



**Australian Government**  
**Department of Social Services**

---

Residential Tenancies Review  
Consumer and Business Services  
GPO Box 1719  
ADELAIDE SA 5001  
[CBSReforms@sa.gov.au](mailto:CBSReforms@sa.gov.au)

**The Department of Social Services (the department's) response to the South Australian Government Discussion Paper – Review of the Residential Tenancies Act**

Thank you for the opportunity to provide feedback on the potential reforms to the Residential Tenancies Act 1995 (RTA) as outlined in the consultation paper *Review of the Residential Tenancies Act*. This submission focuses on the potential impact of the removal of the no cause eviction from the RTA on the National Rental Affordability Scheme (NRAS, or the Scheme). The department has responded only to questions relevant to NRAS.

NRAS is an Australian Government affordable housing initiative, delivered in partnership with state and territory governments. NRAS commenced in 2008, and provides an annual retrospective financial incentive for up to 10 years to housing providers (known as approved participants), to rent dwellings to eligible people on low to moderate incomes at a rate of at least 20 per cent below market rent. NRAS dwellings are not social housing — they are affordable private rental homes.

In order to comply with the *National Rental Affordability Scheme Act 2008* and the *National Rental Affordability Scheme Regulations 2020* (NRAS Regulations), approved participants must comply with residential tenancy laws in the state or territory in which the dwelling is located. Approved participants must also ensure an NRAS dwelling is rented to an eligible tenant/s in order to be eligible to receive a Commonwealth incentive and state or territory incentive or 'in kind' payment.

There are currently 17 approved participants who hold NRAS allocations in South Australia, however, the operation of Commonwealth and state or territory NRAS incentives in the marketplace means that while there are 17 approved participants in South Australia, some of these approved participants have many investors<sup>1</sup> who may also benefit from the incentives. In other cases, the approved participant is effectively the sole investor. There are a total of 2,245<sup>2</sup> NRAS dwellings located in South Australia.

---

<sup>1</sup> Approved participants pass on the NRAS incentive to an investor, who is the legal or beneficial owner of an NRAS dwelling, if they have a legal obligation to do so.

<sup>2</sup> As at 30 September 2022.

## Responses to Discussion Paper – Review of the Residential Tenancies Act

### 1. Longer Tenancies

- *Should the RTA include a requirement for landlords to provide a prescribed reason for the termination of a periodic lease or the non-renewal of a fixed term tenancy agreement, and if so, what should these prescribed reasons be?*

The department strongly supports the introduction of a termination ground based on continuing eligibility for accommodation assistance, as afforded to tenants of NRAS dwellings through reduced rents in the private rental market.

Currently, if a tenant is ineligible to reside in an NRAS dwelling, a notice to vacate is served by the approved participant or their tenancy management organisation. As required under current law in South Australia, 28 days notice is issued to the tenant if they do not renew a tenancy agreement, or 90 days notice for a periodical tenancy.

Should no cause evictions be removed from the South Australian RTA, the department expects this may impact South Australian approved participants and investors' ability to receive an NRAS incentive if a tenant no longer meets eligibility requirements under the Scheme as dwellings must be tenanted to people on low moderate incomes. This would be unless a termination ground based on continuing eligibility is introduced (please refer to **Attachment A** for detail about tenant eligibility criteria).

Under section 11 of the NRAS Regulations, no NRAS incentive is available for any period during which the dwelling is rented to a tenant who is not an eligible tenant.

Should reforms to the RTA remove the ability to evict tenants without reason, and not provide a termination ground based on continuing eligibility, the department expects this would impact NRAS approved participants and investors as follows:

- An ineligible tenant would not be able to be evicted from an NRAS dwelling.
- An ineligible tenant residing in an NRAS dwelling goes against the policy intent of the Scheme – to provide affordable rental accommodation for low-to-moderate income earners.
- Approved participants would not be eligible for an incentive payment for any period where an ineligible tenant resides in the NRAS dwelling.
- In the event an approved participant has an agreement in place with an investor to pass on all or some of the incentive payment, there may not be an incentive to pass on.
- Investors may no longer benefit from the incentive payment to help subsidise the reduced rent they are providing to NRAS tenants.
- Investors may see no benefit of participating in the Scheme if there is a possibility they would not be entitled to an incentive payment.

