

# SUBMISSION

TO | **Consumer and Business Services**

TOPIC | ***Residential Tenancies Act Review***  
**Discussion Paper**

DATE | **15 December 2022**

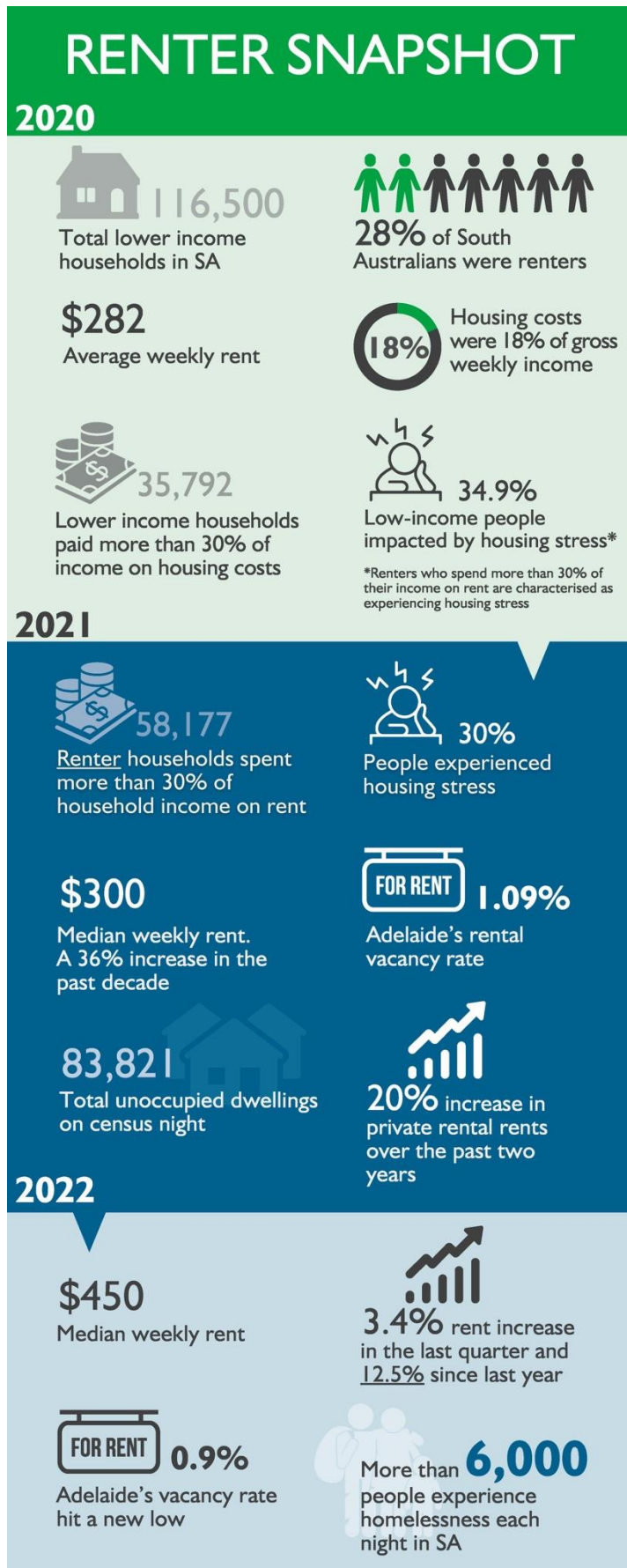
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## Renter snapshot: Quick facts



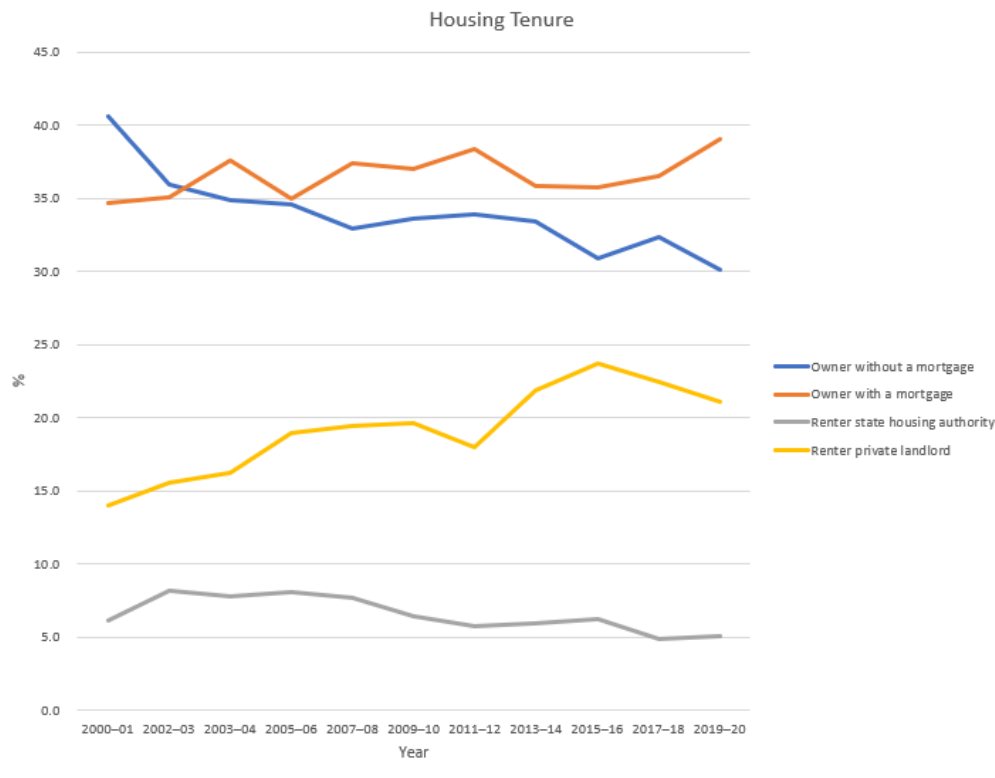


Figure 1: Trends in home ownership and renting in SA based on ABS data

## Executive summary

- [30 per cent](#) of Australians are private sector renters and this is projected to rise significantly as homeownership becomes tougher and a less favourable option.
- Housing is an essential service and insecure housing has overall negative impacts on a person's physical and mental health, and social life. Access to a safe, secure and stable home is necessary for having a good life.
- Research illustrates the significant impact poor housing can have on health. It is widely acknowledged that often the [poorest people live in the unhealthiest housing](#), increasing the likelihood of negative health impacts. Housing tenure is also directly linked to mental health and unstable housing contributes to declining mental health.<sup>1</sup> This can result in increased spending by governments on public and mental health services as the worsening rental market impacts more South Australians.
- 70 per cent of clients who completed an intake with our Homeless Connect service in the past quarter were experiencing housing crisis (e.g. evictions).<sup>2</sup> 34 per cent of clients who completed an intake were renters.<sup>3</sup>

<sup>1</sup> Future of renting presentation, Professor Emma Baker, slide 17.

<sup>2</sup> Specialist Homelessness Services Directly Contracted Services Report, Homeless Connect data. Homeless Connect is a service which helps connect those experiencing homeless with appropriate services.

<sup>3</sup> Specialist Homelessness Services Directly Contracted Services Report, Homeless Connect data.

- In some cases, clients referred by emergency departments cannot be released after they have been treated for their injury as they have nowhere to go. The lack of stable housing means, in rare cases, the bed cannot be freed up for someone else who might need it for a medical emergency.
- The experiences of chronic housing instability often coalesce with complex comorbidities such as disability and mental health issues, which demonstrate the link between secure housing and health. Additionally, tenancy services see repeat clients who are unable to maintain successful tenancies. Given that some clients often have young children, unstable housing creates social disruption to the child's ability to engage in education and other aspects of life.
- A fairer rental process and tenancy law reform can prevent renters from entering the homelessness sector. Legislative amendments such as abolishing 'no grounds' evictions and limiting excessive rent increases can help renters maintain their tenancy, ultimately lowering health impacts and government spending for years into the future.

