

Fair Go! Rentals

Residential Tenancies (Minimum Housing Standards) Amendment Bill 2011

What are Fair Rentals?

If you went to lease out a car for the weekend, you would expect it to have seatbelts to keep you safe. You would probably expect the windows to open and close, and the brakes and lights to work. So why is it that we don't expect the same kinds of standards for the houses that we rent? Houses in Canberra are leased out with little or no insulation, inappropriate heating, no fly screens and poor security. Some renters in Canberra often resort to living in one room over winter to try to avoid paying huge electricity bills.



What does the Bill do?

The **Residential Tenancies (Minimum Standards) Act Amendment Bill 2011** seeks to set minimum standards for properties that are made available for rent in the ACT. This would include public housing where the Government is the landlord.

The legislation will set specific minimum standards for security, and energy and water efficiency. It then requires the Minister to set a number of standards in relation to a range of other areas, such as ventilation and damp, construction and condition, supply of hot and cold water, heating, laundry and cooking facilities, lighting, electrical safety and hard wired smoke alarms.

According to the 2006 Census, around 35,000 of households are living in tenanted properties in the ACT. 72% of these are private rentals and 26.5% are rented by the Government housing authority.

The current ACT Residential Tenancies Act says that a tenant is entitled to live in a premises that is "in a reasonable state of repair" and "reasonably clean" but do not elaborate on what the standard of the premises should be.

While a large number of properties rented out are of good quality, and will have a high energy efficiency rating if they were recently constructed, many older houses are sub-standard.

For more information, please contact

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Unfortunately it is these older houses that end up being rented by those who are on the lowest incomes – ironically these can also be the people who end up with the highest running costs.

The split incentives challenge

Landlords don't always upgrade their rental properties, as while they are required to pay for the improvements, it is the tenant who benefits the most. Recent experience in other jurisdictions indicates that even when financial incentives are available for landlords, they access those incentives at a much lower rate than home owners.

What kind of standards will be set?

The Bill sets very specific standards for energy efficiency, water efficiency and security, as well as areas in which the Minister must set other standards, such as ventilation, damp, heating, hot and cold water, laundry and cooking facilities, and importantly, electrical safety and smoke alarms.

- Energy efficiency standard – EER 2 by January 2013, and EER 3 by January 2015. These are not high EERs, but changing a house from an EER of 0 to 3 can halve your electricity bill!
- Water efficiency standards could be met by fitting low flow shower heads and taps, and installing a dual flush toilet.
- Security standards – the provision of deadlocks on external doors as well as locks on other external openings.

Won't it just push up the cost of rental accommodation?

Rental prices in Canberra are already high, and while meeting minimum standards may increase costs for some landlords, it's unlikely that rental prices will rise as a result. Rents are generally set as a factor of what the market will deliver, not as a reflection of costs. But if minimum standards are not set, then renters will keep paying high prices anyway, while some landlords get away with not ensuring that premises just meet the basics in terms of what a fair rental should be: warm,

secure, ventilated in summer and without damp and mould. And if someone's rent does go up as a result of the improvements, then it's likely that the running costs for the tenant will come down. Lifting a house from EER0 to EER3 could cut an average annual energy bill by around \$1500.

What if my property can't meet the standards?

The Bill contains an exemption provision which allows the Minister to set exemptions for specific premises or for a class of premises. This may be in regard to the energy efficiency standard or for any other standards in the Bill. The exemption clause is designed for landlords who cannot meet the minimum standards without incurring an unreasonable cost.

There are likely to be some broad exemptions related to housing construction, such as monocrete houses, and Class A unit titles, either because of cost, or the impracticality of a landlord being able to make the changes that are required independent of the Body Corporate.

EERS and home energy audits

The Bill requires that all premises advertised for rent must have an Energy Efficiency Rating Statement (EER). This is currently required under law for properties advertised for sale, and would be extended to include properties advertised for lease. COAG agreed that mandatory disclosure of EERs for rental properties would be implemented by May 2011.

