



Detector Inspector

Response to request for comment – RTA reforms

Review of the Residential
Tenancies Act (1995)

December 2022

Detector Inspector is delighted to provide this submission for consideration relating to the *Discussion Paper: Review of the Residential Tenancies Act (Discussion Paper)*.

For over 17 years, Detector Inspector has been partnering with real estate agencies to make homes safer for tenants and compliance simpler for thousands of property managers and their owners. We are the largest provider of residential safety and compliance services in Australia, with our 400+ strong field services team providing services to 320,000 homes each year. We have operations in South Australia, Victoria, Tasmania, NSW and Queensland.

As referenced in the Discussion Paper, in recent times, rental reforms have been initiated in all Australian jurisdictions. The objectives of those reforms relate to important ideas of tenant safety and security. They also serve to clarify the important responsibility of landlords and the agents that manage those properties on their behalf.

Detector Inspector has been a key industry participant in the implementation of services and upgrades brought about by RTA reforms in Queensland, NSW and Victoria over the past few years. As the largest provider of its type, Detector Inspector is uniquely placed to comment on the safety risks uncovered through the works that arose from those reforms.

We have focused our commentary on **Section 6: Housing Standards and retaliatory evictions**, where comments have been sought on two questions:

- 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?
- Should the RTA impose minimum energy efficiency standards in rental properties?

While we are supportive of minimum energy efficiency standards in rental properties and point to the Victorian RTA and its guidance regarding heaters as an example for the South Australian RTA to follow, we will leave others to provide further comment in this regard.

Our submission is that the more important question for consideration in any amendments to the RTA is:

- ***Should the RTA mandate the carrying out of periodic smoke alarm, electrical and gas safety checks to ensure the minimum standards for rental properties are being achieved?***

To this question, we submit a firm “yes”.

The Discussion Paper notes that there is concern that some renters “...are continuing to live in houses that do not meet the *Housing Improvement Act 2016 (HIA)* minimum standards... because they are unaware that these safety standards exist.” We respectfully submit that knowledge of the standards, whilst important, is not the key issue.

The key issue is that despite the HIA minimum standards, there are serious and potentially life threatening, but as yet undiagnosed safety and compliance issues present at rental properties throughout the state.

What is required is a regime that ensures that safety and compliance issues are identified via regular checks and that there is an obligation to rectify those issues when found. Only then can the objectives of tenant safety and security truly be achieved.

To achieve this, we submit that the following should be prescribed under the RTA:

1. The carrying out of certain safety checks at each rental property:
 - a. Annual smoke alarm checks prior to the commencement of a new lease and annually thereafter;



- b. Gas safety check by a gas fitter with Type-A servicing accreditation as soon as practicable after the commencement of a new lease or the renewal of an existing lease, to be repeated every 2 years or less; and
 - c. Electrical safety checks by an A-Grade licensed electrician as soon as practicable after the commencement of a new lease or the renewal of an existing lease, to be repeated every 2 years or less; and
2. The addition of disclosures at the start of a tenancy regarding the completion of those checks, and any safety or compliance issues raised and not rectified.

In so doing, the current regime governed by the RTA, which incorporates by reference the minimum standards from the *Housing Improvement Act 2016 (HIA)* and other requirements contained in the *Planning, Development and Infrastructure (General) Regulations 2017* can be met, resulting in an enhanced and safer environment for all South Australian renters.

The importance of mandatory safety checks

Under the HIA, minimum standards would not be met if there was defective plumbing, gas or electrical services. But while this is a worthy ideal, the question remains – how can a renter, a property manager and/or a landlord know whether or not they have defective gas or electrical services in the absence of an obvious fault? Given that some defects can be undetectable but still represent a safety hazard, how can a renter, property manager and/or landlord be confident that minimum standards are met?

One way is through regular servicing. For example, the idea that gas appliances should be serviced biennially is non-controversial and recommended by most industry bodies relating to gas safety. Failure to complete regular maintenance on gas appliances is even acknowledged as a risk on the South Australian government's own website:

“Faulty or poorly maintained gas appliances present a very high risk of causing carbon monoxide poisoning of the people in your home.