It is important to consider the following statements and evidence throughout this submission:

- **Moving away from housing as an investment to housing as someone's home:** The perception of housing as an investment and the 'great Australian dream' that everyone aspires to fails to accurately represent the current reality for thousands of South Australians for whom renting is the only viable form of housing. For renters, their rental is their home. [Evidence shows](#) that renting is no longer a stepping stone on a journey to homeownership; for many people, renting is the destination and the number of people renting is set to sharply increase over the next decade. It is important to ensure that rental properties are healthy, safe, secure, and stable so renters can live a fulfilling life in their rental home.
- **Tenancy reform has no influence on rental housing supply or investor decisions:** [Research shows](#) that the existence of tenancy law reforms is of marginal importance to the decision to invest or disinvest. Research tells us that "data indicates that for those States where reform legislation has been introduced, there is [no discernible impact](#) on the supply of private rental housing."<sup>4</sup>  
Previous reform experience shows [no impact from tenancy reform legislation on reducing the supply of private rental housing](#). Research shows despite landlords making claims about selling their property, [only 17 per cent of landlords who said they would sell had done so](#). Further, there is [very little evidence](#) to suggest that investors would leave the private rental market based solely on rental reforms. The current tax breaks for investors are generous and often incentivise investors to [stay in the private rental market](#). Rental reforms should help regulate the rental market and reposition investors as housing providers with responsibilities.
- **When a landlord sells a property, it does not disappear:** Real estate representatives retell a narrative that suggests that landlords would take their properties off the private rental market if rental reforms are implemented. This argument is flawed as when a landlord sells, the property is either purchased by a renter who becomes an

<sup>4</sup> [Renting research revisited - Part 2](#), Tenants' Union of NSW.

owner-occupier (reducing dependence on private rental market) or by an investor, who would put the property back in the rental market. If a landlord sold their property, the property would remain in the housing market and the [overall supply of housing would remain the same](#). Referring to the perceived ‘mass exodus of landlords’ as “baseless scaremongering”, the former Tenants Victoria Chief Executive Mark O’Brien [said](#), “If a landlord wants to exit the rental market and sell their property, one of two things will happen. Either a home buyer will be able to purchase the property, or another investor, who realises these reforms are fair, common-sense changes will snap it up and put it back on the rental market.”

- **Evidence shows improving tenancy laws has not stopped rental investment:** After claims about tenancy law reform, investment and disinvestment were put to the statistical test, a recent [report](#) by the Australian Housing and Urban Research Institute (AHURI) found “The enactment of the Residential Tenancies Act New South Wales in 2010 appears to have had no significant effect on the number of properties entering the Sydney Private Rental Sector (i.e. investment). Exits from the sector (i.e. disinvestment) appear to have reduced after the intervention—a far cry from the ‘carnage’ prophesied by the NSW Real Estate Institute at the time.” The report confirms, “While the prospect of reforms may cause some would-be investors to pause, the analysis does not support the contention that tenancy law reforms have caused landlords to disinvest.”

In three of the four test models, residential tenancy law reform [appeared to have either no effect](#), or a beneficial effect, on landlords and their investment decisions.

- **Rents have never been set according to interest rates:** When landlords decide the amount of rent to charge, they look at the rental market. They look at how much rent is set for a similar property. As explained in an [article](#) by Better Renting, “the landlord doesn't consider their own costs. The rent is set based upon supply and demand, not landlord costs.” The dominant influence on real rents is the [vacancy rate](#). This demonstrates that the narrative of relating rent increases to increased interest rates is a weak argument.

## 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?*

We strongly support abolishing ‘no grounds’ evictions and establishing prescribed grounds for issuing a notice to vacate and for not renewing fixed term leases. A clause prohibiting retaliatory evictions should be included in the Act. Currently, renters are forced to live in unsafe and toxic rentals that negatively impact their health as they fear receiving a notice or non-renewal of their lease if they request necessary repairs. Establishing reasonable grounds would benefit both tenants and landlords.

Establishing fair grounds for evictions ensures that tenants are given reasonable and fair reasons to vacate, ultimately helping tenants maintain successful tenancies. Unstable renting conditions and termination based on unfair grounds only creates uncertainty. In so-called hot

rental markets, or conditions where alternative housing options are not easily accessible or readily available, this could place a generation of renters at risk of homelessness. This poses inherent economic and public health risks for governments and, ultimately, flow-on political risk for governing parties.

Prescribed reasons could include a breach of the tenancy agreement, sale of the property, family requiring property and major repair. In cases where the property is going to be sold, evidence should be sought as some renters have found the rental home they were asked to leave based on sale of property being readvertised for higher rent. To avoid similar cases, evidence should be sought to ensure the property is not readvertised for higher rent and complies with the intention to sell. These options are supported by AHURI's latest [report](#), which highlights, "disputes about terminations would be heard quickly by a tribunal, which would have discretion to decline to order termination in three circumstances: where the ground was breach and the tenant had remedied the breach; where (whatever the grounds) the termination was retaliatory; and where (whatever the grounds) the tenant would be in hardship."

### Case studies

“I reported the air conditioner and the main toilet for repairs and the next day I was emailed that my lease wouldn’t be renewed.”

“If I so much as asked for a minor repair such as a flyscreen or broken lock, the lease wouldn't be renewed.”

“House had major subsidence damage that continued throughout our tenancy. When it rained the gutters poured water into some rooms and through electrical fittings. Could see through some cracks in the walls to outside. Agent would not discuss any options, refused to break lease, did not seek repairs, and then did not renew lease because we were ‘difficult tenants’.”

“My lease was not renewed (without any reason). The landlord said he wanted to renovate but advertised it a week later for \$100 more per week. They put lots of pressure on me to move from the house. I'm a carer and sole single parent of two kids with autism spectrum disorder and ADHD. I needed to stay in the area I was living to retain support systems like therapists and school as my son struggles with the transition. We were lucky enough to secure community housing because private rental was just too expensive, and we got rejected for everything we applied for despite a perfect rental history and never being evicted and always having full bond returned.”

“My partner had been living in the same property in Norwood since 2017 and I moved in during 2020. We continued to live there happily for all of 2021 when the agency who managed the property informed us 3 months prior (leading up to Christmas) that we would not have our lease extended as the owners of the property were planning to sell. We struggled to find a new place to rent as we would line up with the same 60 people at every property of house that were further out from the CBD, in a poorer state yet cost more to rent. Despite both having secure jobs and no children or pets we kept getting knocked back from applications... I also found out that the new owners of the property that we rented in Norwood are now also renting it out at \$100 more per week than what we were paying.”

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

We support amendments to the Act to allow for longer fixed term leases of five years and more. Additionally, capping the break lease fee if a tenant breaks the lease prematurely as is practice in Victoria would be important to improve housing security and allowing tenants the option to move if their life or financial circumstances change. The minimum 12-months length of fixed-term agreements could be increased, noting that tenants should be given the option to terminate early without penalties.

Instead of an approach that locks tenants into longer fixed term leases, we encourage the State Government to consider more effective ways of improving rental security, such as establishing fair grounds for terminating leases.



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

We support extending the notice period of all lease terminations. Additionally, the Act should include a provision for tenants to terminate their tenancy by providing a shorter notice after they receive a notice of termination from the landlord. We support Better Renting's proposal of tenants having the option to provide four days' notice in this case. In the current unaffordable rental market, this provision would help tenants secure a rental without paying double rent (and bond). This option is fairer and more equitable than making tenants pay extra after they have been forced to vacate.