Home energy audits are currently undertaken by the ACT Government's Home Advisory Assessment Team (HEAT), and are subsidised by the Government. The Bill proposes that if a landlord is seeking an exemption for the energy efficiency standard, the premises must undergo a home energy audit and that the landlord would implement some of the low cost recommendations prior to gaining an exemption. This will have the effect of improving the energy efficiency of houses irrespective of them meeting the standard. Some houses which may start from a sub-zero EER may still be able to achieve efficiency improvements.

For tenants

What will it mean for tenants?

Tenants will be able to raise concerns if the premises they are renting does not meet the minimum standards. The Bill will provide a clear mechanism for tenants to request improvements to the premises so that they meet the minimum standards. If the tenant and the landlord cannot agree on how this should be done, the Bill provides for the tenants to ask for assistance from the Office of Regulatory Services and then the ACT Civil and Administrative Tribunal (ACAT).

How will I know if my house meets the minimum standards?

The landlord will be required to provide information to the tenants about what the minimum standards are, and whether or not the premises being leased has any exemptions from any of the standards.

Whether or not a house has an exemption from the energy efficiency standard, the Bill ensures that tenants are provided with a copy of the energy efficiency rating (EER) statement.

If I am a tenant, what would I have to do?

If you thought that the property you were leasing didn't meet the minimum standards, and you wanted the landlord to take action, you could send a 'rectification notice' to the landlord. This would outline the standards not being met and requesting that they be met within 90 days. If after 90 days you still thought the standards were not being met, then you could ask the Commissioner for Fair Trading to investigate. The Commissioner would investigate your case, and may either call on the landlord to make further changes, or try to negotiate a solution between you and your landlord. If no solution was able to be reached, and the landlord had still not rectified the premises at the request of the Commissioner, the Commissioner would then refer the case to ACAT to ensure that the landlord took action to meet the standards.

For landlords

What if my house doesn't meet a minimum standard?

Under this Bill, if your property didn't meet one or more of the minimum standards, you would be required to undertake work to ensure the property met the standards, or risk having intervention from the Commissioner or ACAT. Initially however, your tenant would need to notify you if they think you haven't met a standard, and you would then have 90 days to resolve the problem.

If you aren't able to carry out the rectification work that is required to meet the standards, then you could apply for an exemption under the Act. The Minister would be allowed to grant exemptions for specific standards if he was satisfied that the cost of compliance to the landlord was unreasonable. It is clear already that there are some types of premises for which it would be very expensive to ensure compliance; for example, we know that houses constructed from monocrete are very expensive to insulate, as they require external cladding.

Can I claim any of the costs of fixing my house?

Repairs and maintenance can be claimed as tax deductions if your property is negatively geared. Capital improvements can also be claimed over the life of the property. Check with your tax accountant or the Tax Office to be sure which expenses can be claimed.

Landlords are eligible to claim \$500 back on energy efficiency improvements if they undertake an audit through the Home Energy Advisory Team (HEAT) and spend more than \$2000 on the priority actions. Details of this scheme can be found at:

http://www.actsmart.act.gov.au/your_household/heat_energy_audit

Fair Go! Rentals

Where can I find out more information about Fair Go! Rentals?

You can visit the Fair Go! Rentals Facebook page or can contact Shane Rattenbury's office at the Legislative Assembly.

Many people have had experience with a bad rental property in Canberra. If you'd like to share your story with us, we'd love to hear from you!

Our Facebook page is here:

www.facebook.com/FairGoRentals

What if I want to comment on the Bill?

That would be great – we'd really appreciate your input and will be taking submissions on the Bill until **Friday 3rd June 2011**. You can obtain a copy of the Exposure Draft and the discussion paper by contacting Shane Rattenbury's office at the Legislative Assembly. We'd appreciate it if you could send your submissions back to us by email or post to:

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What needs to happen for the Bill to become law?

For the Bill to pass into law it will need the support of either the Government or the Liberal Party, or of course, both! It's important to not just let us know what you think, but to also let other MLAs know as well. You can find their contact details at: <http://www.legassembly.act.gov.au/>

