



CONSULTATION PAPER

Ending no cause evictions and other measures

Proposed reforms to the Residential Tenancies Act 1997

Justice and Community
Safety Directorate

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CONSULTATION PAPER

OVERVIEW

The ACT Government is considering a range of reforms to the *Residential Tenancies Act 1997* (the Act), including:

- removing 'no cause' terminations from residential tenancy agreements
- limiting rent bidding
- introducing a right for a tenant to grow food and to compost; and
- prescribing minimum standards in residential tenancies.

The ACT Government is committed to introducing any reforms in consultation with the community. To support community engagement on these issues, this paper explains the existing law, discusses possible avenues for reform and highlights key issues on each topic. The paper also poses questions to guide consultation feedback, however, feedback in addition to the consultation questions is also welcome.

This consultation paper explores each issue in detail. However for members of the community who would like a shorter summary of the key issues and questions, a single page summary of each topic has also been provided.

HOW TO PROVIDE FEEDBACK

As noted above, the consultation paper poses questions to guide feedback (see [Attachment 2](#) for a full list of consultation questions). You may choose to respond to each question or alternatively provide feedback in a format that suits you.

Please send any feedback to: civilconsultation@act.gov.au

If you have difficulties providing written feedback, please contact the Justice and Community Safety Directorate, Civil and Regulatory Law Branch on 6207 6483.

The consultation period will close on 17 September 2021. **Please provide all feedback by 17 September 2021.**

ENDING NO CAUSE EVICTIONS

Background

The ACT Government has committed to removing ‘no cause’ terminations from residential tenancies as one of the key reforms outlined in the Parliamentary and Government Agreement for the 10th Assembly.

What are ‘no cause’ terminations?

The Act sets out the framework for the management of tenancy agreements in the ACT, including the circumstances or ‘grounds’ in which a tenancy agreement can be ended or ‘terminated’. Under the Act, tenancy agreements can be terminated by either the landlord or the tenant, however this paper relates to landlord-initiated terminations only.

The Act sets out ‘prescribed grounds’, or ‘with cause’ grounds, for termination such as where the tenant has breached the agreement, where the landlord (or someone close to them) wants to move into the property, or where the landlord wants to sell or renovate the property. However, the Act also currently allows a landlord to terminate the tenancy with ‘no cause’ – that is, they can end the agreement without giving the tenant any reason for the termination. The ACT Government is proposing to remove a landlord’s ability to end a tenancy without reason. This will mean that a tenancy may only be ended for a specified reason (in accordance with a prescribed ground under the Act).

Why are ‘no cause’ terminations being removed from the Act?

Australia’s housing market is changing, with more people renting and doing so for longer periods of time.¹ With renting becoming a longer-term housing solution for many, it is important that our tenancy laws ensure renting is a secure and sustainable option for those who rely on it.

‘No cause’ termination provisions have often been highlighted as an aspect of tenancy law that undermines security of tenure by allowing landlords to end a tenancy without providing a reason for doing so. Further, the presence of a no cause termination provision is seen as potentially having a ‘chilling effect’ on a tenant’s willingness to enforce their rights under a tenancy agreement² due to a concerns that the landlord may retaliate by ending the tenancy. A 2018 study by Choice found 44 per cent of tenants feared that making a request for repairs could result in them being evicted.³ There is a view that it is easier for a landlord to retaliate against their tenant when not required to have a reason to end a tenancy than if they could only rely on a prescribed (or ‘with cause’) ground for termination.⁴

Increasingly, there is a community expectation that if a landlord wants to end a tenancy, they should be required to provide a reason for doing so. A recent Queensland poll canvassing community views on removing ‘no cause’ terminations found 57 per cent of respondents agreed that a landlord should have to provide a reason if they want to end a tenancy.⁵ A 2019 New South Wales survey found that 90 per cent

¹ Choice, National Shelter and National Association of Tenant Organisations, ‘Unsettled: Life in Australia’s private rental market’, (Report, February 2017) 4, available at <<https://apo.org.au/node/73768>>.

² Chris Martin, ‘Australia’s incipient eviction crisis: No going back’, *Alternative Law Journal*, January 2021, available at <https://journals.sagepub.com/doi/abs/10.1177/1037969X21990940>, 6.

³ Choice, National Shelter and National Association of Tenant Organisations, ‘Disrupted: the consumer experience of renting in Australia’, (Report, 2018) 7, available at <<https://choice.community/t/disrupted-the-consumer-experience-of-renting-in-australia/16661>>.

⁴ Queensland Government, ‘A better renting future – Safety, security and certainty: Consultation Regulatory Impact Statement – Review of the *Residential Tenancies and Rooming Accommodation Act 2008*’ (November 2019), 55, 63.

⁵ Ibid 37.

of tenants believed a landlord shouldn't be able to evict a tenant without a reason.⁶ Victoria⁷ and Tasmania⁸ have already removed 'no cause' terminations from their tenancy legislation and Queensland has recently introduced a bill to do the same.⁹

Removing no cause terminations from the Act will give tenants certainty their tenancy can only be ended for a legitimate reason, as well as giving greater confidence they will be able to assert their rights under their tenancy agreement without fear of it leading to their eviction. The ACT Government has committed to implementing this important change to tenancy legislation to support tenants' security of tenure and to give tenants greater confidence to assert their tenancy rights. However, the Government wants to ensure implementation of this reform is made in consultation with the community. The Government also wants to ensure landlords can manage their properties appropriately and that they have the ability to end a tenancy where there are legitimate reasons for doing so.

Key Issues

Key issues that will arise when 'no cause' terminations are removed are:

- whether there are currently sufficient prescribed termination grounds in the Act for landlords to manage tenancies in the absence of the no cause ground; and
- whether any additional protections for landlords or tenants are needed when 'no cause' terminations are removed.

Current law in the ACT

Summary

- **A landlord can end a tenancy with 'no cause' by issuing the tenant a notice to vacate (NTV) at least 26 weeks before the tenancy end date.** If it's a fixed term agreement, the tenancy end date must be after the end of the fixed term.
- If the tenant doesn't move out, the landlord can apply to the ACT Civil and Administrative Tribunal (ACAT) for an order terminating the tenancy.
- The tenant can challenge the termination if they believe that the NTV was issued in retaliation against them asserting their rights.
- ACAT can consider all the circumstances of a case and has discretion as to whether to make a termination order when the landlord has issued a no cause NTV.

What is the process for a 'no cause' termination?

To end a tenancy under the 'no cause' provision, a landlord must issue the tenant with a notice to vacate (NTV) which requires at least 26 weeks' notice of the tenancy termination date. Where the tenancy agreement is a fixed term agreement the tenancy end date must be after the end of the fixed term.¹⁰ The tenant can move out earlier than the date given in the NTV provided they give the landlord the required notice in line with their tenancy agreement.¹¹

⁶ Tenant's Union of NSW and Marrickville Legal Centre, 'Lives turned upside down: NSW renters experience of no cause evictions', (Report, March 2019) 6, available at <<https://files.tenants.org.au/policy/2019-Lives-turned-upside-down.pdf>>.

⁷ *Residential Tenancies Act 1997 (VIC)* ('RTA Vic').

⁸ *Residential Tenancies Act 1997 (Tas)* ('RTA Tas').

⁹ Housing Legislation Amendment Bill 2021 (QLD) cl 59 amendment of s 291 (notice to leave without ground).

¹⁰ *Residential Tenancy Act 1997 (ACT)* ('RTA') Schedule 1 cl 94.

¹¹ *Ibid* Schedule 1 cl 95.

What happens if the tenant doesn't leave on the notice date?

If the tenant does not leave the premises on the date specified in the NTV, the landlord can apply to the ACT Civil and Administrative Tribunal (**ACAT**) for an order to terminate the tenancy - a Termination and Possession Order (**TPO**).¹²

ACAT has discretion on whether to grant the TPO (even where the legal requirements of the notice have been met) taking into account all the circumstance of the case.¹³ There are relatively limited grounds on which a tenant can challenge the termination of their tenancy where a 'no cause' notice has been issued.¹⁴

What if the tenant considers the eviction to be retaliatory?

The tenant *can* challenge the termination of their tenancy if they believe that the NTV was issued in retaliation against them asserting their rights under the tenancy agreement. If the tenant does not leave the property in accordance with the NTV and the landlord applies to ACAT for a TPO, the tenant is able to present evidence during the TPO hearing that they attempted to assert their rights under the agreement before the NTV was issued. If ACAT accepts the tenant's evidence and agrees that the landlord was motivated to issue the NTV for this reason, ACAT must refuse to make the TPO.¹⁵

Questions

- Do you think no cause terminations should be removed from the Act?

What are the existing grounds on which a landlord can terminate a tenancy?

A key question with removing 'no cause' terminations is whether there are currently sufficient prescribed grounds ('with cause' reasons) for termination to allow landlords to manage their property appropriately, or whether there is a need for new termination grounds to be introduced.

The Act currently includes a wide range of grounds on which a landlord can end a tenancy. The process and timeframes for ending the tenancy vary according to the termination ground. Some grounds are only available to the landlord during a periodic tenancy (not during a fixed term tenancy). A full list of the existing prescribed grounds for a landlord to terminate a tenancy in the ACT is at **Attachment 1**.