### **Caveats**

The Government's Discussion Paper says, "The real estate sector has indicated that landlords and land agents are reluctant to offer tenancies longer than 12 months due to the belief that this will give the tenant a right to lodge a caveat over the property pursuant to the Real Property Act 1886 (RPA)." To be clear, options to address policy issues should be based on data and evidence and not beliefs. Next, the Paper fails to highlight any data that suggests that tenants are indeed lodging caveats.

To address this issue, the sector needs to see data showing the number of caveats lodged by tenants recently and evidence to support the suggestion that this scenario exists. Finally, the Paper mentions that "the ability for a tenant to lodge a caveat over their landlord's property is not affected by the length of the tenancy." If the tenant can lodge a caveat anytime, say within the first month of living in a property, this provides no basis to dismiss consideration of longer leases.

We recommend considering amending Section 119 of the *Real Property Act 1886* to change the caveat provision to a longer period from one year to three years. This would make it easier for agents and landlords to offer leases longer than 12 months as any registered instrument would be subject to any unregistered lease of three years, meaning that tenants would not need to lodge a caveat for leases of three years or less.

### **Limiting excessive rent increases**

It is concerning to see that the Paper has not addressed any options to limit excessive rent increases.

Removing 'no grounds' evictions work simultaneously with limits to excessive rent increases, which has contributed to the rental crisis. We note that while rent increases are acceptable, it is the excessive increases, over a particular time period, that need to be regulated. It is important to think about this within the context of the most vulnerable in our community. For South Australians on the age pension, Youth Allowance, Disability Pension, and Job Seeker, there are [zero affordable rentals](#).

Current practice places the onus on the tenant to challenge an increase, should they believe it to be excessive. Tenants who pursue this option may place themselves at risk of having their

lease terminated or not renewed. This highlights a need for a more effective policy that prescribes the maximum limit for rent increases over a particular period of time.

In the Australian Capital Territory, the prescribed amount for rent increases is based on the rents component of the Consumer Price Index (CPI) for Canberra. The [prescribed amount](#) is 110 per cent of the percentage increase in CPI for rents. That is, a lessor can increase the rent on a property by 10 per cent more than the increase in the CPI. Tenants facing excessive rent increases — that is higher than the prescribed amount — can apply to ACAT.

Excessive rent increases place vulnerable South Australians at risk of homelessness, which is a larger fiscal problem for governments to tackle. Already, over [640,000 Australian households are in housing stress](#).

By 2040, [nearly a million will experience housing stress](#). The decisions the State Government makes now will impact future renters for years. Legislating justifiable rent increases to ensure that renters maintain their tenancies is logical and fair. Ultimately, it plays a key role in reducing housing stress on thousands of South Australians. We recommend that the Act introduce a limit for rent increases.

## Residential bonds

*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?*

Uniting Communities strongly supports bonds being standardised to four weeks rent, regardless of the weekly rent of rental properties.

While some higher income earners can afford to pay bond amounting to more than four weeks rent, the most financially stressed in our community simply cannot afford this. Further, standardising this payment to four weeks rent across all rentals would reduce confusion.

The Paper does not provide information on how this \$800 limit was calculated and reached. Further, the \$800 threshold will likely become irrelevant in the future, just as the current threshold of \$250 is irrelevant now. Bonds being standardised to four weeks rent is a more stable option.

We note that Section 61(3) of the Act provides for the relevant limit to be prescribed by regulation. The Regulation 8 of the *Residential Tenancies Regulations 2010* (the relevant regulation for the prescribed limit), however, has never been varied. This demonstrates that setting the limit by regulation has neither been effective nor utilised to date as a way of ensuring that bonds for rentals up until a certain price point, are only set at four weeks. Hence, bonds need to be standardised as four weeks rent for all rental agreements.

If there is to be a threshold, it should factor in median rent, which is approximately \$450-\$500 per week currently. The threshold could be set accordingly as double the median rent (for example, \$1,000).

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

We support a requirement for private landlords to lodge bonds through the RBO, as opposed to manual lodging. Contact details of the tenant should be included, so that the RBO is able to facilitate the return of unclaimed bonds to tenants in a timely manner.

Additionally, the average time to release bonds must be reduced through automatic return when no claim is received after a timeframe. We share Shelter SA's view that Consumer and Business Services should be provided with target dates and amounts to reduce the rate of unclaimed bonds. Improving tenant information and awareness regarding bond claims central to this reform.

Finally, we do not support alternative bond loan products that do not comply with the requirements of the Act.

### **Establish clear definitions and distinctions between 'wear and tear' and 'damage'**

The definitions of, and distinction between, 'cleanliness', 'wear and tear', and 'damage' need to be amended, to improve clarity and prevent vague interpretations. There is evidence of tenants being denied partial or full bond refunds based on vague, subjective interpretations and unrealistic standards around exit cleaning. A 'reasonable state of repair' fails to provide an objective definition and the Act should be amended to define what constitutes fair wear and tear and damage.

### **Case study**

*"I have been renting for 20 years now and have never had a problem until the house I am currently in. I have not passed nearly every inspection, having to do another inspection in a few weeks. The level of what is expected has considerably gone up and I feel I need to have my home looking like a show home. Having 3 young children, this is just unachievable as all my children also have ADHD and the mental strain inspections have on people often leads to depressive states, with the anxiety of preparing for them and the letdown of having to repeat inspections. Things I have failed inspections for: many toys in my yard, one of my children's beds was not made, etc. I am now at the end of my lease, and they will not be renewing it; it hurts to see the house up for rent again even though I have caused no damage. I have applied for over 30 rentals and been denied them all."*

### **Rent bidding**

*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?*

Landlords and agents should be prohibited from **soliciting and accepting** rent offers higher than the advertised rent.

Prohibiting soliciting alone is ineffective, as agents can still accept higher rents. With agents accepting higher rents across the state, vulnerable renters are being locked out of the market and rental affordability is worsening. Further, we support an explicit ban on advertising a rental price range, as it inherently benefits renters who can afford to offer the higher end of the range.

Housing is an essential service that should not be up for bidding. We note that as per the [Moving On report](#), at least 13 per cent of renters experienced rental bidding, this has most likely increased recently. We share Better Renting’s view that compliance around acceptance is easier to enforce, as tenants receiving a rental after making a higher offer can have their rent reset to the advertised amount, as accepting higher rents would be against the law. Additionally, an agent would have a strong disincentive to accept an inflated rent offer.

We support the recommendations proposed by Digital Rights Watch, which ensure that protections against rental bidding extend to include digital technologies and practices of third-party platforms that facilitate it. Additionally, they recommend implementing robust safeguards regarding the use of any third-party platforms, including automated decision-making systems, that use renter data to make decisions, predictions or inferences that impact individual access to housing.

### Case studies

“It was suggested we pay 3 months’ rent upfront.”

“Knowing the intense competition for rentals, I offered \$40 above the asking price. I had a perfect rental history but was rejected. The agent said I was rejected because the offered rent was more than 30% of my income (it was 32%), which is considered unfavourable by the landlord. This system is designed to fail many of us: if you don’t offer more, you are rejected. If you offer more and it is more than 30% of your income, you are rejected. What options do we have?”

“After finishing an open house rental inspection, I asked the agent what I could do to present a strong application. I was expecting him to suggest including a cover letter or a good rental ledger, but he said, ‘offer more’. I was shocked and disappointed.”

“Our experience was that if you didn't offer above the asking price, they wouldn't consider you for the property.”

“Real estate rang us and asked us to pay more because our application was favourable but someone else was offering more. Ended up paying \$440 a week instead of \$400.”

