



Shelter SA

Submission to the Residential Tenancies Act Review 2022

Shelter SA is the peak body for housing in South Australia. Shelter SA welcomes the modernisation of rental legislation, and we are pleased to respond to the [State Government Discussion Paper](#) on the review of the Residential Tenancies Act (RTA). Below we have used a traffic light colour system to indicate which suggestions are **supported**, **not supported**, or **require clarification/additional information**. The Discussion Paper sections titled “for comment” do not cover each issue raised in the body of the paper and some additional items are listed.

If you or your organisation wishes to endorse the Shelter SA submission, you can simply send an email or letter in response to the discussion paper stating your endorsement to CBSReforms@sa.gov.au prior to the **due date for submissions on 16 December 2022**. Alternatively, you may wish to use the Shelter SA submission to inform your own (please cite accordingly). You can also use this submission to inform your responses to the [online survey](#).

To assist with transparency and accountability, Shelter SA asks Consumer and Business Services to publish the results of the Your Say consultation survey.

Shelter SA Responses to the Discussion Paper

Longer Tenancies

Supported

No cause evictions must be abolished and removed from the RTA.

Not Supported

Consideration will also be given to whether additional grounds for eviction or non-renewal of a tenancy agreement should be introduced.

There are sufficient existing reasons for lease termination provided in the RTA.

Supported

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?

Additional

The prescribed reasons must only include a breach of the tenancy agreement, sale of the property, family requiring property or major repair/renovation. There should be a system in place to check the vacancy of properties when tenants are evicted for reasons other than a breach of agreement. The [Shelter SA Moving On report \(2021\)](#) provides information about tenants being given the above reasons only to find that the properties are quickly advertised with large rent increases. The Shelter SA Moving On report for 2022 will be released at the end of November.

Supported

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

But

Only if the minimum notice period is extended to 60 days.

And

Research shows that tenants terminate leases at greater rates than landlords and land agents. This situation was particularly noticeable during 2021, when the pandemic affected employment and income, with tenants moving out of properties that became unaffordable. Longer leases should only be introduced if tenants can continue to terminate leases without being responsible for the rent for the full lease term.

Additional

Encouraging and achieving institutional investment in rental properties is needed to increase security of tenure in the private rental market, especially given the increase of landlords requiring properties for themselves, family, or sales. Institutions would not face the same fluctuations in their circumstances as individual investors who only own one or two rental properties. It is acknowledged that increasing institutional investment in rental properties is not the responsibility of Consumer and Business Services.

Supported

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

Residential Bonds

Supported

Should the relevant limit be increased to \$800 to allow most tenants in SA to pay a bond of no more than the equivalent of 4 weeks' rent?

Supported

Should the RBO be made mandatory and require additional tenant contact details upon registration to minimise unclaimed bonds?

And

The average time to release bonds must be reduced through automatic return when no claim is received after a period. Consumer and Business Services should be provided with target dates and amounts to reduce the rate of unclaimed bonds.

Supported

Tenant education to improve understanding of bond claims and reduce unclaimed bonds. Consumer and Business Services should investigate how to transfer bonds between properties where there is no claim, especially for bond guarantee customers, so that tenants, especially those living on low incomes, do not require a double bond payment.

Additional

Definitions of cleanliness and wear and tear must be improved in the RTA to achieve clarity on what is required to prevent ambiguous claims and unachievable standards when it comes to exit cleaning and to distinguish between what constitutes wear and tear versus damage.

Not Supported

Alternative bond loan products that do not comply with requirements of the RTA are not supported.

Rent Bidding

Supported

Should landlords and land agents be prohibited from advertising a property within a rent range, putting a property up for rent auction and soliciting offers to pay an amount of rent above the advertised price.

And

Landlords and land agents should also be prohibited from accepting a price offered by applicants at a rate higher than the advertised rent, accepting more than two weeks rent in advance and accepting an additional bond payment. The Code of Conduct for real estate agents should be legislated.

Rooming Houses & Shared Accommodation

Not Supported

Should the definition of a rooming house be amended to include rooming houses that accommodate 2 or more residents?

Alternative

The definition should not be amended to provide protections for owners, managers, and residents.

Not Supported

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?

Alternative

All rooming houses, providing accommodation for three or more unrelated adults, must be registered, police checks and working with vulnerable people screening must be required for owners and managers. There is no evidence that increased regulation will result in the withdrawal of rooming house properties from the sector and the perceived potential for this to occur must not prevent improvements to resident legal protections. Please refer to the [Shelter SA rooming house research paper](#) and recommendations for further information.

And

The legal rights and responsibilities of lodgers and tenants living in granny flats should also be addressed by the RTA. The requirement that the granny flat tenant is a dependent of the occupants of the main house should be removed as the original intent was that granny flats were dependent on the main house for utilities not as dependent family members or blood relatives.

Renting with Pets

Supported

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?

But

Reasonable conditions must be specified in the legislation and the rental agreement.

Additional

Upon advertising vacancies landlords and land agents should be required to specify what pets are acceptable in each property in relation to the species of animal, the number of pets, the maximum size or weight of the pet, registration, training, vaccination and if the pet can be kept inside the property to reduce the possibility of interactions with South Australian Civil and Administrative Tribunal (SACAT). The pet specifications should also be included in the rental agreement.

Not Supported

Should a pet bond scheme be introduced in SA?

Shelter SA is strongly opposed to the introduction of pet bonds. There is no evidence that tenants with pets cause more damage to rental properties than tenants without pets. There is no evidence that pet bonds will increase the number of pets permitted in private rental properties. Four weeks rent should be sufficient to address minor wear and tear or damages. Additionally, low-income renters cannot afford another charge to secure a home and a pet bond would negatively impact rental affordability. Read the Shelter SA [Positive Pet Policy](#) document.