However, as a general overview, the Act allows a landlord to terminate tenancies:

- where the **landlord and tenant agree** to end the tenancy
- **where the tenant is in breach of the agreement** (for example, where they do not pay rent, cause serious property damage, threaten the landlord or interfere with the neighbours, or where they sub lease or allow a new co-tenant into the property without the landlord's permission)
- **where the landlord needs to regain control of the property** (for example, where they want to sell, renovate, or where they or someone close to them wants to move into the property, or where the landlord is experiencing significant hardship)
- **certain situation-specific scenarios** (for example, where the tenant has abandoned the property or repudiated the tenancy, in crisis accommodation where the property is required for someone else, where the property has loose-fill asbestos or where it becomes unfit for habitation); and

¹² Ibid s 47.

¹³ *Commissioner for Social Housing v Cook (Residential Tenancies)* [2020] ACAT 36, ('Cook') 18 and 38.

¹⁴ However, see *Cook*, for circumstances in which ACAT has declined to make a TPO in response to a no cause notice. In *Cook*, the ACAT noted it was not in a position to assess or evaluate the reasons the lessor may have issued a 'no cause' notice (see para 10), however, the Tribunal still chose to exercise its discretion not to grant relief to the lessor having regard to the circumstances and conduct of the parties (see para 48).

¹⁵ RTA (n 10) s 57.

- **at the end of a fixed term** (however, the process for ending a tenancy at the end of its fixed term is currently through the use of the 26-week ‘no cause’ notice provision. With the removal of the no cause provision this pathway will no longer be available).

While these provisions cover the majority of circumstances where a landlord may need to terminate the tenancy, there may be other reasons that a landlord may need to terminate a tenancy for which there is currently no prescribed ground (in these circumstances the landlord might currently use the ‘no cause’ termination provision). Some of these reasons are explored further below.

Potential additional prescribed grounds for termination

Use of the rental premises for a non-residential purpose

Tasmania allows a tenancy to be terminated where the premises are to be used for a purpose other than as residential premises for rent.¹⁶ Queensland is also proposing to introduce a similar provision.¹⁷ This provision may cover circumstances where, for example, the landlord wants to use the premises for commercial purposes such as Air BnB holiday rentals or where the owner wants to run a business from the premises.

Questions

- Do you think the Act should include a clause which allows the landlord to terminate the agreement where they want to use the premises for a purpose other than as residential premises for rent?
- If so, what notice period do you think should apply to this termination provision? Are there any safeguards that should be introduced in relation to such a provision, (for example, requiring the landlord to provide a statutory declaration as to their genuine intention to use the property for an alternative business purpose)?

Effective management of social housing stock

A further termination ground or grounds based on the effective management of social housing stock is being explored by the ACT Government. The ACT Government operates a social housing program to house some of the most vulnerable and low-income cohorts in our community. The *Housing Assistance Act 2007* (the **Housing Assistance Act**) allows the Minister to approve housing assistance programs in the Territory. The *Housing Assistance Act* and its subordinate legislation create specific social housing programs, including public housing. This legislation operates alongside the Residential Tenancies Act (**the Act**). The Act applies equally to public housing, social housing and private tenancies. However, the Act does not currently include a specific termination ground based on the effective management of limited social housing stock (meaning that the Housing Commissioner currently relies on the ‘no cause’ termination provision to manage stock). For example, the Housing Commissioner may:

- require a tenant transfer
- decide to withdraw housing assistance
- need to manage the long-term absence of a tenant (when rents are still paid) due to incarceration, health issues, other accommodated supports, or interstate movement
- need the property for an alternative purpose; or
- terminate current fixed-term tenancy agreements in place for transitional properties.

¹⁶ *RTA Tas* (n 8) s 42(1)(b)(ii).

¹⁷ Housing Legislation Amendment Bill 2021 (QLD) cl58 insertion of new s 290E Notice to leave for change of use.

These are explored further below.

The Housing Commissioner has certain powers under Housing Assistance programs, to assist with the management of housing stock. These include the ability to require a tenant to transfer to another public housing dwelling in certain circumstances,¹⁸ as well as the power to withdraw housing assistance in circumstances where the Housing Commissioner determines the tenant's income is sufficient for them to be able to access and sustain alternative accommodation.¹⁹ In these circumstances, the programs allow the Housing Commissioner to terminate a tenancy in accordance with the no cause termination provision within the Act. However, with the removal of no cause terminations from the Act, the Housing Commissioner may no longer have a pathway to terminate tenancies in the circumstances permitted in the *Housing Assistance Act* or its subordinate legislation.

Similarly, in circumstances where a tenant may be absent from a public housing property for an extended period (but is still paying rent), the Housing Commissioner may seek to terminate the tenancy to allow the property to be allocated to someone else in need.²⁰ If the tenant does not voluntarily surrender their property or if they move to other accommodation long term, the Housing Commissioner currently has the option of using a 'no cause' notice to terminate the tenancy and recover the property. This termination pathway will no longer be possible with the removal of no cause notices.

The *Housing Assistance Act* also allows the Housing Commissioner to approve certain housing assistance programs.²¹ Under these programs, the Housing Commissioner is able to make public housing assets available to eligible community service provider organisations for the provision of social housing.²² These programs also allow the Housing Commissioner to withdraw this assistance in certain circumstances, including (but not limited to) where the asset provided is required by the Housing Commissioner for another purpose. However, this withdrawal of assistance must also occur in accordance with the Act (where applicable).²³ Where an entity (usually a community organisation) has been leased a property and has gone on to provide support services to a client in the form of a tenancy agreement over the property, the community organisation will not be able to terminate the tenancy in order to return the asset to the Housing Commissioner once the no cause termination provision is removed unless further grounds for termination are added to the Act dealing this scenario.

Noting the above, to maintain the integrity of the social housing program and to ensure that public resources can continue to be targeted and managed appropriately, a termination ground or grounds based on the effective management of social housing stock may be required. Such a ground could be worded generally to encompass a variety of situations where the Housing Commissioner may need to terminate an agreement for the effective management of their stock. Alternatively, several more situation-specific grounds could be introduced, for example termination provisions related to transfer, withdrawal of assistance, or utilising the property for an alternative purpose.

Questions

- Do you have any views in relation to the introduction of a termination ground based on the effective management of social housing stock?
- Do you think there should be a general ground covering management of housing stock or more specific grounds related to transfer, withdrawal of housing assistance, extended absence from the property etc?
- If a termination ground or grounds based on the effective management of social housing stock were to be introduced, what is the appropriate notice period for such a ground?

¹⁸ *Housing Assistance Public Rental Housing Assistance Program 2013 (No 1)* s 28.

¹⁹ *Ibid* s 29B.

²⁰ For more information of Housing ACT's incarceration of tenants policy see:

https://www.communityservices.act.gov.au/hcs/policies2/incarceration_of_tenants

²¹ *Housing Assistance Act 2007* s 19.

²² *Housing Assistance Asset Assistance Program 2008 (No 1)* s 3.

²³ *Ibid* s 9.

- If there are several more specific termination grounds introduced, do you think there needs to be different notice periods connected to different grounds?
- Do you think there should be any additional protections for tenants introduced in connection with such a termination ground or grounds?

Loss of eligibility for accommodation assistance

A further termination ground based on loss of eligibility for accommodation assistance is being explored by the ACT Government. Some tenancies are provided and managed for a particular purpose, such as providing housing and other supports to community members who are in need. Examples of accommodation assistance programs include social housing, affordable housing, supported accommodation or community housing. Generally, where accommodation is provided for a particular purpose, the tenant will need to meet certain eligibility criteria before they can access the accommodation assistance and enter into a tenancy agreement. These programs include different types of assistance, including the provision of a property and rebating or limiting rental charges. To ensure these programs are effectively targeted to those most in need, tenants may also need to continue to demonstrate an on-going eligibility for the accommodation assistance. The Act does not currently contain a termination clause relating to loss of eligibility for an accommodation assistance program. In circumstances where tenants either do not meet the relevant eligibility criteria or where the tenants are unable or unwilling to provide evidence to the accommodation provider to demonstrate that they do meet the eligibility criteria, the accommodation provider could currently utilise the 26 week no cause termination provision to end the tenancy. With the removal of no cause terminations, this termination pathway will no longer be available, and an alternative termination provision may be needed.

Most other Australian jurisdictions, including Queensland,²⁴ New South Wales (NSW),²⁵ Victoria,²⁶ South Australia,²⁷ Tasmania²⁸ and Western Australia²⁹ have provisions which allow a tenancy to be terminated where a tenant is no longer eligible for, or does not meet the conditions of the accommodation assistance provided. The ACT could consider adopting a similar provision.

Issues related to a termination ground based on loss of eligibility for accommodation assistance

Provision of information by the tenant to the landlord to demonstrate eligibility

An issue that may arise in relation to tenancy agreements that require tenants to demonstrate they remain eligible for the assistance is in relation to the tenant's willingness to provide the required information to the landlord. The ongoing provision of information will have privacy implications for a tenant, although the requirement to provide information may be considered reasonable and proportionate given it may allow them to continue to receive the benefit of the accommodation assistance. At present, if a tenant refuses to provide information to their landlord (or does not provide it in a reasonable timeframe) to demonstrate their ongoing eligibility, the landlord can still issue a no cause notice to end the tenancy. To ensure the landlord can be satisfied their tenant meets eligibility criteria, it may be necessary to craft the provision so that it also covers circumstances where the tenant does not provide the relevant and necessary information to demonstrate they do meet the eligibility criteria within a reasonable time frame.

Notice periods for termination based on eligibility grounds

An important issue to consider in relation to a termination provision based on loss of eligibility for accommodation assistance is the amount of notice required. Currently landlords using the 'no cause'

²⁴ *Residential Tenancies and Rooming Accommodation Act 2008 (QLD)* ('RTRAA QLD') ss 289-290.

²⁵ *Residential Tenancies Act 2010 No 42 (NSW)* ss 143 and 147 ('RTA NSW').