If you have a gas appliance in your home, or you are a landlord who rents out homes with indoor gas appliances, ensure they are serviced every two years to minimise the risk of faults occurring.”¹

While the HIA minimum standards may make reference to the idea that the fixtures, fittings and other facilities must not “present a health or safety hazard” and be in “good working order”, the reality is that in the absence of a mandated checking regime, many common safety hazards relating to gas and electrical appliances will go undetected and most owners will elect to do little or nothing in preventative maintenance or proactive checks unless it's legislatively required.²

In Victoria, since March 2021, a mandatory safety check regime has been in place, requiring gas and electrical safety checks every 2 years, and smoke alarm checks annually. These checks serve an important role:

- Safety confidence for the renter;
- Compliance confidence for the lessor and property manager; and
- A valuable channel for identification (and execution) of important upgrades to residential infrastructure (eg. upgraded smoke alarms, switchboards, energy efficient appliances).

And it works.

Data from our Victorian business shows that a high percentage of properties will have safety and compliance issues relating to gas and electrical services.

From a sample of 50,000 gas and electrical safety checks we completed in Victoria over the past 6 months, Detector Inspector found thousands of issues with either a gas or electrical installation, appliance or fitting:



- ~9,000 safety issues;
- ~9,000 faults; and
- ~40,000 non-compliant items.

Through the mandated checks, these issues were identified and landlords were required to rectify them to make the homes safe. Some of the faults identified posed an imminent risk to life and it can't be stressed enough that in the absence of our checks, tragedy was a distinct possibility. Less importantly, but still relevantly, the prompt identification of an issue enabled the landlord to claim the rectification under the builder's or installer's warranty.

In the absence of those safety checks, neither the renter, the property manager nor the landlord would know that renters may be at real risk due to, (for example):

- There was a crack in a heat exchanger in a gas heater that was or could imminently result in carbon monoxide leakage into the home (found in 1 in 20 homes in Victoria);
- The property suffers from negative pressure resulting in elevated risk of carbon monoxide poisoning (found in 1 in 30 homes in Victoria);
- The wiring in a home is unsafe or a safety switch has failed, resulting in the risk of fire or electrocution; or
- A smoke alarm has been installed into dead airspace or there are insufficient smoke alarms in the property.

Other important requirements

To ensure safety confidence of the renter, being informed as to the prior service dates and any safety or compliance issues identified, but not rectified is critical. In Victoria, disclosure notices must show prior service dates and renters can request a copy of any service reports in writing. Where requested, they must be provided within 7 days, resulting in clear accountability for managing agents and landlords.

Finally, an important ingredient to ensure success is to implement an audit and penalty regime to ensure that all stakeholders focus on meeting the standards of safety and compliance that are contemplated by the RTA.

Conclusion

In summary, we respectfully submit that the objectives for tenant safety at the heart of the possible RTA reforms require careful consideration of the points raised in this paper:

- Despite the existence of minimum standards, it is very likely that a high proportion of rental homes in South Australia would have safety and compliance issues today, some of which would pose an imminent risk to life;
- The industry and state governments are aligned on the importance of regular servicing and maintenance of gas and electrical appliances and most jurisdictions recognise the importance of regular smoke alarm checks;
- The introduction of mandatory smoke alarm, gas and electrical safety checks will uncover pre-existing safety and compliance issues that may represent safety hazards for tenants. Rectification of those issues will ensure that tenants are safer in their homes;
- Coupling checks with disclosure requirements for tenants and a penalty regime for those who fail to carry out the checks will maximise take up and compliance.

References:

1. <https://www.sa.gov.au/topics/energy-and-environment/using-electricity-and-gas-safely/carbon-monoxide>
2. Prior to the introduction of the mandatory requirements for gas safety checks, Detector Inspector offered biennial servicing of gas heaters. As a recommended, but voluntary service, take up was around 7% of owners.