Housing Standards & Retaliatory Evictions

Supported

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?

Additional

The Housing Safety Authority and Consumer and Business Services must work together to raise consumer awareness, particularly among vulnerable and low-income renters, about the safety standards and the services available to enforce them.

Supported

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

There is no evidence that introducing minimum energy efficiency standards will reduce rental supply. If some owners decided to sell their properties, this could add to the supply of housing available for purchase for owner occupiers or other investors. If public housing and community housing are included in a requirement for minimum energy standards, this must be financially supported by State Government, without sacrificing the net supply of social housing.

Not Supported

An early measure of requiring new appliances installed in rental properties to meet energy efficiency standards is not supported. If this measure is included in the RTA the term “new appliances” is too vague and must be better defined to reflect energy efficient heating and cooling. There is little point however in requiring energy efficient heating and cooling if homes do not have adequate window and door seals or sufficient insulation. Ceiling insulation and energy efficient heating and cooling should be the focus of any new requirements with a mandate to advertise the energy rating of the properties.

Safety Modifications & Minor Changes

Supported

Should the RTA be amended to prevent the 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?

Start of Tenancy Requirements

Supported

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?

Additional

Copies of identification documents should be cited, but not stored, to prevent data breaches and identity theft.

Supported

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?

Additional

Information, remedies, and timeframes for the removal of tenants from residential tenancy databases must be more closely monitored and enforced.

Domestic Violence Provisions

Supported

Are further amendments required to strengthen financial protections for victims of DV who are renting?

Additional

Victims of domestic violence who leave a private rental should have their portion of the bond returned to them in full. Improving housing security for older women will be assisted by changes to no cause evictions, non-renewal of leases without a breach and extending the notice required for the non-renewal of a lease to 60 days (as above).

Water Billing

Supported

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?

But

Tenants should be water customers in their own right, so that they receive a bill for water usage, may directly access hardship assistance and interact with Water SA without requiring consent from landlords.

Supported

Should responsibility for the payment of the water supply fee be paid by the landlord, as is the standard practice in other jurisdictions?

Supported

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?

But

Landlords should have a full obligation to pay excess water charges resulting from a reported water leak that remains unrepaired. Landlords can arrange landlord insurance that covers water charges resulting from leaks if they choose.

Illegal Drug Activity

Supported

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?

Additional

If tenants know or suspect that illicit drugs have been manufactured or regularly smoked in their property, and notify their landlord or land agent, landlords should be responsible for paying for testing and if contamination is found, for remediating contamination, including alternative accommodation and storage of furniture and belongings. If tenant belongings are contaminated, compensation should be available for their replacement or remediation. Reputable testing and remediation services are required.

Third Party Payments

Supported

Should the RTA prohibit landlords or land agents charging tenants an additional fee to make rental payments, whether this is directly or indirectly by passing on costs from third parties engaged by the landlord or land agent to facilitate payment?

Additional

In addition to requiring one method of payment that does not incur a cost to the tenant, the RTA should be altered to require one free in person payment method (Australia Post) and one free online payment method, to tenants.

Modernisation of Language

Not Supported

Should terms within the RTA be updated? If so, which terms should be revised and what should they be replaced with?

But

The modernisation of language is not an important detail however replacing tenancy agreements with rental agreements is supported, reflecting that the agreements contain rights and responsibilities for both parties.

And

The term rooming house owners should not be replaced with rooming house operators as the RTA needs to distinguish between owners or proprietors and those who manage the rooming houses, who in some circumstances are also residents, who are asked to undertake daily management responsibilities and in effect, enforce the RTA.

Issues Not Covered in the Discussion Paper

The discussion paper does not cover every legal issue as it is experienced by landlords, land agents and tenants. Below are three additional issues that require attention.

Systemic Advocacy

The issue of the lack of State Government funded systemic housing and renting advocacy is not addressed in the Discussion Paper. Every State and Territory in Australia has a tenant union, except South Australia, funded through the interest earned on residential tenancy bonds. These funds, together with bonds that are unclaimed after a period, rightly belong to tenants and should be used to benefit tenants through education and systemic housing advocacy.

Shelter SA is recognised as the South Australian member of the National Association of Tenant Unions, the peak body for tenant unions, with a long history and body of work in this space, would be well placed to take up the policy and advocacy role. The services of Rent Right SA and Consumer and Business Services would complement the policy, legislative and systemic advocacy that Shelter SA has undertaken since 1977. Modernisation of the RTA is welcome however it does not ensure, of itself, access to legal rights for vulnerable South Australians and systemic advocacy must be improved if State Government is serious about improving the private rental system.

Rent Increases

The amount that rents may be increased, and the frequency of rent increases must be included in the RTA to prevent the future occurrences of unreasonable rent increases that we have seen since the commencement of the pandemic. Tenant education is required to increase access to SACAT, to challenge unreasonable rent increases, without fear of eviction or the non-renewal of leases.

Rent controls have been introduced in Australia in the past, in times of social and economic insecurity. If governments are not willing to consider introducing rent controls again, rent increase guidelines must be included in the RTA.

Commissioner for Residential Tenancies

With respect for the current role of Consumer and Business Services, Shelter SA would like to see a new commission and a commissioner role created to reflect the growing proportion of the population who are locked out of home ownership and have no other housing option than the private rental market. South Australia should follow the Victorian Government's example and create a Commissioner for Residential Tenancies with a mandate to focus on ensuring the private rental system is fair and equitable to both landlords and tenants.



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