²⁶ *RTA Vic* (n 7) s91ZZE.

²⁷ *Residential Tenancies Act 1995 (SA)* s 82 ('RTA SA').

²⁸ *RTA Tas* (n 8) ss 42(1)(da)-(dd).

²⁹ *Residential Tenancies Act 1987 (WA)* (;RTA WA') s 71C.

provision are required to provide 26 weeks' notice. The required notice periods for termination based on eligibility for accommodation assistance in other Australian jurisdictions vary significantly - ranging from 4 weeks³⁰ to 90 days.³¹ The notice period allowed may have significant implications for both landlords and tenants.

From a landlord's perspective, a long notice period (for example 6 months) may not be desirable, particularly in circumstances where they are required to demonstrate their tenant remains eligible for the accommodation assistance in order to meet a contractual obligation or to obtain a benefit. For example, in circumstances where the landlord is a community organisation, they may receive government funding under contract to deliver accommodation support services. They may be contractually required to ensure those accessing their services meet eligibility grounds. Where the person no longer meets the eligibility requirements, this may have implications for the community organisation's funding agreement.

Where the landlord is a private owner who has entered into an agreement with a community housing provider to offer their property as an affordable rental under the ACT Government's affordable community housing scheme, the landlord's eligibility for a land tax exemption is currently connected to the tenant being able to satisfy household income limits. The landlord's liability for land tax exemption is assessed on the first day of each quarter. Requiring the landlord to give lengthy notice to the tenant where the tenant becomes ineligible for the affordable housing may affect the landlord's liability for land tax (particularly in circumstances where more than 3 months' notice (ie longer than a quarter) is required).

However, the length of notice period will also have significant implications for a tenant, who, even if they are no longer eligible for accommodation assistance, may still be vulnerable or experience difficulty in finding alternative, affordable accommodation in Canberra's highly competitive residential tenancy market. From a tenant's perspective, a longer notice period (or one that is at least equivalent to the current 'no cause' notice period of 26 weeks) is likely to be more desirable in order to allow them sufficient time to source alternative accommodation.

Review Rights

Another issue to consider in relation to a tenancy termination based on eligibility grounds is whether there should be any right of review built into the termination process. Both New South Wales and Western Australia have a 'right to review' built into their termination ground based on eligibility. These review provisions require the landlord to notify the tenant of their intention to terminate their tenancy and to provide particulars as to why the tenant is no longer considered eligible. The tenant is then given a 30-day period in which to apply to the landlord for a review of the decision and is able to make representations to the landlord as to why their tenancy should not be terminated. Once a request for review has been considered by the landlord, the landlord can either issue a termination notice or advise the tenant they have decided not to issue a termination notice.³²

Questions

- What are your views in relation to the introduction of a termination ground based on continuing eligibility for accommodation assistance?
- If a termination ground or grounds based on eligibility for accommodation assistance were to be introduced, what would be an appropriate notice period for such a ground? What is the justification for the suggested notice period?
- If the landlord issues a notice based on loss of eligibility for accommodation assistance, do you think the tenant should be able to give notice to leave the tenancy at an earlier date (without penalty) should they wish to do so (as they currently can with a 'no cause' notice)?
- Do you think there should be a built-in 'right to review' process as part of a termination ground based on loss of eligibility for accommodation assistance? If so, what do you think is an

³⁰ *RTRAA QLD* (n 24) s 329 (2) (h); *RTA SA* (n 27) s 82.

³¹ *RTA Vic* (n 7) s 91ZZE and *RTA Tas* (n 8) s 43(e).

³² *RTA NSW* (n 25) s 145 and *RTA WA* (n 29) s 71F.

appropriate timeframe for this review? Would your views as to the length of the required notice period change if a right to review process was included?

- Do you think there should be any additional protections for tenants or landlords introduced in connection with this termination ground?

Termination at the end of a fixed term tenancy

A landlord is currently able to end a fixed term tenancy on or after the end of the fixed term by issuing a 26 week no cause notice, so long as the end date for the notice falls on, or after, the end of the fixed term. If the tenancy is not terminated at the end of the fixed term, then the agreement automatically converts to a periodic agreement (unless the parties agree to enter into a new fixed term agreement). Once the agreement has converted to a periodic agreement, the landlord has more termination clauses available to them if they want to regain control of the property to use it in a particular way – for example termination clauses which allow them to end the tenancy if they want to renovate or sell the property or if they (or someone close to them) want to move into the property.

With the removal of no cause terminations, the landlord's ability to end the tenancy at the end of a fixed term will be lost. The ACT Government is interested to hear community views on whether a new termination clause, which allows a landlord to terminate a tenancy at the end of a fixed term should be introduced. The two other Australian jurisdictions (Victoria and Tasmania) who have removed no cause terminations *do* allow termination at the end of a fixed term agreement,³³ however, Victoria limits this ability to the end of the *initial* fixed term agreement (unless the agreement is for longer than 5 years).³⁴ Queensland has also introduced a bill which proposes to remove no cause terminations and allow for terminations at the end of a fixed term tenancy.³⁵

It is noted that landlords may have a genuine reason for offering a tenancy for a fixed term only. For example, if they want to take up a temporary employment opportunity that requires them to relocate for a period of time. Further, allowing termination at the end of a fixed term may support an owner's sense of control over their property. However, where a landlord has genuine reason to end the tenancy after the expiry of a fixed term, the landlord would still have the prescribed terms available for them to do so (for example, if they wanted to move back in after taking up an employment opportunity elsewhere, there is a ground available which would allow them to do this).

There are also arguments against allowing end of a fixed term terminations as they do not support long-term security of tenure for renters and do not encourage transparency or accountability in tenancy arrangements. Tenant fears about retaliatory evictions (if they enforce their tenancy rights) may not be addressed if end of fixed term terminations are still permitted, as owners would be able to use the end of fixed term provision without providing any other reason for termination.

The ACT Government is keen to hear the views of the ACT community on whether it should allow end of fixed term terminations as a prescribed termination ground under the Act.

Questions

- Do you think end of fixed term terminations should be permitted?
- If an end of fixed term termination provision is introduced, do you think it should be limited to the end of the initial fixed term only (as is the case in Victoria)?
- If an end of fixed term termination provision is introduced, are there any additional safeguards that should also be introduced? For example, if end of a fixed term terminations are allowed do you think there should be a minimum duration for a fixed term agreement?

³³ *RTA Tas* (n 8) s 42(1)(d) and *RTA Vic* (n 7) ss 91ZZD-91ZZDA.

³⁴ *RTA Vic* (n 7) ss 91ZZD-91ZZDA.

³⁵ Housing Legislation Amendment Bill 2021 (QLD) cl 59 amendment of s 291 (notice to leave without ground).

- Do you think there could be any unintended consequences if end of fixed term terminations are removed from the Act?
- If end of fixed term terminations are permitted, what do you think the required notice period should be? Should this vary depending on the length of the fixed term (for example in Victoria, if the fixed term is for less than 6 months the required notice period is two months, whereas if the fixed term is longer than 6 months the required notice period is 3 months³⁶)?

Other questions relating to additional prescribed grounds for terminations

The sections above have outlined some of the new prescribed grounds for termination that the Government is currently considering. However, the Government is also interested to hear views on whether there should be any other new termination grounds introduced as well.

Questions

- Are there any other new termination grounds that should be introduced into the Act when no cause terminations are removed?
- If you think there should be additional prescribed termination grounds, what is the justification for the introduction of the proposed new ground(s)? What notice period or termination process would you propose for the new termination ground(s)?

Additional protections related to ending no cause terminations

Strengthening the evidentiary requirements for existing prescribed grounds

At present some of the prescribed grounds for a landlord to terminate the tenancy require the landlord to provide evidence that their reliance on the prescribed ground is genuine. For example, when the landlord (or someone close to them) wants to move into the property, the landlord must provide a statutory declaration attesting to their genuine intent to live in the property when they provide the notice to vacate to the tenant. However, a landlord is not required to provide the tenant with any evidence of their genuine intent when they issue a notice to vacate because they wish to sell or renovate their property.³⁷

The Queensland Regulatory Impact Statement on removal of ‘no cause’ terminations noted the removal of ‘no cause’ terminations may mean that some landlords could misuse existing prescribed grounds to terminate the tenancy.³⁸ Tenants in the ACT have raised the misuse of existing prescribed grounds as a concern with the Government. Requiring a landlord to provide some form of evidence to demonstrate their reliance on the prescribed ground is genuine may guard against misuse of these provisions.

Protections against misuse of prescribed grounds

In considering whether to introduce further prescribed grounds for termination, the Government is also considering whether additional protections are required to prevent misuse. In order to prevent misuse of prescribed termination grounds South Australia prevents landlords who have terminated a tenancy because they require it for a particular purpose (such as renovation, sale or to move in) from granting a new tenancy agreement over the premises for a period of 6 months after they regain possession, unless

³⁶ RTA Vic (n 7) s 91ZZD.

³⁷ RTA (n 10) Schedule 1 cl 96.

³⁸ Queensland Government (n 4) 49, 55, 58-60, and 63.

they obtain Tribunal approval to do so.³⁹ Queensland is also proposing to introduce a similar provision, making it an offence to give false or misleading information in a notice to vacate as well as making it an offence to re-let the property for a period of 6 months after giving a notice to vacate (with certain defences available if the property was listed for sale but did not sell or where the change of use did not occur for reasons beyond the landlord's control).⁴⁰ As noted above, another mechanism to prevent misuse is the requirement for a landlord to provide a statutory declaration in respect of which it is a criminal offence to provide false information.