“I was asked if I could pay bond on the day with 4 weeks rent even though that would leave me with nothing.”

## Rooming houses and accommodation

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

We support Shelter SA’s view that the definition of a rooming house should not be amended to provide protections for owners, managers and residents. Rooming house residents need better protections considering this type of accommodation is highly unregulated.

*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?*

We share Shelter SA's view that stronger protections are needed for renters in rooming houses. The Act should establish a registration scheme for rooming houses with three or more residents. Please refer to the Shelter SA [submission](#) and their work on rooming house regulation for more information.

## Renting with pets

*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?*

A more suitable reform would prohibit questions about pet ownership at the application stage and prohibit blanket 'no pets' bans. This would prevent renters with pets facing discrimination at the application stage. Alternatively, the landlord should be required to provide reasonable grounds for refusal at a minimum, with the Act clearly defining what constitutes reasonable grounds to avoid subjective decision-making. The landlord can apply to the tribunal if a refusal is made, as per current practice in Victoria, ensuring the Tribunal oversees refusals and guarantees oversight and accountability.

Pets are a part of the family and bring strong social and mental health benefits to their owners. We share Better Renting's view that tenants should be entitled to fair use of their home, which includes the right to have pets. Currently, landlords can discriminate against tenants with pets when they apply for rental properties. An [analysis](#) of rental advertisements shows that many advertisements describe pets as 'not permitted,' with 34 per cent indicating that pets would be a liability for a potential applicant. In a rental market that is largely unaffordable and competitive, tenants with pets are even less likely to find a rental property, leading to the surrender of the pet or homelessness. During the 2020-21 financial year, [374 animals were surrendered](#) to the RSPCA after their owners were unable to secure rentals that allowed pets.<sup>5</sup> RSPCA has witnessed a growing trend, with 115 more animals surrendered in 2021 compared to 2018.

The lack of legislative protections allows landlords to arbitrarily refuse consent for a pet once people have moved into a property. This makes it hard for women escaping domestic violence, as they are more likely to remain in abusive homes if they cannot take their pet with them. This can create potentially life-threatening situations. Victims of family violence [report](#) they often remain in abusive relationships because they do not want to leave their pet with the abuser and cannot find new housing where animals are accepted.

Over the last two years, [Victoria](#), [Northern Territory](#), [Queensland](#), and the [ACT](#) have reformed laws to make the rental market fairer and more inclusive for renters with pets.

In Queensland, blanket pet prohibitions are no longer permissible. A tenant must seek consent for a pet, but the landlord can no longer refuse and cannot advertise properties with a no-pets caveat. Landlords are only allowed to say no to a pet request if they can establish one of the [prescribed grounds](#) available. In the Northern Territory, if the landlord does not

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<sup>5</sup> 60 per cent of animals surrendered were cats and 20 per cent were dogs.

agree for a tenant to keep a pet on the premises, they must within 14 days of receiving a tenant's written proposal for a new pet, give the tenant written notice of the objection and the reason and within those 14 days make an application to the tribunal. If a landlord does not make an application to the tribunal within 14 days of receiving the tenant's written notice proposing a pet, the tenant may keep the proposed pet on the premises.

In Victoria, rental providers must have a good reason to refuse the renter's request. Rental providers can apply to VCAT for an order to refuse permission. A rental provider has [14 days](#), commencing the day after they receive the pet request form, to make a decision.

*Should a pet bond scheme be introduced in SA?*

We strongly oppose a pet bond scheme being introduced.

Imposing a pet bond would disproportionately affect vulnerable renters in our community, including low-income renters and women escaping domestic violence. The current bond amount is more than enough to cover any damage caused by a pet as it covers both wear and tear costs and potential wilful or negligent damage. Introducing pet bonds would negatively impact renters who are already renting with pets as they would have to make an additional bond payment, even though they have secured permission to rent with pets.

Given the Paper consistently highlights the need to consider impacts on rental affordability, we note that pet bonds would severely reduce affordability and, ultimately, would be taking a step backwards.

Overall, reform in this area would bring South Australia into line with other jurisdictions, where there has been significant reform surrounding renting with pets.

### Case studies

“I had both of my pets put to sleep as I was unable to find accommodation.”

“I had to leave my pets when I left DV (domestic violence).”

“We had a beautiful old cat and there were hardly any rentals available that allowed pets. It's really sad because pets are such an enriching part of life, but, if you want somewhere to live you often have to give that up.”

“My cat was to help my health, I am not well... And not able to do well without them... Having to lose them to be homed frightens me.”

“We didn't want to lie about our cat, but having a pet made it extremely hard to find a rental. Most places didn't allow any animals. I had to have my cat stay with my sister for two months while we were in temporary accommodation in between leases”.

“Having a pet makes it incredibly difficult and we have been temporarily homeless previously for a month while we waited to be accepted for a property”.

“One cat.... Roughly 59% of advertised rentals (when we were looking) stated ‘no pets’.”

“I live alone, and my rent went up \$30 this year and I have been told it will go up another \$50 next year. I have a dog, so options are extremely limited. The owners own the home outright, so it seems to be a situation of capitalising on the increase in rent. I have lived in the property for almost 15 years. The increase is very hard to wear on just one income.”

## Housing standards and retaliatory evictions

*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?*

We support including specific provisions in the Act to ensure tenants can reasonably exercise their rights without facing a retaliatory eviction or rent increase. To be very clear, prohibiting retaliatory evictions and rent increases is fundamental to improving housing security.

Currently, many tenants are living in unsafe and unhealthy housing conditions due to fear of retaliatory evictions. As proposed in Section 1, removing ‘no grounds’ evictions and prescribing fair grounds would effectively prevent retaliatory evictions.

Introducing a monetary penalty payable by landlords or agents who issue retaliatory evictions would actively disincentivise this practice. As mentioned, it is important to establish limits on rent increases so that tenants do not face a retaliatory rent increase for reporting a repair or maintenance issue in their rental home.

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

We strongly support a requirement to adopt minimum energy efficiency standards in all rentals, over a prescribed, staged timeframe. Housing is an essential service and landlords providing this service should be required to ensure their properties meet basic liveability and energy efficiency standards.

There is deep concern about the lack of proactive options to address the health and wellbeing of renters regarding minimum standards in the Government's Paper. The proposed option does not actively address the issues renters face because of living in inefficient properties. Further, given electricity prices are projected to increase [more than 50 per cent](#) over the next few years, minimum energy efficiency standards can be an important tool for the government to help financially stressed people reduce their bills. Minimum efficiency standards serve two main purposes, they reduce negative health impacts, which ultimately reduces public health spending, and simultaneously reduce bills and emissions, which is a key policy focus for the State Government.

Poorly insulated rental homes have a [major impact](#) on energy usage and on the health of tenants. Every year, [10,000 Australians die of causes attributable to the cold](#). In addition to helping people lead a better quality of life, minimum energy efficiency standards can be an economic benefit to governments. The New Zealand government's trials showed large health benefits from retrofits. The *Warm Up NZ: Heat Smart* program delivered benefits [four times greater than the cost](#).<sup>6</sup> An assessment of the program concludes, "net benefits to New Zealand are calculated to be worth NZ\$1.3 billion over the expected lifetime of measures delivered under the programme. [99 per cent](#) of the measured net benefit is from improved health resulting from warmer, drier conditions after insulation is installed."

Minimum standards also help renters reduce bills. Victoria's new heating standard is expected to [save renters over \\$30 million dollars a year](#) and effective minimum standards in insulation can potentially save individual households an additional \$1000 every year. Per Victoria's new rules, all rental homes must have at least a 2-Star rated heater and new apartment buildings seeking to operate an embedded network must [use 100 per cent renewable electricity](#) and generate at least five per cent from on-site renewable energy such as solar or geothermal by 2023. There is a requirement for a fixed heater complying with a minimum energy efficiency rating in the main living area. Additionally, landlords cannot refuse a reasonable request by tenants to make minor modifications to the property to improve insulation or reduce energy and water usage.

