustaining tenancy for vulnerable people.

Discrimination, Access to Information

Discrimination on a range of grounds is an experience frequently and strongly voiced by people who are seeking rental accommodation. To support renters and to harmonise with existing anti-discrimination legislation renters must be given information about unlawful discrimination (see also, section below, *Enshrining Advocacy*).

This is a requirement already in legislation within Victoria. We recommend that information about the legal rights of tenants regarding discrimination is required within the South Australian jurisdiction.

Anti-Poverty Network SA advocates for the inclusion of information about the legal rights of tenants regarding discrimination to be made available to all persons seeking rental accommodation, through Consumer and Business Affairs.

Enshrining Advocacy

Renters should have access to sound advice, support, and representation, both individually and collectively, to ensure that South Australia is able to provide and maintain safe, socially-just housing for renters.

The current Act does not specifically require the Commissioner to have a stakeholder advisory body or engagement strategy. We suggest that this should be added to the Commissioner's functions and should

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include the involvement of organisations and individuals representing the interests of renters.

We believe advocacy support and resources for renters should be enshrined in the Residential Tenancy Act itself, to ensure that the ability of renters to self-advocate receives the maximum degree of protection from the whims of the government of the day. Advocacy services are supported in other jurisdictions within Australia, for example, [NSW TAAP](#) ('Tenants Advice and Advocacy Program'), and [Tenants Victoria](#).

We believe landlords should be required to provide renters with an Information Statement, at the start of their tenancy, and upon renewal of their tenancy.

This Information Statement should be produced by Consumer and Business Affairs, be made available in a wide variety of languages, and should clearly outline tenants' fundamental legal rights, including regarding how a tenancy can be ended by the tenant; how they can exercise those rights; and where tenants can seek independent legal advice.

Anti-Poverty Network SA recommends that the Act is amended so that the government resourcing³ is made available to support the mandatory provision of information renters about their rights, along with independent, systemic and individual advocacy, by renter-based organisations.

Additionally, we recommend that the Commissioner's role should include the engagement of organisations and individuals representing the interests of renters in a two way process of information exchange to support sound and fair decision making processes.

Consumer and Business Affairs (CBA) and SA Civil and Administrative Tribunal (SACAT)⁴

The current Act specifies that the Residential Tenancies Fund is to be administered by the Commissioner of the CBA and be available to fund the CBA and the SACAT. In [Queensland](#), it is recognised that this is problematic in a low or variable interest rate environment. For good administration, the CBA and SACAT need funding guarantees.

In addition, in a resource constrained environment, the current arrangement in the Act where the Commissioner administers the Fund seemingly risks the Commissioner putting the interests of the CBA ahead of additional initiatives sought by renters.

Arguably, it also seems unfair that renters are collectively bearing the financial burden for the CBA and the operation of SACAT. As renters are the least powerful in the landlord-tenant relationship, they arguably have less capacity to seek and achieve remedy through SACAT.

Application of income from the Residential Tenancies Fund, as specified in the Act, should be amended to specify that Fund income should be applied for: (a) engagement and advisory processes which include renters, their advocates and other stakeholders; and (b) system advocacy and increased individual advocacy for renters.

³ For example, this could be resourced through the interest on rental bonds held by the SA Housing Authority. There are certainly precedents for this. In NSW, there is TAAP. The NSW TAAP program is managed through NSW Fair Trading, the equivalent of CBS in the state of New South Wales. The program comprises grants to not-for-profit tenancy advocacy services funded by the interest accrued on monies held by the New South Wales Rental Bond Board.

⁴ These comments are based on comments by Julie Conway in her submission, which we strongly agree with.

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In addition, the wording of the current Section 101 (1) (e) should place renters/residents first in the sentence.

The current order of words which lists benefits to landlords first fails to recognise that the Fund is solely financed by renters.

There is clearly the need for increased transparency and accountability in reporting on the Residential Tenancies Fund and better adherence to the Act's current reporting requirements.

The Act reads as follows:

10—Annual report

- 1) *The Commissioner must, on or before 31 October in each year, prepare and forward to the Minister a report on the administration of this Act for the year ending on the preceding 30 June.*
- 2) *The report must include a report on the administration of the Fund.*
- 3) *The Minister must, within six sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.*

However, the [Attorney General Annual Report 2021-22](#) indicates that current reporting on the Fund has not met required timeframes and processes in the Act. The report says:

A copy of the report on the administration of the Residential Tenancies Fund will be available on the Consumer and Business Services website on or before 31 December 2022. (see p.69)

At the time of writing, the 2021-22 report was not published on the Consumer and Business Services website and the Auditor General's office also indicates that its analysis of the Commissioner's report will not be available until early 2023.