Questions

- Do you think landlords should be required to provide evidence when they want to sell or renovate the property to demonstrate that their reliance on the ground is genuine? If so, what sort of evidence do you think should be required (for example a statutory declaration or some other evidence)?
- Do you think landlords should be prevented from re-letting a property for a period of time after having issued a tenant a NTV based on sale / renovation/ change of use / wanting to move in?
- Do you think any other protections are required to prevent misuse of prescribed termination grounds?

Other protections

The section above outlined a potential additional protection associated with the end of no cause terminations. However, the Government would also be interested to hear views on whether there should be any other additional protections for either landlords or tenants introduced.

Questions

- Are there any other protections that should be introduced to protect either landlords or tenants with the removal of no cause terminations? If so, what is the justification for the proposed protection?

³⁹ RTA SA (n 27) s 81(4).

⁴⁰ Housing Legislation Amendment Bill 2021 (QLD) cl 75 new ss 365A-365D.

RENT BIDDING

Overview

What is rent bidding?

Rent bidding occurs when a prospective tenant offers or is asked to pay more than the advertised price for a rental property, where either:

- the tenant makes this offer on their own initiative (**voluntary bidding**), or
- the landlord or agent invites prospective tenants to make their best offer (**solicited bidding**).

Rent bidding can occur through communications with landlords or agents or through rent bidding apps, such as Rentberry, LiveOffer or RentWolf. These apps provide a platform for prospective tenants to openly compete to outbid each other with their rental offers, in a similar style to online auctions through eBay.

How often does rent bidding occur?

The extent of rent bidding in the ACT is unclear. The number of complaints made to the Government (Access Canberra) about rent bidding in recent years is small (noting that complaints data does not necessarily accurately reflect the scale of an activity in the community). However, media reporting early in 2021 indicated that voluntary rent bidding is becoming an increasingly common practice in the ACT, with examples of tenants offering more than \$100 per week over the listed price for rental properties.⁴¹

Consultations in the ACT and other parts of Australia indicate that **voluntary rent bidding may be more common than solicited bidding**. A 2016 report from Victoria found that almost 1 in 5 tenants have offered a higher amount than the advertised price for a rental, and 72% of those people made their bid without being asked, in order to have a better chance of success.⁴² Rent bidding may also be more prevalent in tight rental markets. This is relevant in Canberra, where the vacancy rate is typically around or below 1%.⁴³

Current law in the ACT

The ACT's rental laws do not have any specific rules about rent bidding. However, consumer protection laws and laws regulating real estate agents have general rules that would prohibit more egregious forms of rent bidding:

- The Australian Consumer Law prohibits misleading or deceptive conduct, including in transactions in the rental market.⁴⁴ This applies to both real estate agents and private landlords.
- The law requires real estate agents to follow certain rules of conduct, including that they must act honestly, fairly and professionally, and not issue advertisements or make communications that are false or misleading.⁴⁵

⁴¹ R King, "Canberra's rental crisis is forcing many to spend weeks searching for a home as prices go beyond 'affordable'" *ABC News* (online, 17 January 2021) <<https://www.abc.net.au/news/2021-01-17/canberras-rental-crisis-driving-up-prices-amid-huge-demand/13060322>>.

⁴² Consumer Affairs Victoria, *Rental experiences of tenants, landlords, property managers, and parks residents in Victoria: Final Report* (Report, 17 May 2016) 75 <<https://engage.vic.gov.au/fairersaferhousing>> (see "Victorian renting research report – RTA review").

⁴³ ACT Government, *ACT Housing Strategy* (2018) 35.

⁴⁴ Section 18 of the Australian Consumer Law, in force in the ACT under the *Fair Trading (Australian Consumer Law) Act 1992*.

⁴⁵ The regulatory scheme for real estate agents is the *Agents Act 2003* and the *Agents Regulation 2003* (see the rules of conduct in Schedule 8).

Examples of conduct that may be prohibited under these laws include advertising a property at a low rate that the landlord or agent never had any intention of accepting, in the hope of attracting rental bids, or telling prospective tenants that other higher offers have been made when this is untrue. However, rent bidding where there is no element of misleading conduct, deception or dishonesty is not prohibited. Prospective tenants may make rental bids and landlords or agents may ask for bids, provided their conduct does not cross that threshold.

Approaches in other jurisdictions

Victoria,⁴⁶ Tasmania⁴⁷ and Queensland⁴⁸ have laws regulating renting bidding. These laws prohibit solicited rent bidding but not voluntary bidding. Prospective tenants are free to make rental bids, and landlords or agents can accept higher offers, as long as they have not invited them. These jurisdictions also require properties to be advertised with fixed rents. Price ranges are not allowed, although properties may be advertised with no price at all (e.g. “by negotiation”). New Zealand has adopted the same approach.⁴⁹

Issues

Fairness

There will likely be different views in the community about whether rent bidding is a legitimate practice. Some may view it as a legitimate method to achieve the ‘market price’ for a property. However, one concern with rent bidding is that may not be fair to prospective tenants.

The process by which rent bidding happens is often not transparent. Prospective tenants may not know if others are offering more money, or if so, how much more. Their information on this point is likely to come from the landlord or agent, who is in a position of power relative to them and has a legitimate interest in securing the highest price for the property. Prospective tenants may feel unsure if the landlord or agent is giving them complete or correct information and may feel pressured into making offers.⁵⁰ This makes trying to secure a rental property difficult and stressful. One possible answer to this would be to regulate rent bidding so that the competition is more open and transparent. This is the claimed benefit of rent bidding apps.

A more fundamental objection might be that rent bidding drives up the price of properties. On this view, landlords have the opportunity to set what they see as a fair market price, and a good return for their investment, when they advertise their property. Allowing landlords to recoup significantly more than this may be seen as unfair. One answer to these concerns is that the fair market price for a property is what prospective tenants are willing to pay, and in other sales contexts, auctions or negotiations are an acceptable way of settling that price.

Ultimately, aspects of the rental housing market may distinguish it from other sales contexts and make it appropriate to regulate rather than have a free-market approach. In particular, there is often an

⁴⁶ *Residential Tenancies Amendment Act 2018* (VIC) s 30F. See also: Victorian Government, Consumer Affairs Victoria, “Fixed price advertisements and offers, and ban on inviting rental bids guide” (Factsheet, 4 May 2021) <<https://www.consumer.vic.gov.au/housing/renting/changes-to-renting-laws/resources-for-practitioners/factsheet-13-fixed-price-advertisements-and-offers-and-ban-on-inviting-rental-bids>>.

⁴⁷ *RTA Tas* (n 8) s 16B.

⁴⁸ *RTRAAQLD* (n 24) s 57. See also: Queensland Government Residential Tenancies Authority, “Choosing a rental property” (Factsheet, undated) <<https://www.rta.qld.gov.au/renting/before-you-rent/choosing-a-rental-property>>

⁴⁹ Tenancy Services (New Zealand Government), “Prohibiting rental bidding” (Factsheet, undated) <<https://www.tenancy.govt.nz/law-changes/phase-2/prohibiting-rental-bidding/>>.

⁵⁰ By way of an example of tenants perceiving rent bidding as unfair, see: E Chantiri, “The rundown on your rights at rental auctions”, *The Sydney Morning Herald* (online, 20 January 2019) <<https://www.smh.com.au/money/planning-and-budgeting/the-rundown-on-your-rights-at-rental-auctions-20190117-p50rve.html>>.

imbalance in power between the landlord and prospective tenant, especially in a tight rental market. Housing is a basic need, and so concerns about fairness may be amplified.

Rent prices

There is a common perception rent bidding drives up rental prices.⁵¹ It is unclear whether this is necessarily true, and whether the regulation of rent bidding in other jurisdictions has had any impact on affordability in the rental market. It is also unclear whether some of the options for regulation could have unintended impacts. For example, if rent bidding were banned altogether, there may be a risk that this would inflate prices by encouraging landlords to set prices higher at the outset. Ultimately, there are multiple factors that determine the prices of rents and this makes it complex to isolate and identify the impact of change through Government regulation.

Voluntary versus solicited rent bidding

The approach taken in Queensland, Tasmania and Victoria of banning solicited but not voluntary bidding is presumably intended to prevent more egregious practices, where a landlord or agent pressures tenants and “plays them off” against each other to raise prices. However, difficulties may arise in practice in regulating only one side of the equation, especially where voluntary bidding may be more common than solicited bidding.

Firstly, the distinction between voluntary and solicited rent bidding may not always be clear cut. For example, an agent might inform a prospective tenant that they are entitled to put in a higher offer, without asking them to do so. Also, it seems possible that this approach might incentivise or reward rent bidding. If a prospective tenant makes a higher offer (of even a small amount such as \$10 per week), the landlord or agent cannot ask other applicants if they wish to offer more. Some tenants might consider it fairer to know what others are offering and to have the opportunity to participate in bidding if it occurs.

Options

The Government’s policy objectives – as stated in the [ACT Housing Strategy](#) – are to grow the supply of affordable private rental properties and to strengthen rights and protections for tenants. Options for regulating rent bidding will be assessed against these objectives, based on feedback received from the community through this Consultation Paper.

Options could include:

- no change to existing laws in the ACT – rent bidding will only be unlawful if agents or landlords act in a way that is misleading, deceptive or dishonest
- prohibiting rent bidding solicited by agents and landlords (the Victorian / QLD model).
- prohibiting rent bidding entirely – provide that landlords must advertise a price and may not accept more than that price.
- other options?

