

Residential Tenancies Amendment Bill.

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Submission from Methodist Public Issues

Contact

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Thank you for the opportunity to submit on this bill. Methodist Public Issues would like to appear to the Select Committee.

Warm regards
Betsan Martin

The Methodist Church supports the general impetus for improving standards of housing, including the initiative to improve the standards of rental housing, and moves toward Warrants of Fitness for housing.

We consider the proposed requirements to be minimal and inadequate to meet the stated objectives of the policy. The objective of Bill is **“warmer, drier and easier to heat”** rental housing, with the aims of current policy to ensure provision of smoke alarms and insulation. It is not a full “Warrant of Fitness” for housing.

The being said, we welcome recognition that legislated minimum standards are necessary. This is an important first step towards raising rental housing quality.

There is no provision for heating to be installed in rental houses in the bill. Landlord interpretation of providing a socket as meeting the requirements of heating need to be corrected, with a requirement of heating installation in line with contemporary heat sources, and with thermally efficient insulation that meets the Building Code.

Public Issues considers that housing is a three-way responsibility, with a public interest requirement to regulate to ensure safe, dry, healthy and affordable housing; that landlords have a responsibility to ensure properties are well functioning, and meet the requirements of regulations, and tenants have a responsibility to respect the property and fulfill rental agreement obligations.

The information that informs this submission is listed at the end.

Submission

The main focus of this submission is the minimum standards set by the 1978 insulation requirement. The 1978 standard of 70mm is about half EECA’s current standard. The

current Build Code is for 120 mm of thickness. Although thickness is not the only criteria, with effectiveness varying with materials used, this is a sound indicator.

The minimum standards set out in this bill are insufficient to bring rental housing to meet the criteria of warm, dry and easy to heat rental housing. A full 'Warrant of Fitness' to meet quality housing standards is the appropriate standard of regulation, and research provides evidence of the cost benefits of Warrant of Fitness Standards. In particular the costs, which may be considered a deterrant, are acceptable to 85% of landlords. Furthermore, although 4% of the 400 properties in the MBIE study were compliant, 48% could be brought to WoF Standards within 2 days, and at low cost. It is estimated that only 14% of HNZ properties were compliant.

While the benefits to society are assessed, and include safety, health and education benefits, the benefits to Landlords of WOF Standards are poorly analysed. They include lower tenancy turnover, improved standard of housing, and therefore improved market value and investment interests. It appears that these benefits have not been calculated in the cost benefit analysis in the Sapere Report, although lower tenancy turnover is briefly mentioned by MBIE.

According to MBIE, the estimated number of rental houses requiring repairs to meet the minimum standards proposed, including insulation to be retrofitted, is 180,000 (MBIE p. 19). Only The cost of bringing these properties to the standards proposed in the legislation is estimated to be an average of \$1,811 (ranging from \$30 – 11,281). per house. Around 42% of properties would cost less than \$1000 to upgrade. The features in the Bill include:

- ceiling and floor insulation,
- smoke alarms
- requirements for phasing in ceiling and underfloor insulation and smoke alarms by 2019

Heating is not required in the minimum standards proposed.

In contrast, the cost of repairs to a Warrant of Fitness standard are estimated to be \$2640 per property per house, excluding a heating fixture. Research on this is in the process of completion and will be available in a forthcoming publication.

There are approximately 60,000 Housing NZ properties, and in 2014 a trial was carried out on 500 properties to ascertain the cost of repairs to bring them to a Warrant of Fitness Standard. A warrant of Fitness includes more items than those proposed for rental accommodation. WOF criteria includes safety catches on windows, safety features to minimize falls and burns, and safe storage of medicines, insulation, fire alarms, safe hot water temperature, sewerage functioning, vermin free, natural light, heaters.

The cost of heating, such as a heat pump is assessed as \$2750 per unit. An assessment was made by Sapere, for the need of 66,650 heatpumps.

1. Rental accommodation and poverty

Housing is one of the main causes of poverty in NZ. The most vulnerable people are more likely to be low-income people living in rental properties (cited in Howden-Chapman *Policy Quarterly – Volume 11, Issue 3 – August 2015 – Page 17*); and also more exposed to health risks. Warrant of Fitness standards have been demonstrated to reduce the burden of disease and injury (ibid).

The evaluation of *Warm Up New Zealand* showed that the greatest benefits from insulation are for low income families, who are at risk of ill-health from poor housing (Regulatory Impact Statement, No. 80).

In 2015, 32.5% of households and around 50% of people were renting (Statistics New Zealand, 2015). In Auckland, 58% of low income households rent, and 30% of all households nationally

In the last five years the median weekly rent across New Zealand rose 20%, from \$340 to \$420, considerably above consumer price inflation (Trade Me, 2015, cited in Howden Chapman 2015).

Using overcrowding as an indicator of poverty, approximately 50 percent of Pasifika children and 25 percent of Māori children live in overcrowded housing conditions, compared to 5 percent of European children. Overall, 44 percent of children who live in the most deprived areas live in overcrowded conditions (Office of Childrens' Commissioner, 2011.)