In the ACT, rentals will soon have to be fitted with [ceiling insulation that meets the standards of new builds](#). Overall, there is overwhelming evidence of the multifaceted health, environmental, and financial benefits of minimum energy efficiency standards.

We support the [Community Sector Blueprint](#) developed through the 'Healthy Homes for Renters' collaboration and encourage the State Government to review and implement the blueprint in South Australia. This could include requiring specific features, such as efficient

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<sup>6</sup> The program delivered 241,000 insulation retrofits to low-income households.



heaters or ceiling insulation, with the goal of adopting a modelled-performance standard that requires properties to achieve a minimum rating.

### **Establish timeframes for repairs and maintenance issues**

We strongly support defining ‘urgent’ and ‘non-urgent’ repairs and establishing timeframes in the Act for landlords to fix maintenance issues. Several renters are putting up with unsafe properties for too long. Timeframes are an effective tool to ensure compliance. The Act could include an exception where the landlord can demonstrate that genuine attempts to contract and complete the repair works have been made, before the statutory required timeframe.

The Victorian legislation defines the types of [‘urgent’ repairs](#) and the obligations of landlords and agents while addressing repair requests. Renters have rights if the landlord does not make non-urgent repairs within 14 days of the date of the written request. Renters can ask Consumer Affairs to do a [repairs inspection](#) so they can get a report directing the landlord to make the repairs. A similar provision should be created for renters, so they can contact CBS to conduct a repairs inspection if the landlord has failed to address repairs within the prescribed timeframe.

We note that a recent [report](#) by AHURI shows evidence that rental reform has had no impact on rental investment and supply. This debunks the suggestion that legislating on minimum standards may lead to reduced rental supply. Instead, it is worthy of note that the primary aim of reform is to ensure the most vulnerable in our community are protected and, in this case, low-income renters in poor housing are in urgent need of protections.

#### **Case studies: Health impacts due to poor energy efficiency**

“I’m at my wits end. I live in a place that has leaks. Water damage in the roof and the ceiling in the front doorway. It’s so bad it looks like it’s going to cave in. My room is damp and cold and mouldy. I can’t breathe and keep coughing. But the landlord won’t do anything about it.”

“I have pre-existing health conditions. So does my elderly Mum who lives with me now. Air conditioning is a necessity for us to be able to function. Without it, both of us could end up in hospital.”

“It’s getting down to 12c in our bedroom. It’s so cold I’m waking up coughing and wheezing with a sore throat from breathing in cold air all night.”

“I have panic attacks about the power bill. I try to avoid using the heating and feel like I have failed and made a stupid mistake when I do use it and I am going to pay for it later when I can’t afford the bill.”

“It (poor housing) affects my mental health, my chronic pain issues, and when I get sick it takes a really long time for me to recover.”

“Cold house increases stress and worry about affordability for electric heating. It reduces communal family time as we are all in bed trying to keep warm.”

“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.”

### Case studies: Retaliatory evictions and poor housing standards

“I’ve been in the same property for 6 years. Within the first few months, the French doors started breaking and needed to be repaired. The dishwasher hasn’t worked for the same time the landlord refuses to send a plumber, there are leaks in the kitchen and lounge room, and it took 4 years to get a bathroom door. The landlord will not allow solar panels or any type of pets including fish. The rent goes up every 6 months, but the maintenance stays the same with things not getting fixed. I’ve gone through all the agencies for help with no avail...I’m a disabled single dad of 5 kids who can barely afford to pay the bills. My children don’t get many presents or any family outings. I’ve expressed the suffering my children and I suffer through summer and winter but the aircon remains unfixed.”

“Waiting on maintenance for close to a year including a window that does not close. Not comfortable pushing the issue as I know I’ll just be replaced as a tenant.”

“I’ve had a broken toilet seat all year that requires specific maintenance to fix for the type of toilet that it is, I have been to the office many times to tell them and they just ‘write it down and we’ll get back to you’ over and over and over and over.”

“At the end of my previous lease, I was unable to find a new property in time and my daughter and I had to put our stuff in storage and stay with the male neighbours next door for a month. We secured a new rental that was in average condition but felt we had no choice but to accept. Cupboard doors are stripping and falling apart in the kitchen and bathroom. Kitchen bench is held together with masking tape. Dining room linoleum was not attached to the ground at all and is now super-glued. There is ducted air conditioning, security system and irrigation system that we are not permitted to use. The lights flicker, the plumbing groans. Every wall is marked, scratched, or dented. All carpets are old, stained and have a wet dog smell when cleaned. We have lived there 3 years now and the rent has been increased every year. We are too afraid to say anything in case our lease is not renewed, and we can't find somewhere to go so we just live with it all.”

“Issues such as the shower leaking were constantly ignored. But the property manager told me many times that she was putting it in the inspection reports, however, the owner decides whether to do the maintenance. The new property manager was also punctual, until they sent the Form 3, after they tried to get the bathroom mould fixed on insurance and were denied as it was an ongoing issue that already existed before I even moved in, as the wall and floorboards were already damaged at that time. After the Form 3 was sent the agency stopped responding to my requests for the hot water to be fixed, until I sent the section 68. Over the past years it was very difficult getting maintenance done as they’d always try and find excuses to avoid it”

### Safety modifications and minor changes

*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?*

We support amendments to the Act which allow tenants to make minor alterations to the property without the need to seek permission.

Installing water saving showerheads, wireless outdoor cameras and window coverings are all reasonable installations that improve the tenants' safety.

The tenant should not have to ask for permission from the landlord for minor modifications such as picture hooks, wall anchors and screws for wall mounts, as is the case in Victoria. If tenants are asked to seek landlord permission, the landlord should not be able to refuse without a valid reason. We recommend implementing this approach, with the Act clearly defining valid grounds of refusal. If the landlord refuses the request, the landlord should apply to the Tribunal to get approval. This would ensure an unbiased authority makes decisions on what constitutes a fair reason for refusal. If a tenant makes a request for consent and a landlord fails to respond within 14 days, this failure to respond should be considered implied consent.

In Victoria, the rules around minor modifications depend on the type of changes the renter wants to make, the type of rental property and the length of the rental agreement. A renter can make some modifications without permission from the landlord, including non-permanent window film for insulation, reduced heat transfer or privacy, a wireless doorbell, curtains, picture hooks or screws for wall mounts, shelves and wall anchors to secure items of furniture on all surfaces, except exposed brick or concrete walls.

In the ACT, a tenant can write to a lessor to ask for the lessor's consent to make a [special modification](#) at a rental property.<sup>7</sup> If a lessor refuses to give consent, they must apply to ACAT for approval to do so within 14 days of receiving the tenant's written request. If no application is made within this timeframe, it is considered as consent.

Amendments to the Act to allow renters to change locks without landlord permission can help domestic violence victims improve their safety in their rented home. Queensland's provisions are considered best practice and could provide a template for amendments to the Act. In Queensland, tenants have the [right to change the locks](#) at the property if they believe it is necessary to protect themselves or other occupants from domestic and family violence. Tenants do not need to ask the agent or owner for consent to do this, if they:

- Engage a qualified locksmith or tradesperson
- Provide a copy of the key or access code to the property agent or owner (unless they agree it is not necessary, or the Tribunal orders that the key not be given to the agent/owner)
- Comply with body corporate laws or by-laws applying to the property

If the tenant changes a lock due to domestic and family violence and gives the agent or owner a key for the new lock, they must not give the new key to any person other than the tenant without their agreement or a valid reason.