Questions

- Have you ever engaged in rent bidding as a prospective tenant or accepted a higher than advertised rent as a landlord? Was it on your initiative or following a suggestion?
- Do you think rent bidding needs to be regulated? What types of laws would you like to see to protect prospective tenants and why? Are some forms of rent bidding acceptable?
- Do you think that advertising a rental property with a price range (or with no price at all) should be an acceptable practice? Why or why not?

⁵¹ See, for example, a survey conducted by the Queensland Government in 2018, where 76% of respondents believed that rent bidding drives up prices: Queensland Government Residential Tenancies Authority, “Rent bidding survey results” <<https://www.rta.qld.gov.au/About-the-RTA/Corporate-information/Rent-bidding-survey-results>>.

- If rent bidding is prohibited how would you suggest this is enforced? Are there other any other issues you would like to raise for consideration in relation to rent bidding?

RIGHT TO GROW FOOD

The ACT Government is considering whether to amend the Act to create a presumption that landlords will permit renters to compost and grow food. Reducing organic waste from households is part of the [ACT Climate Change Strategy 2019-2025](#). There is arguably a public interest in allowing tenants to use their gardens to cultivate fresh food for personal use and to reduce waste going to landfill by composting. The proposal would also strengthen tenants' rights, in line with the [ACT Housing Strategy](#), by giving tenants greater say in how they use their homes.

There are precedents for legislative rights for tenants to grow food. New South Wales and Victorian laws provide that landlords cannot unreasonably refuse consent to tenants planting vegetables or herbs, although the New South Wales law only applies where existing vegetation or plants do not need to be removed.⁵² Californian laws permit tenants to grow food in portable containers.⁵³

Current law in the ACT

The law at present already gives tenants some rights to undertake gardening and composting activities. Under the Act, tenants can compost and grow food without needing their landlord's consent, if their efforts are small-scale and do not involve any modification to the property. For example, growing plants in pots or in a removeable raised garden bed, or using a portable above-ground compost tumbler, does not require the landlord's consent. However, issues may arise if the tenant's activities cause damage to the property – for example, if the placement of heavy pots for long periods of time damages decking or kills grass. The tenant may be liable for such damage at the end of the tenancy (unless it can be said to be fair wear and tear).

However, tenants must seek consent for any composting or gardening/planting that involves a modification of the property. Because the property includes the land and fences as well as the buildings, any planting that involves digging into the ground or fixing something (e.g. planting boxes) to the side of the house or a fence would require consent.⁵⁴

It is likely that in practice many tenants might plant herbs or vegetables without expressly seeking their landlord's consent, and many landlords may have no issue with this, especially if the garden area being used is vacant or poorly maintained.

The rules for how landlords respond to requests for consent depend on whether the tenant's proposed change amounts to a "special modification." The Act has a regime for "special modifications" that makes it easier for tenants to make certain types of changes to their home. These include, for example, modifications to promote energy efficiency or to make the property more accessible for a tenant with a disability, as well as any minor modifications that can be undone at the end of the tenancy. Tenants must still seek consent from their landlord for these special modifications, but the landlord can only refuse if they obtain an order from the ACAT endorsing the refusal. The landlord may impose reasonable conditions on consent.⁵⁵

⁵² Victoria and NSW have done this by making regulations that treat vegetable and herb gardens as a minor modification. For NSW, see *RTA NSW* (n 25) s 66 and *Residential Tenancies Regulation 2019* (NSW) s 22 (the NSW change commenced in March 2020). The NSW law also covers flowers and shrubs not more than 2m in height. For Victoria, see *RTA Vic* (n 7) ss 64(1B)(h) and 28(g) and the *Residential Tenancies Regulation 2021* (commences on 29 March 2021).

⁵³ The Californian *Neighborhood Food Act* (AB 2561) provides a right for some tenants to grow food for personal consumption in portable containers: see <https://ucanr.edu/sites/UrbanAg/files/263834.pdf>.

⁵⁴ See *RTA* (n 9) Schedule 1 cl 67-68). The tenant also has a general obligation to maintain the garden in substantially the same condition as at the start of the tenancy (clauses 63(c) and 64). Changes to the garden to maintain it (e.g. weeding, mowing) would not be considered modifications.

⁵⁵ *RTA* (n 10) ss 71AB(3)(a) and 71AB(4).

Smaller-scale gardening for food, like planting herbs in existing garden beds without removing other plants, and composting systems, will often be minor modifications (included in the special modifications regime) where the landlord would need to go to ACAT to refuse consent.

Larger-scale gardening for food, especially where existing plants or lawn would be removed, would fall outside the special modifications regime. In these cases, the landlord may refuse consent without an ACAT order, as long as the refusal is reasonable. The landlord may impose reasonable conditions on consent.⁵⁶

The general rule for any modifications (special or otherwise) is that the tenant is responsible for any damage caused to the property by modifications. Further, unless the landlord agrees otherwise, the tenant must undo the modifications at the end of their tenancy, so the property is in substantially the same condition as when it began.⁵⁷ This rule would apply equally to any gardening or composting initiatives.

Potential change

It would be legally straightforward to add the right to compost and grow food as a special modification so as to also include larger-scale gardening. This could be done by way of regulation, as the list of special modifications in s 71AA(b)(vi) of the Act includes ‘any other reason prescribed by regulation’. This would mean that:

- Tenants would not have an absolute right to modify the property to grow food or to compost.
- Instead, the tenant would have to make a written request (e.g. by message or email) to the landlord to ask for consent.
- The landlord would not be able to refuse consent without the agreement of ACAT.
 - If the landlord wanted to refuse consent, they would need apply to ACAT within 14 days of receiving the tenant’s request.
 - If the landlord did not respond to the tenant’s request within 14 days, they would be taken to have consented.

The Act has a list of factors ACAT must consider when determining special modifications disputes (e.g. whether the modification would create additional maintenance costs or significant hardship for the landlord). There would be no need to change this list.

Apartments

Tenants in unit-titled properties who wish to grow food or to compost food waste will need to comply with both the Act and unit title laws (the *Unit Titles (Management) Act 2011 (UTMA)*). Unit title laws may impose different or stricter conditions than rental laws, especially where the use of common property is involved. This is to protect the interests of all owners and residents in the property.

Tenants would need to check their owners corporation’s rules to work out whether they need to seek consent to grow food from the owners corporation. Gardening or composting on common property such as shared gardens or rooftops would require the owners’ corporation’s consent.⁵⁸ Smaller-scale ventures in private spaces, such as pots on balconies, may be able to be undertaken on the tenant’s own initiative, however, tenants should also be aware that even though a balcony may be part of the ‘private’ space in a unit, in high rise complexes (Class A units) the owners corporation still has responsibility for maintenance of the balcony.⁵⁹ This means the owners corporation may place some limitations on how a balcony is

⁵⁶ Ibid ss 71AB(3)(b) and 71AB(4).

⁵⁷ Ibid Schedule 1 cl 67(4) and cl 68(3).

⁵⁸ Under the default rules for an owners corporation, any alteration to common property requires the owners corporation’s consent by special resolution (*Unit Titles (Management) Regulation 2011*, Schedule 1, cl 1.4 (‘UMTR’)).

⁵⁹ UMTR (n 60) ss 24(1)(d) and 24(4)(b).

used if that use impacts on the balcony's maintenance. For example, there may be weight or load bearing limits for balconies which may impact on the ability to have large/heavy pots on a balcony. Tenants would also need to consider whether watering plants would create run-off or pooling of water that could contribute to structural damage or which could impact on the quiet enjoyment of neighbouring units.⁶⁰

Changes to UTMA to make it easier for residents to grow food or compost are not being considered at this stage. Growing food or composting is likely to involve an impost on other residents in a unit-titled property. This is because the use of common property involved would be more permanent and the space is finite (so one resident's gardening initiative may prevent another resident from doing the same). It is more equitable for the owners corporation to consider requests for gardening and composting on common property on a case-by-case basis, so that all residents will have an opportunity to be involved in decision-making.

Business usage

Some tenants (presumably only a small number) might wish to sell their produce or their compost or offer composting services at a fee. In recognition of the landlord's interests, it is recommended that the proposal be limited to personal activities. This would not prevent business ventures, but the current law would apply whereby the tenant would need to seek the landlord's consent in writing to use the property for non-residential purposes.⁶¹ There would be no presumption in favour of consent and tenants may have limited prospects of success in challenging their landlord's refusal in ACAT. The position could be revisited if it becomes apparent there is significant interest from tenants in running businesses of this nature.

Other issues

Landlords and tenants may well have different views on garden aesthetics. Difficult cases may arise if a tenant wishes to change existing landscaping (e.g. removing flowers or digging up lawn) to plant food. What is reasonable will depend on the circumstances, including the scale of the change proposed, the costs sunk by the landlord into the existing garden, the length of time the tenant is likely to stay in the property, and the level of skill of the landlord and tenant as gardeners. It must also be considered whether it would be possible to 'make good' on any garden alterations, noting that some plants may not be capable of like for like replacement (for example, the removal of mature plantings).

Disputes may also arise where a landlord (or ACAT) gives consent to the tenant's changes, but the tenant is unable or unwilling to return the garden to substantially the same condition as the start of the tenancy. Unlike other parts of a rental premises, a garden is living and may be affected by seasonal and climatic variations that are beyond the tenant's control. Garden alterations can also be expensive. Although landlords are still able to seek ACAT orders for damage that exceeds the bond, the process of enforcing these orders can be onerous on landlords.

Questions

- Do you think the Act should be amended to introduce more rights for tenants to grow food and to compost?
- Are there any safeguards for landlords that should be introduced to support this change?
- What do you think about the obligation to 'make good' on any modifications (that is, the obligation to return the property in substantially the same condition as it was originally) in the context of gardening? Do you think there should be a modified obligation in acknowledgement that gardens are living and impacted by seasonal and climatic conditions?
- Are there any other issues you would like to raise for consideration in relation to the right to grow food and to compost?

