



NATIONAL DISABILITY SERVICES VICTORIA

Submission to the *Residential Tenancies Act 1997*

February 2017

Overview

NDS welcomes the review of the Victorian *Residential Tenancies Act 1997* (RTA) and the opportunity to respond to the reform options as outlined in the Options Discussion Paper. This short submission addresses the options which may affect tenancies for people with disability, particularly regarding modification rights and the scope of the RTA.

NDS submits that the RTA should be revised so that people with disabilities living in group homes are eligible for residential tenancies and covered by the RTA. This will ensure that in residential settings, people with disabilities have rights and choices equivalent to others, as mandated by the UN Convention on the Rights of People with Disabilities (UNCRPD) Article 19.

Our specific recommendations are that:

- Section 23 of the RTA be revised so that people with disabilities living in group homes are eligible for residential tenancies and covered by the RTA. This would provide equal rights and protections for people with disabilities in residential settings to be consistent with UNCRPD.
- the RTA review adopt Alternative Option 8.20B, that there be no requirement to approve certain modifications.

National Disability Services

NDS is the peak body in Victoria and Australia for non-government disability service providers, with more than 200 members in Victoria and more than 1,050 members nationally. We have a diverse and vibrant membership, comprised of small, medium and larger service providers supporting thousands of people with disability, including both children and adults with autism spectrum disorder. Our members employ over 8,000 people in Victoria alone and are supported by countless volunteers in delivering vital services to Victorians with disability.

NDS is committed to improving the disability service system to ensure it better supports people with disability, families and their carers, and to building a more inclusive community. NDS has advocated strongly over a number of years for the introduction of a National Disability Insurance Scheme (NDIS) and is now supporting service providers across Victoria as they transition to the new Scheme.

UN Convention on the Rights of Persons with Disabilities

Australia has embraced a rights based approach to people with disabilities, as reflected in its endorsement of the UN Charter United Nations Convention on the Rights of Persons with Disabilities. The Convention requires that:

“Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement.”

The rights prescribed in the Convention include the right for people with disabilities to have choices and to make decisions about where and how they live, equal to others.¹

Review of the *Residential Tenancies Act 1997*

There are some key sections of the RTA which impact adversely on the residential experiences of people with disabilities. In particular, those provisions requiring that approval be sought for modifications of property, are crucial to the quality of and access to the private rental options for people with disability.

NDS recommends Option 8.20B – No requirement to approve certain modifications. This option would allow people with disability a greater capacity to modify residences so as to live independently and safely.

RTA and the *Disability Act 2006*

NDS seeks further clarity on the scope of the RTA and the *Disability Act 2006*, which currently covers tenancy rights and responsibilities for people with disability living in group homes. NDS recommends the RTA cover all people with disability, regardless of the type of accommodation in which they live.

The RTA guarantees crucial rights and responsibilities for landlords and tenants, however is largely silent on protections for people with disabilities. Currently, tenancy rights for people with disabilities who live in group homes or shared support accommodation are covered by the *Disability Act 2006*. The rights in residential services under this legislation are tied to the disability services provided to the tenant, rather than a direct relationship between landowner and tenant. These rights are not the same as the rights conferred on people living in residential tenancies; for instance around the conditions on which disability service providers may relocate people.

As the disability sector transitions to the NDIS, models of disability housing are changing and diversifying. In 2006, people with disabilities were covered by a separate Act, reflecting their position in society, and their living situations, which were generally in group homes, with parents, or in institutions. However, under the NDIS, the landscape is changing and people are being supported to live in a variety of settings, including individually or with a small group in apartments and private homes. People with disabilities are also engaging with a support provider that is independent of the owner or manager of the property in which they choose to live. It is critical to have a legislative framework which reflects these more inclusive, diverse, and contemporary support models.



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ⁱ United Nations 2006, Convention on the Rights of Persons with Disabilities, Article 19.