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<sup>7</sup> A special modification includes putting up a picture hook, installing a bathroom shelf, installations for safety or security and to improve energy efficiency.

### Frequency of inspections

We are concerned that the frequency of inspections has not been addressed in the Paper.

South Australia is the only jurisdiction where inspections can occur every four weeks, which is out of line with other jurisdictions, such as Victoria where inspections can only occur once in six months.

In NSW and Western Australia, inspections can occur [four times a year](#).

In Queensland, Northern Territory, and Tasmania, inspections can occur [once in three months](#), and in the ACT this is [twice in twelve months](#).

Furthermore, evidence shows that some landlords or agents use frequent inspections to intimidate tenants or invade their privacy.

Tenants have the right to fair use of their rental home and subjecting them to monthly inspections is, in the view of Uniting Communities, unreasonable and out of step with other jurisdictions.

We recommend amending the Act to allow for a maximum of one inspection every six months as is practice in some other jurisdictions.

### Case studies

“I have had multiple landlords conduct ‘drive by’ inspections and make me feel scared and uncomfortable to live in my home comfortably.”

“We didn't know the drive byes were the landlord when we first moved in and were concerned for our safety (thought someone was ‘casing’ the house to break). They've reported back to the agent about if we're keeping up with yard work, items in the driveway, our cat in the window who they said they didn't approve of, but our entry paperwork says otherwise. Fun!”

“Landlord arrived for a second, extra inspection on the grounds that we weren't mowing the grass often enough (we had done it once a month ourselves, and had it done professionally 2 days prior to inspection) and when he and the agent arrived a half hour early, he had extra family members with him who split off a nosed through the house out of my presence. I did take the matter up with the agency, and then with VCAT. They were told it was wrong.”

“I started calling the police every time they showed up, and the cops didn't believe me when I said we had to be given notice first, and then they had to call someone else to confirm. Then they told him to move on, then they advised that if he showed up again with no notice that they would arrest him. The landlord was also trying to make us have a final inspection before the end of the lease with no notice because he lived overseas and wanted to get a flight home sooner. And he was making threats about if we weren't out of there by then or if it wasn't clean enough, he would do XYZ. So, I had to stand up to him, letting him know that if he did show up that I would be calling the police, and that they would be arresting him for possibly for trespassing or stalking/ harassment.”

“I told the landlord that it's not okay but let them in. Because they intimidated me, and I was alone, and they were two large men and I'm a small woman.”

“Landlord turned up on the weekend, no notice and took photos. Photos taken possibly had tenants in them, wasn't asked permission or asked to move.”

“Current landlord attends property to ‘assess’, insists on meeting tradespeople or agent at the house without any notice. Had to be asked to leave after trying to insist on staying 8 hours a day while tradespeople were doing maintenance. Agent gives less than 24 hours' notice for all inspections or requested entry.”

### 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?*

We support a standardised application form that landlords and agents are required to use when seeking applications for a property.

Given the current context around personal data, the practice of collecting tenants' personal information extends beyond reasonable and is, in our view, increasingly invasive. The

application form should restrict the extent of personal information that can be sought from prospective tenants.

We share Better Renting's view that the form should be developed by Consumer and Business Services in consultation with stakeholders to highlight explicitly the details that can be collected.

Identity documents should only be cited and not stored, given the threat of data privacy breaches. Recently, real estate agency [data breaches](#) have exposed important private information, including bank details of both renters and landlords. Safeguarding data should be a priority, especially when identity documents are involved. The best solution that both avoids potential discrimination and protects tenants' data is to ask for identity documents from renters only after they have been successful in securing the property.

### **Legislating around 'license agreements' and other invalid rental agreements**

We have evidence that shows some private landlords are using non-standard rental applications and agreements with tenants. Some private landlords are offering license agreements instead of private rental agreements. We understand that a license agreement is not a valid rental agreement, and as a result, rental protections and provisions under the Act would not protect tenants who sign license agreements. As a result, tenants might be unable to access SACAT's dispute resolution function. Given the rental affordability crisis and lack of awareness, more vulnerable tenants are signing license agreements.

A case study below demonstrates the impact of these agreements on a renter:

*"My private landlord had me sign a license agreement, even though it was a rooming house (with 3 housemates and the landlord). The agreement is titled 'Boarding House Agreement' and includes provisions such as 24-hour notice for inspections, a penalty to pay interest at a rate 2 per cent above the RBA cash rate on late rent, and a 7-day notice from the landlord if there is a breach. My bond has not been lodged with the government, along with the bonds of my other housemates. No inspection sheets were provided upon moving in and I lived in fear of a rent increase or dispute, knowing I would not be able to resolve it at SACAT, as this was not a 'residential tenancy agreement'. I thought I could claim my bond from CBS, but I didn't know how I would get it as it had not been lodged in the first place. For many vulnerable renters, such as students and part-time workers, this can be a tough housing situation. The protections for renters should be extended to license agreements as well."*

We strongly recommend that the penalty for not lodging bonds within the prescribed timeframe be increased from \$5,000 to \$7,500.<sup>8</sup>

This increase is timely and will ensure a deterrent effect, considering the last time this section was reviewed was when the *Residential Tenancies (Miscellaneous) Amendment Act 2013* was passed. Alternatively, the maximum penalty could be set as high as ten times the value of the

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<sup>8</sup> As per current legislation, a person who receives an amount by way of a bond must pay the amount of the bond to the Commissioner, within the period allowed by regulation. The maximum penalty for breaching this is \$5000.

bond as an anti-avoidance mechanism, enabling tenants who have signed license agreements and other atypical rental agreements to access protections in the Act.

### Case studies about discrimination

“Once I was looking for a room to rent and the owner wrote in their reply after knowing my country of origin that they were not renting the room to Asian men as these people did not do house cleaning, only the women did it. I was extremely offended.”

“Landlord mocks us for being on Centrelink, and uses this to justify bill increase or decrease whenever he wants”

“Single woman, Single parent and sole provider of the family is often judged as incapable of ongoing stability with housing despite excellent housing records and referrals.”

“Pretty sure that 2 houses ago, we were coerced into leaving because one of the housemates hung a trans pride flag in their window. Everyone in the house was some flavour of queer. We were great tenants - always paid the rent on time, kept everything clean, did minor repairs, improved the garden, quiet, got on well with the neighbours - but, obviously out.”

“Our previous landlord said to our faces she didn't normally rent to people with mental health issues as they're unstable. If it wasn't for the fact we had a homelessness service advocate for us, we never would have gotten that property. And this was before the rental crisis.”

“I've had agents point blank say the landlord won't accept disabled applicants, I've had landlords turn nasty and accusing me of stealing from the property because of my aboriginality and kick me out.”

*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?*

We support this option as it is not equitable to solicit a fee from tenants upon request of their own personal information.

We recommend amending the Act to reduce the timeframe of tenants' personal information from three years to a maximum of twelve months as well as establishing a recourse for tenants to challenge any information they deem as false. The Act should be amended to make it mandatory to notify tenants that they are on a 'blacklist'. We observe that many tenants have no knowledge of the existence of a 'blacklist' or database and therefore should be notified.

A renter shared that after complaining to an agent about the methamphetamine contamination in their rental, the agent blacklisted them for three years. As a result, they have been unable to secure a rental home for the last two years and have been forced to couch surf. In this case, it can be considered unfair to blacklist the tenant as they did not cause any damage and merely reported contamination to the agent as required.

To avoid cases like these, we recommend that tenants be notified when their information is listed on a database. Tenants should also be afforded recourse to understand the reasons for their inclusion as well as request for its removal, if they believe they have been wrongly or unfairly listed. A mechanism to check the regular compliance of agents and landlords as well as remedies for tenants should be included in the Act.