⁶⁰ The default rules for owners corporations place an obligation on the owner of a unit not to use (or permit use) of the unit in such a way that causes a nuisance or substantial annoyance to an owner, occupier or user of another unit (*UMTR* (n 60) Schedule 1 cl 1.9(1)).

⁶¹ *RTA* (n 10) Schedule 1 cl 69.

MINIMUM STANDARDS

Overview

The *Residential Tenancies Amendment Act 2020* introduced a regulation-making power into the Act⁶² which allows the ACT Government to introduce minimum standards in relation to premises subject to a residential tenancy agreement.⁶³ This power has not yet been used. The regulation-making power enables the Government to introduce minimum standards in relation to:

- physical accessibility,
- energy efficiency,
- safety and security,
- sanitation, and
- amenity.⁶⁴

The Parliamentary and Governing Agreement for the 10th Legislative Assembly contains a commitment to introducing minimum energy efficiency standards for rental properties during 2021.⁶⁵ The Environment, Planning and Sustainable Development Directorate has commenced consultation separately on this issue and expects to undertake a second stage of consultation later this year.

This paper seeks community views on any other minimum standards that should be introduced in the ACT as well as views on the best way to phase in these standards.

Current law in the ACT

Presently, the Act sets basic expectations about the condition a premises must be in when it is offered for rent,⁶⁶ including that the premises is fit for habitation, is reasonably clean, is in a reasonable state of repair and is reasonably secure. The generalised nature of the provisions and lack of specificity means the existing standards can be applied in a subjective and inconsistent manner. This can lead to situations where tenants and landlords do not agree on the standard to which a property should be provided or maintained. Where there is disagreement about the need for repairs or a delay in actioning them, a notice to remedy may be issued by either party. If this does not result in a resolution an application may be made in the ACAT for determination.⁶⁷ The *Residential Tenancies Amendment Act 2020*, passed by the Legislative Assembly in February 2020, introduced a regulation making power to prescribe minimum standards for premises made available for occupation under a residential tenancy agreement. No regulations have been made under this power and the Government is seeking community views on what

⁶² RTA (n 10).

⁶³ *Residential Tenancies Amendment Act 2020* (ACT) cl19 introduced new s 136 (2) to the RTA.

⁶⁴ RTA (n 10) s136 (2) (d)(i) – (v).

⁶⁵ Parliamentary & Governing Agreement for the 10th Legislative Assembly Australian Capital Territory, Appendix 1 (02 November 2020). Available at https://www.cmtedd.act.gov.au/data/assets/pdf_file/0003/1654077/Parliamentary-Agreement-for-the-10th-Legislative-Assembly.pdf.

⁶⁶ RTA (n 10) Schedule 1 cl. 54.

⁶⁷ Ibid Schedule 1 cl 91 and 93.

minimum standards relating to physical accessibility, safety and security, sanitation or amenity should now be introduced.

Introducing minimum standards in the ACT provides a means to ensure rental properties meet prevailing community standards regarding human habitation whilst also ensuring basic levels of safety, amenity and hygiene are provided to tenants. Minimum standards also serve to set clearer expectations for landlords, agents and tenants by establishing a baseline for what constitutes a ‘habitable’ standard. As the Property Owner’s Association of NSW noted, for those properties which are maintained well, the implementation of minimum standards is unlikely to have a significant or even noticeable impact.⁶⁸ The priority is to bring those properties which may otherwise be considered ‘unsafe, unsanitary, or which lack basic amenities’⁶⁹ up to a minimum level. In the ACT, the effect of this will be that properties for rent are brought to a minimum level and provide certainty to tenants that the property is in an objectively reasonable state at the commencement of each new tenancy and that it is maintained in this way for the duration of the tenancy.

Other jurisdictions

In Australia, prescribed minimum standards for rental properties have been introduced in New South Wales⁷⁰, South Australia⁷¹, Tasmania⁷², and Victoria⁷³. Although prescribed minimum standards have been introduced in these states, they vary between jurisdictions in form and clarity. A high-level summary table of the prescribed minimum housing standards in each jurisdiction is included below. This is followed by an overview of the minimum standards that have been implemented by New South Wales and Victoria as these jurisdictions represent two different approaches to enforcing minimum standards that could be considered in the ACT.⁷⁴ Potential approaches in the ACT are discussed further below the sections on the approach in New South Wales and Victoria.

1. Table: jurisdictional comparison of minimum standards

Standard	NSW	SA	TAS	VIC
Security	✓	✓	✓	✓
Ventilation	✓	✓	✓	✓
Electricity/gas	✓	✓	✓	✓
Toilet facilities	✓	✓	✓	✓
Heating	X	X	✓	✓
Structure/weatherproof	✓	✓	✓	✓
Mould/damp	X	✓	✓	✓
Sufficient lighting	✓	✓	✓	✓
Bins	X	X	X	✓
Cooking facilities	X	✓	✓	✓

⁶⁸ The Property Owners Association of NSW, ‘What are minimum rental standards and what do they mean for landlords and tenants?’ (Web Page, 6 February 2018). Available at <<https://poansw.com.au/industry-news/what-are-minimum-rental-standards-and-what-do-they-mean-for-landlords-and-tenants/>>.

⁶⁹ Ibid.

⁷⁰ RTA NSW (n 25) s52.

⁷¹ Housing Improvement Act 2016 (SA) s5.

⁷² RTA Tas (n 8), s361-36P; Residential Tenancy Amendment Act 2013 (TAS) Part 3B.

⁷³ RTA Vic (n 7), s65A, Residential Tenancies Regulations 2021 S.R. No. 3/2021 (Vic) Schedule 4.

⁷⁴ See the Housing Improvement Act 2016 (SA) s5 and the Housing Improvement Regulations 2017 (SA) Part 3 for information on the minimum standards in South Australia and the RTA Tas (n 8) ss 361-36P and Residential Tenancy Amendment Act 2013 (TAS) Part 3B for information on the minimum standards in Tasmania.

Windows (locks and/or coverings)	X	✓	✓	✓
Plumbing	✓	✓	✓	✓
Exemptions	✓	✓	✓	✓
Compliance and enforcement mechanism (other than a court or tribunal)	✓	✓	✓	X

New South Wales

Minimum standards

In NSW, the *Residential Tenancies Regulation 2019* introduced seven minimum standards for residential tenancies on 23 March 2020. The minimum standards clarify the meaning of ‘fit for habitation’ as it relates to rented premises and applies to all rented properties in NSW. The minimum standards must be met at the commencement of each tenancy and maintained throughout.

The seven minimum standards which must be met for the premises to be fit for habitation are that the premises:

- is structurally sound and locks maintained
- has adequate natural light or artificial lighting in each room of the premises other than a room intended to be used as a storage space or garage
- has adequate ventilation
- is supplied with electricity or gas and has an adequate number of power outlets or gas sockets for the supply of lighting and heating, and use of appliances
- has adequate plumbing and drainage
- is connected to a water supply service that supplies the premises with hot and cold water for drinking, ablution and cleaning; and
- contains bathroom facilities, including toilet and washing facilities, that allow privacy for the user.

Compliance and enforcement

The NSW reforms included giving power to the NSW Commissioner for Fair Trading⁷⁵ to investigate alleged breaches of the landlord’s general obligation to maintain the premises in a reasonable state of repair.⁷⁶ The tenant may apply in writing⁷⁷ to the NSW Commissioner for Fair Trading and if a breach is established orders ensuring the repairs are carried out, rectified or completed may be issued.⁷⁸ If the landlord does not agree with the rectification order they make seek an internal review of the decision or apply to the NSW Civil and Administrative Tribunal for determination.⁷⁹

⁷⁵ In the *RTA NSW* (n 25), the term used is *Secretary*. Secretary is defined in s 3 to include the Commissioner for Fair Trading.

⁷⁶ *RTA NSW* (n 25) s 65C.

⁷⁷ *Ibid* s 65C(1).

⁷⁸ *Ibid* s 65C(3).

⁷⁹ *Ibid* s 65C(5)(e)(i)-(ii).

Exemptions

The NSW Commissioner for Fair Trading may exempt a premises or class of premises from the operation of the minimum standards and that exemption may either be unconditional or subject to conditions.⁸⁰

Victoria

Minimum standards

Victoria introduced 14 minimum standards for residential tenancies through the *Residential Tenancies Regulations 2021*.⁸¹ From 29 March 2021, a premises for rent must comply with the minimum standards and those must be maintained throughout the duration of the tenancy. However, some of the minimum standards do not apply to properties subject to a tenancy agreement that commenced prior to 29 March 2021 and some of the standards will be phased in to allow landlords time to comply.⁸²

For a rented property to meet the minimum standards, the landlords must ensure the following:

- all external entry doors, excluding screen doors, must have a functioning deadlock or locks that can be unlocked with a key from the outside and unlocked without a key from the inside
- there is a vermin proof rubbish and recycling bin that meets council standards
- the premises must have a functioning toilet connected to an appropriate sewerage/wastewater treatment system. The toilet must be in a private room intended to be used as a toilet area either separately or in a bathroom or laundry
- the premises must have a bathroom that has a supply of cold and hot water, has a washbasin, and has a shower or a bath. If there is a shower, the showerhead must have a 3-star water efficiency rating unless it is reasonable for one with a lower star rating to be installed
- the premises must have a dedicated area for cooking and food preparation. It must have a sink that has cold and hot water supply and a cooktop with two or more burners. If there is an oven it must be in working order
- if there is a laundry, it must have a reasonable supply of cold and hot water
- the premises must be weatherproof and structurally sound
- the premises must be free from mould and damp caused by the building structure
- all external windows that can be opened must have functioning latches and be able to be set in a closed or open position
- interior rooms, corridors and hallways should have access to sufficient light and all habitable rooms must have access to sufficient natural light during the day and artificial light during the evening; and
- the premises must have adequate ventilation in all rooms that meets in the Building Code of Australia standard.