Law and policies that would improve this situation of disparity between Tamariki Māori, Pacific children and others include:

- Secure housing tenure with an increase in the number of social and iwi housing.
- Kaupapa Māori solutions for whanau so that Māori children have outcomes in accordance with Iwi/Māori aspirations, including equity in health, education and wellbeing. Commitment to Whanau Ora is to be maintained and strengthened.
- Plans for iwi economic and social development.
- Pasifika solutions for Pacific communities with equity of outcomes for children in health, education and wellbeing
- Policy to address wellbeing for Māori (and for all population) requires integration of policy across health, housing, education, welfare, environment and the labour market. (Public Issues Submission Determinants of Health for Maori, 2012)

We commend the intention of an Information campaign, both with tenants and rental property owners.

Recommendation: Methodist Public Issues submits that the standard for housing be raised to a Warrant of Fitness standard. Also that specific liaison with Maori and Pacific communities for a pro-active information sharing and implementation of housing standards, is undertaken by MBIE.

2. Cost Benefit analysis of insulation.

The Sapere and MBI documents identify the cost benefit ratio of minimum standards for rental property proposed in the bill to be 1.5. The addition of heat pumps make the cost benefit ration 1.3.

Recommendation: Methodist Public Issues submits that heating should be included in the requirements.

3. Matters of Compliance

- a. Under the new law tenants, if the property does not comply with the standards, the tenant will have four weeks to apply to the Tenancy Tribunal on the grounds of retaliatory notice rather than the two weeks they presently have. Retaliatory notice is to end a tenancy, and provision is made to use this mechanism to seek implementation. First the tenant would approach the Landlord, with recourse to the Tribunal if the request fails. The time for tenants to apply for retaliatory action is extended from 14 to 28 days.
- b. Landlords will be subject to an increased maximum penalty for noncompliance of \$2,000 (Cabinet Social Policy Committee, 2015, p.3). The issue for tenants is they may fear eviction.
- c. It is the responsibility of MBIE to investigate substandard housing and enforce the regulations.
- d. Several compliance proposals are discussed in the Regulatory Impact Statement and Sapere. These include a range of options from 'self regulation and market forces to strong enforcement, such as a car Warrant of Fitness, with a strong role for government as regulator (Regulatory Impact Statement No. 70.). At present tenancy standards are activated through landlord-tenant contractual relationships. A tax-compliance model is discussed (Sapere, p. 28, 35). This combines an information campaign with 'self regulation' with the government conducting sample audit assessments, with results on a central register.

The weak compliance proposals reflect a political bias in favour of landlords. This statement is substantiated in reference to the composition of the membership of the Technical Advisory Group, which had no representatives of Tenants representatives groups or Tenants. (Regulatory Impact Statement para. 24). According to the

research, stronger compliance will be more effective at implementation. The proposed model relies on high voluntary compliance by landlords. According to the legal advice of Anglica Advocacy, a stronger implementation system is needed for compliance, backed up by discretionary levels of fines up to \$10,000 (to avoid landlord buy-off of upgrading rental houses).

Recommendations:

- The provision for tenants to have four weeks for retaliatory notice is supported.
- The maximum penalty be raised to \$10,000 with an adjudicator having discretionary power to determine the level of fines for breaches of the regulations.
- Request for further consideration of a stronger regulatory model, with a proactive role for MBIE in ensuring compliance and activating the penalty.
- That compliance be strengthened with self regulation plus a sample audits and activation of penalties for non-compliance. This gives a strong signal for implementation of the regulations and the Act.

4. Conclusion

In the context of the Social Investment approach (English 2015), the minimal regulatory provisions of this bill are inadequate. It is requested that:

- Insulation Standards requirements be lifted to the current Building Code,
- that Heating is made a requirement
- That the penalty of non-compliance be raised to \$10,000 with discretionary adjudication of penalties for breaches of regulations.
- That protections for tenants be strengthened such as via direct access to MBIE for non-compliance
- That MBIE's empowerment to actively monitor remediation of substandard housing and take action against non-compliant landlords, be actively implemented.
- Monitoring and evaluation – a scientific approach to evaluation that has a strong component of feedback from tenants and community feedback.

Information and research sources for this submission:

- MBIE Discussion document (<http://www.mbie.govt.nz/info-services/housing-property/tenancy/proposed-residential-tenancies-regulations-for-insulation-and-smoke-alarms/discussion-document.pdf>)
- Research of Philippa Howden-Chapman (Howden-Chapman *Policy Quarterly* – Volume 11, Issue 3 – August 2015)

- Sapere Report ‘Cost Benefit Analysis for a minimum standard for rental housing’. Nov 2014. ,
- the Regulatory Impact Statement (<http://www.mbie.govt.nz/publications-research/publications/housing-and-property/ris-smoke-alarms-insulation-residential-rental-properties.pdf>)
- Bosch, M. (2014) *The Trial of Rental Housing Warrant of Fitness with Housing New Zealand* . Housing New Zealand Corporation.
- the Children’s Commission Expert Advisory Group
- The New Zealand Council of Christian Social Services submission.
- Anglican Advocacy. ‘Plain Language Legal analysis of the Residential Tenancies Amendment Bill’.