Uniting Communities also recognises that there is a tenants database but no landlords database. Tenants are currently being charged for receiving their own information listed on this database and have no control or say in their personal information being listed. We believe this is unequitable and clearly highlights the significant power imbalance which exists between tenants and landlords.

We support the development of a landlords database that provides information about landlords and agents who are not abiding by the provisions of the Act.

## Domestic violence provisions

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

We strongly support amendments to strengthen financial protections for renters experiencing domestic violence.

The Paper mentions, “We recognise that whilst SACAT may order that the DV perpetrator is liable for more costs, where the costs owed to the landlord exceed the perpetrator’s portion of the bond, the victim is still liable up to the amount of their share of the bond.”

Domestic violence victims who break a tenancy should have their portion of the bond returned to them in full within a timeframe (e.g. four days). Given these situations are time sensitive, it is important to ensure the victim gets their bond back as soon as possible so they can find other accommodation. The Act can be strengthened to ensure victims are not liable for any unpaid rent, bills or damages caused by the perpetrator, by outlining this clearly within section 89A.

Current practice worsens the financial vulnerability of the victim and must be changed. The Act should be amended to specify that if an agent or landlord seeks to recover more than the perpetrator’s bond covers, they can take the perpetrator to the Tribunal. In many circumstances, victims are escaping violence without financial assets. Making the victim pay the additional costs out of their bond creates another barrier to escaping domestic violence.

According to [Victorian legislation](#); if the perpetrator is responsible for any unpaid rent, bills or damage, the affected person can ask the Tribunal to order that the perpetrator is liable for these costs. Furthermore, if a bond application has been made to the Tribunal, the Tribunal can make an order to protect the [victims’ share of the bond](#).

In some cases, the best option for a domestic violence victim is to [stay in their current rental home](#), even if the perpetrator knows their address. We note that section 89A of the Act references the termination of the lease based on abuse and an order requiring the landlord to enter into a new residential tenancy agreement with the applicant or co-tenant under the



terminated agreement; however, *it specifies that the victim needs to be a party to the lease in order to make an application to SACAT*. Section 89A must be amended to allow the applicant to be someone other than a tenant or co-tenant (such as the victim who has been residing at the property but whose name is not on the lease). This will ensure that the victim who is not on the tenancy agreement but living at the property can apply to SACAT.

It is worth noting that in Queensland, a person who experiences domestic and family violence in a rental property has rights under the Act, even if they are not named on the tenancy agreement. Victims who are living in the property but are not on the tenancy agreement can [apply to the Tribunal](#) for an order to be recognised as the tenant or co-tenant under the agreement instead of the person who has committed an act of domestic and family violence. [Evidence](#) of domestic and family violence includes a protection order or evidence of having applied for one.

Similarly in Victoria, a victim can [apply to the Tribunal](#) for a new rental agreement to end the existing agreement with the perpetrator's name and create a new rental agreement in the victim's name even if the victim's name is not on the existing rental agreement.<sup>9</sup> The application can be made without the consent of the rental provider or any other person who is on the rental agreement. Evidence of domestic violence includes an intervention order or an application for one. In addition, other evidence of domestic violence will be considered by the Tribunal including support letters, reports, written statements, bank statements, oral and video evidence.

As previously highlighted in the 'Renting with pets' section, the ability for landlords and agents to discriminate against renters with pets in the application stage significantly impacts victims of domestic violence. Often, women escaping violence are less likely to leave if they [cannot take their pet with them](#). Amending the Act to ensure renters with pets cannot be unreasonably refused will help women escaping violence secure a rental. Similarly, we note that allowing tenants to make safety modifications, such as changing the locks, can help victims in DV situations to protect themselves.

## Water billing

*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?*

We support the Act requiring agents and landlords to provide a tenant with the copy of the water bill *before* the tenant is required to make the payment.

However, there needs to be timeframe (for example, 30 days) within which the tenant is sent a copy of the bill. The tenant should then be provided with 60 days to make the payment.

This mechanism will ensure improved transparency regarding water billing and give tenants better visibility over their usage.

This option resolves current issues where tenants do not receive a copy of the water bill in a timely manner. The Residential Tenancies Tribunal (RTT) highlighted in a letter to the Essential

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<sup>9</sup> Victims can apply to the existing rental agreement if it is fixed-term or periodic.

Services Commission that from their perspective, “the current billing system does not work well and is a contributing factor to the volume of water disputes dealt with by the RTT. The current system creates delays in water bills being provided to tenants. Often the landlord will receive the water bill and provide the bill to an agent (if there is one), who then provides it to the tenant”.<sup>10</sup>

The Tribunal added, “in our experience, it is reasonably common for the tenant to receive no SA Water invoice at all or to receive only the front page of the invoice. It is also common for a tenant to receive no SA Water invoices until the expiry of a 12-month tenancy. The current system used by most agents for water payments and charges to be recorded on the rent record adds to the confusion”. This supports the extensive research of both Uniting Communities and SA Water.

SA Water’s research revealed that 78 per cent of tenants want to see their water usage.<sup>11</sup> The research highlighted that at least 12 per cent of tenants are charged for sewerage, which is against the law. Many tenants also do not receive a copy of the bill from the landlord and given that the onus is on the tenant to request a copy, tenants are unwilling to do so more than once as they fear a rent increase or an eviction notice.

A renter who shared their experience said, “Two years later, my old landlord has decided to dispute my bond for water bills which were sent five months late... I contacted SACAT to dispute this on 6 May and haven’t heard anything back and it’s now the start of June.”

Uniting Communities’ 2022 survey revealed that over 50 per cent of tenants did not receive an itemised invoice of their bill. To solve the issues of transparency and avoid tenants being unlawfully charged for sewerage, we recommend that the onus of sending a copy of the bill within a prescribed timeframe rests on the agent or landlord, after which the tenant has time to make the payment.

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

We support this recommendation as this will bring South Australia into line with other jurisdictions.

We note that our state is one of the only states where supply charge is passed on to tenants without any caveats, making water billing unfair and inequitable for tenants.

Supply charge is a statutory charge typically payable by the landowner. In other jurisdictions such as NSW, QLD, and Victoria, supply charge can either never be passed on to tenants or can only be passed on if the property is individually metered and meets minimum water

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<sup>10</sup> SA Water Drinking Water and Sewerage Pricing Reform Inquiry, Letter from Residential Tenancies Tribunal to Essential Services Commission South Australia, published 4 November 2013, p. 2

<sup>11</sup> Tenants as Customers Research Insights, SA Water, published 9 March 2021.

efficiency requirements, ensuring an equitable division of costs between the landlord and tenant.<sup>12</sup>

This option is supported by the Tribunal, which has stated that The Act needs to be amended to make SA's water billing system equitable and consistent with other jurisdictions.

*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?*

We are concerned about the framing of the question as it incorrectly interprets the law as it stands.

The question is not whether the landlord should assume full or partial responsibility to pay the excess water charges resulting from leaks.

As the law stands, there is agreement among landlord and tenant representatives that the landlord has unequivocal responsibility to pay all excess water charges resulting from leaks. The issue is that the wording in the Act is ambiguous and unclear about the landlord's responsibility. The word "leak" is never mentioned, and the Act merely says the landlord is responsible to maintain the property in a "reasonable state of repair". This ambiguity has resulted in several water disputes ending up at SACAT. Most water disputes can be easily resolved if the legislation is made clear and consistent.

As previously discussed with Consumer and Business Services and in our [Tenants as Water Customers](#) advocacy project, The Tribunal has raised equity considerations, citing the unfairness that can result from the current legislation, around a high water bill resulting from an undetected water leak.