The phased in minimum standards are:

⁸⁰ Ibid s 52(1C).

⁸¹ *Residential Tenancies Regulations 2021 S.R. No. 3/2021* (Vic) Schedule 4.

⁸² Consumer Affairs Victoria, Residential Tenancies Regulations 2020 – Regulatory Impact Statement (Web page, 5 April 2021). Available at <<https://www.consumer.vic.gov.au/resources-and-tools/legislation/public-consultations-and-reviews/residential-tenancies-regulations-2020-regulatory-impact-statement>>.

- As of 29 March 2021, all premises must have a fixed heater in the main living area and by 29 March 2023 the fixed heater must be one that is energy efficient.
- From 29 March 2023, any premises for rent must have all power outlets and lighting circuits connected to a circuit breaker and residual current device that complies with Australian standards; and
- From 29 March 2022, any premises for rent must have curtains or blinds fitted to each window in any room intended to be used as a bedroom or living area.

Compliance and enforcement

In Victoria if a tenant has not yet taken possession of the property and they find it does not meet the minimum standards, they may terminate the tenancy without penalty.⁸³ If the tenant has already moved in, a failure to comply with minimum standards is treated as an urgent repair.⁸⁴ A failure by the landlord to meet the minimum standards on or before the day a tenant moves in is an offence that carries a penalty of 60 penalty units, or 300 penalty units where it is a body corporate.⁸⁵

If the landlord does not respond to the urgent repair request, the tenant may apply to the Victorian Civil and Administrative Tribunal (VCAT). VCAT may make orders that until the repairs are actioned rent payments are redirected into a tribunal trust account until the repairs have been made.⁸⁶ If the repairs are not made and the property does not meet the minimum standards, the tenant can apply to VCAT to have some, or all, of the monies in the account paid back to them.⁸⁷

Exemptions

There are exemptions for properties that are registered under the *Heritage Act 2017 (Vic)* in relation to certain minimum standards.⁸⁸ Additional exemptions exist for apartment blocks in relation to energy efficient heaters if the owner's corporation rules prohibit it or it would cost more than the average installation.⁸⁹ The landlord should have evidence to establish it is unreasonable to install such a heater and give the tenant advance notice before a tenancy agreement is signed.⁹⁰

What minimum standards should be introduced and how prescriptive should they be?

The ACT Government is considering not only which minimum standards should be introduced but also how prescriptive these standards should be. For example, New South Wales has introduced descriptive minimum standards whereas Victoria has been more prescriptive about what is required for a minimum standard to be met.

The New South Wales approach may be less onerous on landlords and mean compliance is easier to achieve. However, the descriptive standards mean a higher degree of ambiguity remains. There is a

⁸³ *RTA Vic* (n 7) s 91L.

⁸⁴ *Ibid* s 65A(2).

⁸⁵ *Ibid* s 65A(1).

⁸⁶ *Ibid* s 77.

⁸⁷ *Ibid* s 77(4)(a).

⁸⁸ Consumer Affairs Victoria, *Rental properties – minimum standards* (Web Page, 6 May 2021). Available at <<https://www.consumer.vic.gov.au/housing/renting/repairs-alterations-safety-and-pets/minimum-standards/minimum-standards-for-rental-properties>>.

⁸⁹ *Ibid*.

⁹⁰ *Ibid*.

question as to whether more general wording would provide meaningful improvement on the existing ACT standards of ‘fit for habitation’, ‘reasonably safe’, ‘reasonably clean’, and ‘reasonably secure’.

By contrast, the Victorian approach is defined and leaves little room for alternate interpretations. This approach is also taken by South Australia and Tasmania. However, more prescriptive standards may mean that the scope of the minimum standard does not account for a fuller range of circumstances.

Questions

- What minimum standards relating to physical accessibility, safety and security, sanitation and amenity should be implemented as a priority in the ACT?
- How prescriptive should the standards be?

When and how should the minimum standards be introduced in the ACT?

Some options for consideration are:

- **Fixed commencement date:** have a fixed commencement date which would require all properties for rent in the ACT to comply with the minimum standards set out in the regulation.
- **Phase in of standards:** Some standards may be required by a particular date with others implemented at later stages to allow landlords a reasonable time to comply considering the cost involved as well as the time it may take to source tradespeople to undertake any work required.
- **Compliance required on entering a new lease:** create a window of time over which compliance can occur with the date triggering compliance being when the landlord enters into a new lease over the property. A final date for compliance may also be required to capture longer term tenancies that are unlikely to be renewed in the short term (to ensure that all tenancies are captured by a certain date).
- **Staged introduction by minimum standard type:** select some minimum standards to implement first and leave others to a later date.

Allowing a period before the minimum standards come into effect will give landlords time to ensure the rental property meets the required standard. The time allowed for implementation may depend on the standards being implemented as well as the likely cost and difficulty of compliance with the required standard.

Questions

- How much time should landlords be allowed to implement the minimum standards?
- What would be the optimal transition period for some or all minimum standards?

Exemptions

It may be unreasonable for some properties to be expected to meet the minimum standards as they may fall within a particular group or class⁹¹ (e.g. they are heritage listed), or the design of the property may

⁹¹ This is the approach taken in Tasmania. For more information, see Tasmanian Government Consumer, Building and Occupational Services, *Exemptions from minimum standards for rental properties* (Web Page, 1

not allow for compliance (for example, it may not be practicable to install a bathroom extractor fan in certain circumstances). Temporary exemptions may also be warranted if the cost of compliance is likely to be excessive or where the landlord has plans to demolish or substantially rebuild the property shortly after the commencement of the new standard or alternatively where the tenant was the former owner of the property and is renting the property from the new owner on a temporary basis.⁹²

In the case of some unit titled properties, there may be difficulties with compliance arising out of the owners corporation approvals process (for example, if it is necessary to obtain permission for the installation of an external extractor fan) and it may be unreasonable to expect the landlord to comply.

In some of these circumstances, exemptions may be necessary. The landlord may need to disclose to the tenant if they have an exemption so that the tenant is aware on entering the tenancy that the property won't comply with the minimum standards (see further below).

Questions

- Should there be certain exemptions to minimum standards allowed? If so, on what basis?

Compliance and enforcement

Compliance with the minimum standards prescribed by regulation would be a legal requirement.⁹³ The current compliance model under the Act allows tenants to apply to ACAT for an order that the landlord comply with their obligations under the agreement, this could include an order that the landlord comply with minimum standards.

The ACT Government is also considering whether additional options for recourse should be available to tenants where properties do not meet minimum standards. For example, one option may be to create a right for tenant to terminate the tenancy 'without penalty' where the tenant has not yet taken possession of the property, as is the case in Victoria. It would also be an option to follow the Victorian model which provides that, where a tenancy has commenced and the property does not comply with minimum standards (without a valid exemption), the Tribunal could order any rent payable by the tenant to be redirected into a trust account until such time as the minimum standards are met. ACAT could then also order some, or all, of the rent held in the trust account be repaid to the tenant

Questions

- What mechanisms would be appropriate to enforce minimum standards?
- Are there any other issues you would like to raise for consideration?

July 2020). Available at <<https://cbos.tas.gov.au/topics/housing/renting/beginning-tenancy/minimum-standards/exemptions>>.

⁹² These exemptions were included in the New Zealand healthy homes standards. For more information, see <https://www.tenancy.govt.nz/healthy-homes/exemptions-to-the-healthy-homes-standards/>.

⁹³ The standard residential tenancy terms provide that you cannot contract out of the *Residential Tenancies Act*, except as provided for in the Act – Schedule 1, cl 3.

ATTACHMENT 1: EXISTING TERMINATION CLAUSES IN THE RESIDENTIAL TENANCIES ACT 1997

Act Reference	Landlord's reason for ending the tenancy	Termination Process	When is the ground available?
s 36 (1) (h)	If the landlord and tenant agree in writing to terminate the agreement and the tenant moves out in accordance with that agreement.	Agreement in writing	Periodic or fixed term
Schedule 1, Standard Terms, cl 96 and s 47	The landlord genuinely intends to live in the property or a relative or someone with a close relationship with the landlord genuinely intends to live in the property .	8 weeks notice to vacate and a statutory declaration from the landlord confirming their intention to live (or have someone close to them live) in the property (If tenant doesn't vacate - application to ACAT under s 47)	Periodic tenancy only
Schedule 1, Standard Terms, cl 96 and s 47	The landlord genuinely intends to sell the property	8 weeks notice to vacate (If tenant doesn't vacate - application to ACAT under s 47)	Periodic tenancy only
Schedule 1, Standard Terms, cl 96 and s 47	The landlord genuinely intends to rebuild, renovate or make major repairs to the property, which cannot reasonably be carried out with the tenant living there	12 weeks notice to vacate (If tenant doesn't vacate - application to ACAT under s 47)	Periodic tenancy only
s 8 (4) definition of fair clause for posted people and s 47	If the landlord is posted to Canberra in the course of their employment and exercises the posting termination clause where it has been included in the tenancy agreement	Inclusion of the posting clause in the agreement 8 weeks notice to vacate and evidence of posting (If tenant doesn't vacate - application to ACAT under s 47)	Fixed or periodic
s 49 and Schedule 1, Standard Terms, cl 92	Breach of the tenancy agreement – failure to pay rent	1 week notice to remedy and (if the tenant doesn't pay the rent) 2 week notice to vacate ⁹⁴ (If tenant doesn't vacate - application to ACAT under s 49)	Fixed or periodic
s 48 and Schedule 1, Standard Terms, cl 93	Breach of the tenancy other than a failure to pay rent	2 week notice to remedy and (if the tenant remedy the breach) 2 week notice to vacate ⁹⁵ (If tenant doesn't vacate - application to ACAT under s 48)	Fixed or periodic
s 51	The tenant has caused (or recklessly	Application to ACAT	Fixed or

⁹⁴ Note – this is a simplified version of the process. For more detail, refer to RTA (n 10) Schedule 1 cl 92.

