



Northern Territory Legal Aid Commission

NORTHERN TERRITORY LEGAL AID COMMISSION

SUBMISSION TO THE ECONOMIC POLICY SCRUTINY COMMITTEE INQUIRY INTO THE RESIDENTIAL TENANCIES LEGISLATION AMENDMENT BILL 2019

1. OVERVIEW OF OUR SERVICE

The Northern Territory Legal Aid Commission ('NTLAC') provides information, community legal education, legal advice, representation and assistance to persons in a range of matters, including:

- Civil law,
- Domestic violence, via the Domestic Violence Legal Service ('DVLS')
- Family law, including Family Dispute Resolution;
- Child Protection Matters; and
- Criminal law.

NTLAC also provides early intervention and prevention services. These services include legal information, education, referral, advice, advocacy and minor assistance.

NTLAC also provides non-legal support services including social and clinical support services to:

- Victims of domestic and family violence in the DVLS;
- Vulnerable clients in the Darwin Family Law Practice;
- Youth clients in the Darwin Criminal Law Practice;
- Respondents to domestic violence proceedings; and
- Vulnerable clients of the Commission in Alice Springs.

In addition, we have a community legal education and outreach function, which includes the development and delivery of information, resources and projects. We have offices in Darwin, Palmerston, Katherine, Tennant Creek and Alice Springs.

In the course of delivering our various services we encounter many vulnerable clients with housing and tenancy related issues including tenancy related debt, lack of housing availability, neighbourhood disputes, maintenance and damage issues and legal issues that arise from the wide ranging impacts of domestic violence.

Although we assist clients with legal issues in connection with both public housing and private rental arrangements, the majority of clients we assist in relation to housing matters are public housing tenants.

2. EXECUTIVE SUMMARY

NTLAC welcomed the release of the discussion paper '*Review of the Residential Tenancies Act 1999*' (the Discussion Paper) given the long standing view held by many legal and housing services that tenancy legislation in the Northern Territory requires comprehensive and urgent review. Unfortunately we are of the view that the limited time provided to stakeholders for submissions and the refusal to extend that timeframe on request likely prohibited many services from preparing individual responses to the Discussion Paper.

NTLAC was happy to support the detailed submission prepared by Darwin Community Legal Service (DCLS) in response to the Discussion Paper. We note the significant amount of time invested by DCLS to detail the need for comprehensive legislative reform of tenancy legislation. NTLAC recognises the importance of their input as a legal service with extensive experience dealing with a broad range of housing and tenancy related issues through their Tenants Advice Service (TAS).

NTLAC recommends that the Economic Policy Scrutiny Committee consider all submissions provided to the Department of the Attorney-General and Justice in response to the Discussion Paper in order to inform this inquiry and assess the proposed legislation before it.

NTLAC has also had the opportunity to consider the submission by DCLS to this inquiry and NTLAC can again confirm our support for the recommendations noted in their submission.

Given the need for an extensive legislative overhaul noted in various submissions by stakeholders in response to the Discussion Paper, the proposed *Residential Tenancies Legislation Amendment Bill 2019* (the Bill) falls disappointingly short of what is required and what was promised.

Whilst we support in substance much of the current proposed Bill we are troubled by its failure to address areas of concern that many stakeholders identified as areas urgently requiring review and reform; these include:

- Broadening the scope of the Act to capture a wider range of accommodation arrangements in the Northern Territory;
- Additional protections for victims of family and domestic violence;
- Introduction of minimum standards of habitability;
- Review and extension of various notice periods;
- Introduction of an independent bond board; and
- Protection against arbitrary evictions.

Notwithstanding this concern as to the extremely limited scope of the Bill, we do provide below our comments on specific provisions of the Bill and what further amendments we see should be incorporated.

3. PROPOSED AMENDMENT TO THE BILL

Notice of termination terminology and definitions

NTLAC supports the terminology changes to 'Notice of Intention to Terminate' throughout the Bill and the removal of gender specific terminology in section 77.

We do note however that the failure of the Bill to not accompany these changes with extensions to the relevant notice periods is a wasted opportunity. We agree with the comments made by DCLS in their submission to this inquiry that this Bill could easily be amended to extend the various notice periods to align our legislation with national standards. There is no reasonable or justifiable explanation as to why Territorians should be disadvantaged compared to wider Australia in this regard.

Pets

Although the intent of the proposed section 65A and 65B is welcomed, the limited scope of their application raises serious doubts as to their utility.

The rebuttable presumption introduced by the Bill that a tenant may keep a pet applies only to tenancies entered into after the commencement of the legislation, effectively failing to assist existing renters (including anyone currently in public housing).

As noted by DCLS in their submission to this inquiry, without addressing 'no cause evictions' the practical consequences of a tenant serving a notice to keep a pet may still be that they face eviction by the landlord under section 89 or 90. This undermines any legislative intent to provide tenants with a right to keep a pet and remains inconsistent with the objectives of the Act to fairly balance the rights and interests of tenants and landlords.

Orders to let Landlord enter premises

NLAC has serious concerns about the amendments proposed to section 77. NLAC agrees with the points raised in the DCLS submission to this inquiry about the potentially dangerous outcomes these provisions could create.

We also agree with DCLS that removal of civil and criminal responsibility of the landlord for acts done in 'good faith' is unprecedented, unnecessary and dangerous. In light of those concerns and given that no other jurisdiction within Australia contains such provision, these measures should be removed from the Bill.

Termination for purposes under the Housing Act 1982

Division 2

NLAC appreciates and welcomes the intention of these provisions to provide a clear process whereby a tenant may be moved to transitional housing so that works can be undertaken to improve their tenancy. We acknowledge that the underlying purpose of these provisions is to improve living standards.

NLAC agrees with all recommendations made by DCLS in their submission to this inquiry in relation to Division 2. In particular, NLAC agrees that 'reasonable steps to consult' requires further clarification and tenants should be provided with the opportunity to make submissions that are to be considered by the CEO (similar to the submissions process provided in Division 3).

NLAC also shares the concern noted by DCLS regarding a tenant's rights and responsibilities in relation to the transitional accommodation provided and the concern that the transitional accommodation not being subject to the Act prevents tenants from accessing its various protections.

NLAC is also of the view that a reasonable notice period needs to be included in section 141(b).

Division 3

Similar to the points noted above in relation to Division 2, clear specification of what constitutes 'reasonable steps to consult' should be included. Use of interpreters when required and the provision of plain English notices and information to tenants is an important part of effective consultation.

Again NLAC supports the DCLS recommendation to extend the time limits noted in s146 and s147 to allow appropriate opportunity for tenants to obtain legal advice given the logistical and other factors that effect many tenants accessing timely legal support in the Northern Territory.