In addition, in reading the Commissioner's and Auditor General's last available report, *Residential Tenancies Fund Financial Report for the year ending 30 June 2021*, it is clear that it does not provide sufficient detail for renters to be assured that their funds are being administered for all the purposes of the Act. For this reason, it is suggested that section 10 (2) of the Act stated above be amended as follows:

- 4) *The report on the administration of the Fund must include a breakdown of expenditure by allowable purposes under the Act and include an Addendum report from renter representative organisations or their advocates on matters pertaining to the Act and its application in the preceding year.*

The idea of a renter addendum report acknowledges that the Fund is generated from renters' bond monies. Furthermore, views of Parliamentary representatives regarding the administration of the Fund should be considered annually.

Anti-Poverty Network SA recommends that this review seeks to improve Fund management practice and include the views of renter organisation and parliamentary representatives in formal annual report practice. The Commissioner should be charged with responsibility to coordinate appropriate engagement and timely release of accurate, transparent annual reporting requirements.

2. Minimum Housing Standards

“Of every home I've lived in in my whole life I have never lived somewhere with air conditioning or central heating of any kind. My last place had neither of these, and had really shit insulation. It was like living in a tent in winter and a hot box in summer.”

“In winter it is so cold I find it hard to sleep at night. I give the kids all the blankets to keep them warm, but I have none left for me. I wake up several times in winter because of the cold which makes me more tired throughout the day.”

“I have to go to bed early and get up late to avoid the colder parts of the day, which affects my motivation and enjoyment of life.”

The current Discussion Paper is proposing minimum energy-efficiency standards, and renter modification provisions. We recommend that the housing standards should specify and require compliance to a broader range of standards, including heating and cooling standards (including building modifications to reduce power consumption for residents, ventilation provisions, moisture and drainage control).

The recent legislative changes in [New Zealand](#) provide clear direction regarding healthy housing standards.

Another example is the [Victorian changes to minimum standards](#), which have included rental properties being required to have a range of standard inclusions such as, fixed heater, appropriate curtains/blinds in bedrooms and living rooms. Air-conditioners in need of repair, mould, and damp issues are now treated as urgent matters requiring immediate resolution.

Recent changes within these jurisdictions provide examples of more comprehensive and coherent directions to implement modern, effective residential tenancy arrangements.

[A review by the Australian Housing and Urban Research Institute \(AHURI\)](#) indicates that the tenancy law reforms in NSW and Victoria have had very little impact on landlords and investors' decisions to invest in, or stop investing in, private rental housing.

Anti-Poverty Network SA advocates that Residential Tenancy Act include contemporary and comprehensive minimum housing standards which ensure that renters are able to live in adequate, healthy housing, and are not disadvantaged by paying high financial and health costs for inadequate, substandard accommodation.

We fully-support the recommendations outlined in [Healthy Homes For Renters' Community Blueprint](#).

3. Summary of Responses to Discussion Paper Questions

Topic	Questions In The Discussion Paper	Response
1. Longer tenancies	1a Should the RTA include a requirement for landlords to provide a prescribed reason for	Yes. There are a number of national and international examples where

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	<p>termination of fixed term tenancy agreement, and if so what should these prescribed reasons be?</p>	<p>prescribed reasons are required to terminate a periodic lease, or choose not to renew a fixed term lease, and where landlords are obligated to support renters, where early termination of lease occurs. No-cause evictions should be abolished.</p>
	<p>1b Should the RTA be amended to accommodate longer fixed term tenancy agreements?</p>	<p>Yes.</p>
	<p>1c Should the minimum notice period required prior to the non-renewal of a fixed tenancy agreement be extended to 60 days?</p>	<p>Yes.</p>
2. Residential bonds	<p>2a Should the relevant limit be increased to \$800 to allow most tenants in SA to pay a bond of more than the equivalent of 4 weeks rent?</p>	<p>Yes.</p>
	<p>2b Should the RBO be made mandatory and require additional tenant contact details upon registration to minimise unclaimed bonds?</p>	<p>Yes.</p>
	<p>Other suggestions</p>	<p>Expand eligibility for bond loans.</p>
3. Rent bidding	<p>Should landlords and land agents be prohibited from advertising a property within a rent range and putting a property up for rent auction and soliciting offers to pay an amount of rent above the advertised price?</p>	<p>Yes. But also, landlords and land agents should also be banned from accepting an offer that is greater than the advertised price. Both solicited and unsolicited rent bids should be prohibited.</p>
4. Rooming houses and shared accommodation	<p>4a Should the definition of a rooming house be amended to include rooming houses that accommodate 2 or more residents?</p>	<p>Yes.</p>
	<p>4b Should the RTA establish a registration scheme for rooming houses that have 5 or more residents and require fit and proper person checks for proprietors?</p>	<p>Yes.</p>
5. Renting with pets	<p>5a Should the RTA include the presumption that a tenant who applies to keep a pet in a rental property cannot have their request unreasonably refused, provided the tenant agrees to comply with any reasonable conditions imposed by the landlord?</p>	<p>Yes.</p>
	<p>5b Should a pet bond scheme be introduced in SA?</p>	<p>No. No case has been made for why an additional bond would be needed – for why the existing bond would be insufficient to cover any clean-up or repair costs generated by pets. A pet bond would only mean additional, unfair hardship, for low-income pet owners.</p>