⁹⁵ Note – this is a simplified version of the process. For more detail, refer to RTA (n 10) Schedule 1 cl 93.

	permitted): <ul style="list-style-type: none"> • serious damage to the premises, or other property of the landlord , • injury to the landlord or a member of the landlord’s family (or if the landlord is a corporation – injury to a representative of the corporation or a member of the representative’s family • serious or continuous interference with the quiet enjoyment of nearby premises 		periodic
s 50	Where the landlord will suffer significant hardship if the tenancy is not terminated and ACAT is satisfied that the landlord’s hardship will be greater than what the tenant would suffer if the agreement were to be terminated.	Application to ACAT	During the fixed term only
Schedule 1, Standard Terms cl 86-87	The premises not fit for habitation or is not (or will not be) available because of Government action	1 week notice to vacate	Fixed or periodic
s 53	The tenant lived in the property as part of an employment agreement that has ended and the landlord needs to use the property for another employee.	Application to ACAT	Fixed or periodic
s 36 (k)	The property is used as crisis accommodation and the landlord needs to use it for someone other than the current tenant.	4 weeks notice to vacate and the landlord must have given the tenant information about alternative accommodation	Fixed or periodic
s 52	The landlord entered into the agreement because of a false or misleading statement made by the tenant.	Application to ACAT	Fixed or periodic
s 54	The tenant purports to: <ul style="list-style-type: none"> • consent to a person becoming a co-tenant • assign or sublet the premises and does not follow the process set out in the standard terms (or a term endorsed by ACAT) (for example they do not obtain the landlord’s consent)	Application to ACAT	Fixed or periodic
s 55	Where the tenant repudiates the tenancy (that is, they indicate that they are unwilling or unable to comply with the agreement) but does not move out of the property	Application to ACAT	Fixed or periodic

ss 55A-55B	Where the premises contains, or has contained loose-fill asbestos insulation or where the property is an eligible impacted property under the ACT Government's loose-fill asbestos property buy back program ⁹⁶	Application to ACAT	Fixed or periodic
ss 61-63	The tenant abandons the property	Tenancy ends on the date of abandonment Note: there is a process a landlord must follow in order to confirm the property has been abandoned. ⁹⁷ If there is a dispute as to the date of abandonment, parties can apply to ACAT for an order	Fixed or periodic
S 64	There is a successor in title to the property (other than when the property is sold) for example, if the landlord dies and the property is inherited by their child or where the landlord defaults on their mortgage and their mortgage provider forecloses on the mortgage.	8 weeks notice to vacate issued after the successor in title becomes entitled to possession of the property	Fixed or periodic
Schedule 1, Standard Terms, cl 94 and s 47	End of fixed term	26 week notice to vacate with the vacate date being on or after the end of the fixed term (If tenant doesn't vacate - application to ACAT under s 47)	On or after the end of the fixed term.

⁹⁶ See the *Civil Law (Sale of Residential Property) Act 2003*, s 9A for a definition of eligible impacted property.

⁹⁷ See RTA (n 10) s 61A

ATTACHMENT 2: WHAT WE WANT TO KNOW - SUMMARY OF CONSULTATION QUESTIONS

Ending no cause terminations

- Do you think no cause terminations should be removed from the Act?

Termination ground based on the landlord wanting to use the premises for a non-residential purpose

- Do you think the Act should include a clause which allows the landlord to terminate the agreement where they want to use the premises for a purpose other than as residential premises for rent?
- If so, what notice period do you think should apply to this termination provision? Are there any safeguards that should be introduced in relation to such a provision, (for example, requiring the landlord to provide a statutory declaration as to their genuine intention to use the property for an alternative business purpose)?

Termination ground based on effective management of housing stock

- Do you have any views in relation to the introduction of a termination ground based on the effective management of social housing stock?
- Do you think there should be a general ground covering management of housing stock or more specific grounds related to transfer, withdrawal of housing assistance, extended absence from the property etc?
- If a termination ground or grounds based on the effective management of social housing stock were to be introduced, what is the appropriate notice period for such a ground?
- If there are several more specific termination grounds introduced, do you think there needs to be different notice periods connected to different grounds?
- Do you think there should be any additional protections for tenants introduced in connection with such a termination ground or grounds?

Termination ground based on eligibility for accommodation assistance

- What are your views in relation to the introduction of a termination ground based on continuing eligibility for accommodation assistance?
- If a termination ground or grounds based on eligibility for accommodation assistance were to be introduced, what would be an appropriate notice period for such a ground? What is the justification for the suggested notice period?
- If the landlord issues a notice based on loss of eligibility for accommodation assistance, do you think the tenant should be able to give notice to leave the tenancy at an earlier date (without penalty) should they wish to do so (as they currently can with a 'no cause' notice)?
- Do you think there should be a built-in 'right to review' process as part of a termination ground based on loss of eligibility for accommodation assistance? If so, what do you think is an appropriate timeframe for this review? Would your views as to the length of the required notice period change if a right to review process was included?
- Do you think there should be any additional protections for tenants or landlords introduced in connection with this termination ground?

Termination at the end of a fixed term tenancy

- Do you think end of fixed term terminations should be permitted?

- If an end of fixed term termination provision is introduced, do you think it should be limited to the end of the initial fixed term only (as is the case in Victoria)?
- If an end of fixed term termination provision is introduced, are there any additional safeguards that should also be introduced? For example, if end of a fixed term terminations are allowed do you think there should be a minimum duration for a fixed term agreement?
- Do you think there could be any unintended consequences if end of fixed term terminations are removed from the Act
- If end of fixed term terminations are permitted, what do you think the required notice period should be? Should this vary depending on the length of the fixed term (for example in Victoria, if the fixed term is for less than 6 months the required notice period is two months, whereas if the fixed term is longer than 6 months the required notice period is 3 months⁹⁸)?

Other questions relating to additional prescribed grounds for terminations

- Are there any other new termination grounds that should be introduced into the Act when no cause terminations are removed? If you think there should be additional prescribed termination grounds, what is the justification for the introduction of the proposed new ground(s)?
- What notice period or termination process would you propose for the new termination ground(s)?

Additional protections related to ending no cause terminations

- Do you think landlords should be required to provide evidence when they want to sell or renovate the property to demonstrate that their reliance on the ground is genuine? If so, what sort of evidence do you think should be required (for example a statutory declaration or some other evidence)?
- Do you think landlords should be prevented from re-letting a property for a period of time after having issued a tenant a NTV based on sale / renovation/ change of use / wanting to move in?
- Do you think any other protections are required to prevent misuse of prescribed termination grounds?
- Are there any other protections that should be introduced to protect either landlords or tenants with the removal of no cause terminations? If so, what is the justification for the proposed protection?

Rent bidding

- Have you ever engaged in rent bidding as a prospective tenant or accepted a higher than advertised rent as a landlord? Was it on your initiative or following a suggestion?
- Do you think rent bidding needs to be regulated? What types of laws would you like to see to protect prospective tenants and why? Are some forms of rent bidding acceptable?
- Do you think that advertising a rental property with a price range (or with no price at all) should be an acceptable practice? Why or why not?
- If rent bidding is prohibited how would you suggest this is enforced? Are there other any other issues you would like to raise for consideration in relation to rent bidding?

Right to grow food

- Do you think the Act should be amended to introduce more rights for tenants to grow food and to compost?
- Are there any safeguards for landlords that should be introduced to support this change?
- What do you think about the obligation to 'make good' on any modifications (that is, the obligation to return the property in substantially the same condition as it was originally) in the

⁹⁸ RTA Vic (n 7) s 91ZZD.

context of gardening? Do you think there should be a modified obligation in acknowledgement that gardens are living and impacted by seasonal and climatic conditions?

- Are there any other issues you would like to raise for consideration in relation to the right to grow food and to compost?

Minimum standards

- What minimum standards relating to physical accessibility, safety and security, sanitation and amenity should be implemented as a priority in the ACT?
- How prescriptive should the standards be?
- How much time should landlords be allowed to implement the minimum standards?
- What would be the optimal transition period for some or all minimum standards?
- Should there be certain exemptions to minimum standards allowed? If so, on what basis?
- Do you agree with the enforcement mechanisms for minimum standards?
- Do you consider further mechanisms are required to enforce minimum standards? If so, what further mechanisms are required?
- Are there any other issues you would like to raise for consideration?

HOW TO PROVIDE FEEDBACK

When providing feedback you may choose to respond to each question outline above or alternatively provide feedback in a format that suits you.

Please send any feedback to: civilconsultation@act.gov.au

If you have difficulties providing written feedback, please contact the Justice and Community Safety Directorate, Civil and Regulatory Law Branch on 6207 6483.

The consultation period will close on 17 September 2021. **Please provide all feedback by 17 September 2021.**