Approved participants must tenant dwellings to low and moderate income households at reduced rent, and in return, receive a financial incentive as long as key compliance requirements set out in the NRAS Regulations have been met. In the event they are unable to evict ineligible tenants and may not be entitled to an incentive, approved participants and investors may remove their dwellings from the Scheme and rent the dwelling through the private rental market for 100 per cent of the market value rent. This may reduce opportunities for lower income households in need of affordable rental accommodation. This may impact 2,245 affordable NRAS dwellings in South Australia. These dwellings will be ceasing participation in the Scheme between now and June 2026.

In the 2022-23 NRAS year, the department expects approximately \$25.1 million<sup>3</sup> in incentives to be paid to approved participants in South Australia. If the no cause evictions provision is removed from the RTA and a termination ground based on continuing eligibility is not introduced, this would mean that ineligible tenants would be unable to be removed from NRAS dwellings. This would negatively impact incentive payments to approved participants in South Australia.

- *Should the RTA be amended to accommodate longer fixed term tenancy agreements?*

There is nothing in the NRAS Regulations that prescribes the length of tenancy agreements.

- *Should the minimum notice period required prior to the non-renewal of a fixed term tenancy agreement be extended to 60-days?*

Under section 70 of the NRAS Regulations, a minimum 90 days' notice to vacate must be provided to tenants where the 10 year incentive period is ending to enable tenants to source alternate accommodation. The proposed 60 days notice for the non-renewal of a fixed term tenancy is not in conflict with the minimum notice requirements of the NRAS Regulations.

## **8. Start of tenancy requirements**

- *Should the RTA require prospective tenants to use a standardised application form in any application for a rental property that has questions that restrict the amount of personal information a landlord or land agent can gather about a prospective tenant?*

Under the NRAS Regulations, in order to be eligible to receive an incentive, approved participants must be able to demonstrate the tenant/s meet household income eligibility requirements as set out in the NRAS Household Income Limits. This is conducted through a tenant demographic assessment - NRAS - Tenant consent form.

---

<sup>3</sup> This figure is calculated based on the number of active allocations in South Australia (2,245) multiplied by the 2022-23 NRAS combined incentives (Commonwealth \$8,376.42 & State \$2,792.14) of \$11,168.56. The calculation only serves to quantify the total potential incentives impacted, but is not intended to be considered actual impact of this issue.

Should amendments to the RTA result in a standardised form, the department seeks the inclusion of some key personal information including: tenant/s income (and supporting evidence), household demographics ie number of adults and children and whether the tenants are a couple or sole parents. Should the suggestion to include this information not be supported, the department requests provision in the RTA which will allow approved participants to request additional information from tenants to assess tenant eligibility for NRAS purposes.

## **Conclusion**

Where governments seek to provide access to affordable rental housing by offering financial incentives, certain eligibility criteria must be met by tenants to meet the objective of reducing rental costs for low to moderate income households (as is the case under NRAS). Where a tenant no longer meets the eligibility criteria of the government funded scheme, there needs to be a provision in the relevant residential tenancies legislation for the removal of ineligible tenants from a dwelling. This will allow persons or entities involved in the government funded scheme the ability to evict ineligible tenants and remain eligible to receive government incentives, while importantly ensuring dwellings are tenanted as intended.

If the RTA does not allow for the provision of eviction of ineligible NRAS tenants, approved participants and investors in this situation, by complying with South Australian tenancy laws, would not be entitled for a full NRAS incentive. This would likely lead to a reduction of NRAS dwellings remaining in the scheme and through this reduce opportunities for lower income households in need of affordable rental accommodation.

Thank you for the opportunity to provide input into the potential reforms to the RTA.