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6. Housing standards and retaliatory evictions	6a Should the RTA include further complimentary provisions to those proposed under Section 1 of this paper to ensure tenants can exercise their rights without the risk of a retaliatory eviction or rent increase?	Yes.
	6b Should the RTA impose minimum energy efficiency standards in rental properties?	Yes. This requires careful consideration to reduce energy usage. For example, insulation, shading from eaves, trees, and other structures are energy-efficient whereas housing which requires constant heating and/or cooling to manage poor structural and physical design, is a serious burden on renters. Standards which are phased-in with a clear timeline to achieve good quality environmental management of properties in the long-term is supported. Band-aid measures will not be sufficient. We fully support the detailed recommendations outlined in Healthy Homes For Renters' Community Blueprint .
7. Safety modifications and minor changes	Should the RTA be amended to prevent unreasonable refusal of safety modifications and minor changes including the installation of wall anchors, child safety gates, childproof latches, wireless outdoor cameras, showerheads, and internal window coverings?	Yes. Please note the recent reforms in Victoria addressing this matter.
8. Start of tenancy requirements	8a Should the RTA require prospective tenants to use a standardised application form in any application from a rental property that has questions that restrict the amount of personal information a landlord or land agent can gather about a prospective tenant?	Yes. Please note the recent reforms in Victoria addressing this matter. This jurisdiction also maintains restrictions on what renters can be asked, for example renters cannot be asked about their bond history.
	8b Should the RTA be amended to prohibit landlords, land agents and database operators from charging a fee to a person who requests a copy of the personal information about themselves that is listed on a residential tenancy database?	Yes. We also believe that information in residential tenancy databases should be stored for no longer than 1 year – 3 years is an excessive, unfair amount of time to store personal information.
9. Domestic violence	Are further amendments required to strengthen financial protections for victims of domestic violence who are renting?	Fully-support Shelter SA's comments in their individual submission.
10. Water billing	10a Should the RTA require landlords to provide tenants with a copy of any water bill the tenant is required to pay within 30 days of receiving the water bill?	Yes.
	10b Should responsibility for the payment of the water supply fee be paid by the landlord,	Yes. Water supply to the property should be paid by the rental provider

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	as is the standard practice in the other jurisdictions?	and where maintenance of grounds is a requirement of the renter a proportion of water bill should be agreed to offset cost of garden maintenance.
	10c Should landlords have a full or partial obligation to pay the excess water charges resulting from a reported water leak that remains unrepaired, noting this would require the RTA to define how excess water charges are identified?	Yes. Renters should not be penalised for structural and repair issues which are the responsibility of the proprietor.
11. Illegal drug activity	Should landlords who know or suspect that illicit drugs have been manufactured or regularly smoked in their property be required to undertake necessary remediation before leasing the property and provide evidence of this to prospective tenants?	Fully-support Shelter SA's comments in their individual submission.
12. Third party payments	Should the RTA prohibit landlords or land agents charging tenants an additional fee to make rental payments?	Yes. Renters must be given a 'fee-free' way to pay their rent (as is the case, with the recent Victorian reforms), including by EFT, or, for renters receiving Centrelink payments, via Centrepay.
13. Modernisation of language	Should terms within the RTA be updated? If so, which terms should be revised and what should they be replaced with?	Yes. However, we do not have a strong position regarding this matter but are open to further engagement in this matter in the future. We are more interested in the intent of the Act, and how effectively renters are served by any changes made.

5. Summary

In South Australia, based on [2021 ABS data](#), over one-quarter or 27.6% of all residential dwellings were rental properties.

Rent affordability is the most critical issue facing renters nationally. For South Australia demand for rental properties is very high, resulting in average rental prices increasing by 20% over the last two years.

The Anti-Poverty Network SA wants to emphasise the urgent need for regulatory change to control rent pricing. Rent controls will help reduce speculative investor behaviour, and have an anti-inflationary impact on housing prices. Experience of countries who have adopted regulatory control of rent indicates that rental providers are still able to securely grow investment. Price-capping allows a steady more predictable housing market where rents are not determined simply by what the market can bear.

Rent-capping as part of a housing policy that includes increasing public and community housing stock to meet unprecedented demand, will also stimulate economic activity, and in the longer-term assist to de-commodify housing. This will have the effect of stabilising housing prices, minimising the adverse effect of peaks and troughs in the housing market.

Improving healthy housing standards will not only benefit renters' health and cost of living by reducing energy costs but also improve the efficiency, quality, and sustainability of housing stock in South Australia. Increased energy efficiency will also benefit the State by reducing the impact of power demands, including during extreme conditions.

Anti-Poverty Network SA supports reform which provides renters with a stable, healthy, affordable housing so that renters are able to maintain employment, ensure continuity of education and participate in their communities. This will support economic activity, reduce the burden of disadvantage created by poor mental and physical health outcomes associated with displacement, insecurity and unsafe housing options.