"The law is that until a defect is reported to a landlord, the landlord is under no obligation to take any action to fix it. The Tribunal has received applications claiming amounts in the vicinity of \$2,000 for one quarter for water use, where a leak is detected by the tenant only after the bill is issued. As the law currently stands, the tenant must pay for all of the bill, assuming the tenancy agreement requires the tenant to pay for all water use. The landowner may apply for a rebate from SA Water. This is a matter within the landlord's discretion and regularly at the RTT the landlord has refused to make that application."<sup>13</sup>

We recommend the wording in the Act be amended for improved clarity so that there is a standard protocol for managing excess water charges resulting from leaks. The wording may

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<sup>12</sup> NSW water efficiency requirements:

- No leaking taps or toilets anywhere on the property at the start of the tenancy and whenever the other water efficiency measures are installed, repaired or upgraded
- Internal cold water taps and single mixer taps for kitchen sinks or bathroom hand basins: Maximum flow rate of 9 litres per minute
- Shower heads: Maximum flow rate of 9 litres per minute
- Dual flush toilets: From 23 March 2025: all toilets on the property are dual flush and have a minimum 3-star WELS rating

<sup>13</sup> SA Water Drinking Water and Sewerage Pricing Reform Inquiry, Letter from Residential Tenancies Tribunal to Essential Services Commission South Australia, published 4 November 2013, p. 2

take a form similar to Victorian legislation, which highlights that the rental provider is liable for the excess charge resulting from water leaks and that the tenant should be reimbursed for any reasonable costs incurred during diagnosis of the leak.

**Additional legislative amendments we strongly recommend are:**

- Establish a timeframe (e.g. seven days) for the landlord or agent to repair water leaks: This is standard practice in NSW, VIC, and QLD, where the tenant cannot be charged for the water bill for that time period after the leak has been reported until the issue has been fixed. It is unreasonable and unfair to keep tenants waiting for days before the leak is fixed, potentially risking the tenant incurring a high water bill.
- Establish minimum water efficiency standards for all rentals within a timeframe: This is standard practice in [NSW](#), [VIC](#), and [QLD](#), where a staged approach to adopting minimum water efficiency standards, for example, water saving shower heads, dual flush toilets, has been implemented.
- End all unpaid water debt evictions in the Act: Currently, tenants in financial hardship have no direct access to hardship provisions offered by SA Water as they are [not recognised as water customers](#). Given that water is an essential service and tenants are not allowed access to hardship, it is unfair to evict tenants for water debt, particularly if they are in sustained financial hardship.
- Apply these reforms to rooming houses: The Act should ensure all these reforms and amendments are also applicable to rooming house residents, ensuring that the most vulnerable tenants can benefit from reforms to water billing.

Note: We are working closely with the Department for Environment and Water and SA Water to progress legislative changes to the *Water Industry Act* to recognise tenants as water customers and improve access to hardship support and dispute resolution. We strongly recommend that Consumer and Business Services involve the ministerial office of Susan Close MP in the water billing issue, as this Review is a significant part of amending the *Water Industry Act* and the *SA Water Corporations Act* to bring relief to tenants.

## 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?*

We support this option and share Shelter SA's view that if a new tenant suspects that illicit drugs have been manufactured or regularly smoked in their rental and notify their landlord or agent, the landlord should pay for testing.

If contamination is found, the landlord should be responsible for remediating contamination, including providing alternative accommodation and storage for the tenant's furniture and belongings within a timeframe. In cases where a tenant's belongings are contaminated, compensation should be made available to them. A contaminated rental poses serious health risks for tenants and hence, the Act should clarify the landlord's obligations and establish a redressal mechanism for tenants.

We note that remediation is largely unregulated and hence, the remediation of contaminated properties needs improved regulation. We note that the relevant legislation, the *Building Work Contractors Act 1995 SA*, might need to be amended.

### Third party payments

*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?*

Uniting Communities support this proposal. Reform is needed to safeguard protections for tenants to ensure they do not incur additional costs. It is unreasonable to charge tenants a fee for making a rental payment.

The Act should prohibit landlords or agents from charging tenants any fees to make rental payments. Tenants should be provided with multiple free online (for example, Bpay or EFT) and in person options that are easily available. Requiring tenants to pay in cash, by cheque or in person is restrictive.

### Modernisation of language

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

The current terms 'landlord' and 'tenant' recognise the power relations that exist and its impact on housing as an essential service. Understanding the power imbalance is important for thinking about effective solutions. Simultaneously, we acknowledge that changing the terms to 'rental provider' and 'renter' help clarify that the rental provider is providing an essential service, which is subject to a certain quality or standard. We find merit in both these perspectives.

### Additional recommendations

- **Specialist legal service:** It would be beneficial to establish a specialist legal service for residential tenancies that provides advice and representation to people with tenancy matters, such as within the Legal Services Commission. Currently, no such central service exists even though there is a demand for it. Establishing this service would help increase awareness and education among tenants and help them understand their legal rights and obligations.
- **Establish a Commissioner for Residential Tenancies:** We support Shelter SA's recommendation of creating a Commissioner for Residential Tenancies role, enabling the Commissioner to work with the Government and tenant and landlord representatives to implement rental reforms as part of the Act review and in the future. Tenancy and rental market issues need to be continuously addressed, considering the increase in the number of renters over the next decade. The Victorian Government has had significant success with creating a Commissioner for Residential Tenancies working to ensure the private rental system is fair and equitable to both landlords and tenants.

## Conclusion: What can we do to make renting fairer?

Our views are aligned with other sector organisations in supporting Consumer and Business Services to publish the results of the Your Say [survey](#). This will be significant in improving transparency and accountability as the *Residential Tenancies Act* review commences.

As part of our recent renters' survey, renters provided their views on what we can do to make renting fairer. A summary of the responses is highlighted below:

- “It would be great to have regulations limiting how much landlords can increase rents by.”
- “Making owner of rental properties have a certain time to actually get repairs done once reported.”
- “More transparency to protect renters, landlording should not be a business.”
- “Stop the practice of rental becoming like a 'silent auction'.”
- “At least implement rent increase caps. How much rent can be increased by at a time, etc.”
- “Make it easier to be able to contact someone, at this stage I have no idea who I could contact to see about my rights as a tenant.”
- “Caps on rent raises, harder to discriminate for single parents, kids etc, longer leases, remove no cause evictions.”
- “Give international students exemption for income proof or anything that can reduce barriers.”
- “Liaising with the authorities, thus they could adequately supervise rental property owners and sanction the dodgy ones.”
- “Make inspections fair.”
- “Price of rent and making more rentals available.”
- “Better system to help regulate rent control for people based on affordability.”
- “Caps on rent increases.”

## Appendix

Sources for Renter snapshot infographic:

- [ABS Housing Occupancy and Costs 2019-2020](#)
- [ABS Housing Occupancy and Costs 2019-2020, States and Territories](#)
- [ABS South Australia 2021 Census All persons QuickStats](#)
- [ABS South Australia 2011 Census All persons QuickStats](#)
- [Realestate.com.au, 'Rents continue to rise as Adelaide's vacancy rate hits new low'](#), published 27 October 2022
- [ABC News, 'New rental price statistics show 20 per cent increase in SA, with Murray Bridge a hotspot'](#), published 18 June 2022
- [Realestate.com.au, 'Adelaide's median rent reaches new high'](#), published 6 October 2022
- [Anglicare SA, 'Homelessness Week 2022: an Adelaide family's housing crisis'](#), published 1 August 2022

Case studies in this submission were contributed by the Anti-Poverty Network SA, ac.care, Better Renting, Centacare - Catholic Country SA, and Uniting Communities.



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