If you wish to discuss any of the comments made in this submission please reply in writing at [nras@dss.gov.au](mailto:nras@dss.gov.au)

Yours Sincerely



Robert Stedman  
Branch Manager  
Housing and Homelessness Program Delivery  
Department of Social Services

15 December 2022

## Attachment A – NRAS Background

The National Rental Affordability Scheme (NRAS, or the Scheme) is an Australian Government affordable housing initiative, delivered in partnership with state and territory governments. NRAS commenced in 2008, and provides an annual retrospective financial incentive for up to 10 years to housing providers (known as approved participants), to rent dwellings to eligible people on low to moderate incomes at a rate of at least 20 per cent below market rent. NRAS will continue until June 2026 when the 10 year incentive period ceases.

The organisations participating in the Scheme are known under NRAS legislation as approved participants. Approved participants are involved in managing NRAS properties, liaising with the Department of Social Services (the department) and ensuring compliance with the Scheme. Approved participants receive an annual financial incentive provided they meet the regulatory requirements of the Scheme.

In order to comply with National Rental Affordability Scheme Regulations 2020, rental property providers must ensure an NRAS dwelling is rented to eligible tenants. Approved participants ensure an NRAS dwelling is rented to eligible tenants through the collection and assessment of income documentation and tenant information via the Tenant Consent Form. NRAS tenants are required to meet gross household income limits in order to be considered eligible tenants, current income thresholds can be found at [DSS - NRAS – Household Income \(indexation\)](#). The department provides guidance on its treatment of income for the purposes of NRAS at [DSS – NRAS Income Definition](#).

An ineligible NRAS tenant consists of an:

- Existing tenant who has exceeded the NRAS income limit by 25 per cent or more in two consecutive eligibility years. An eligibility year is the 12 month period beginning on the anniversary of the start of the tenancy.
- Existing tenant who fails to supply required documentation (for example bank statements or pay slips to support evidence of income), therefore, meaning the approved participant is unable to verify tenant eligibility.
- Additional tenant who enters an NRAS dwelling and does not meet the eligibility criteria, meaning the entire household becomes ineligible.
- Additional tenant who enters an NRAS dwelling and fails to supply the required documentation meaning the approved participant is unable to verify eligibility.

### **Incentive Value for the 2022-23 NRAS year (indexed every year in line with Consumer Price Index. Rents Component — weighted average of eight capital cities)**

<b>2022-23 NRAS Year</b>	
<b>Contributed by</b>	<b>Amount</b>
Australian Government	\$8,376.42
State/Territory	\$2,792.14
<b>Total</b>	<b>\$11,168.56</b>

## Attachment A – NRAS Background

### South Australian approved participants

As at 30 September 2022, there are 17 approved participants holding 2,245 NRAS allocations in South Australia (SA).

NRAS allocation held by SA approved participants by year ceasing.

Approved participant	2022	2023	2024	2025	2026	Total
Adelaide Benevolent & Strangers' Friend Society Incorporated		42	15			57
Adelaide Workers' Homes Incorporated	3	84	11	1		99
Affordable Management Corporation Pty Ltd		64	1			65
Anglicare SA Incorporated	15		4	23		42
Australian Affordable Housing Securities Limited	25	184	146	5		360
City of Adelaide			20			20
Community Housing Limited			9			9
Cornerstone Housing Ltd		20	49	5		74
Housing Choices South Australia Limited	15	20	49			84
Julia Farr Housing Association Incorporated	2	16				18
Junction and Women's Housing Ltd			37			37
Minda Incorporated			27			27
National Housing Group Pty Ltd	18	82	70	1		171
Questus Funds Management Ltd			11			11
The Trustee for Affordable Housing Management Trust	40	294	566	151	2	1,053
Unity Housing Company Ltd			45	54		99
James Brown Memorial Trust Incorporation			19			19
<b>SA</b>	<b>118</b>	<b>806</b>	<b>1,079</b>	<b>240</b>	<b>2</b>	<b>2,245</b>