



# **HEADING FOR HOME: RESIDENTIAL TENANCIES ACT REVIEW**

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**SUBMITTED BY THE SALVATION ARMY**

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*The Salvation Army, State Social Command – Victoria  
Heading for Home: Residential Tenancies Act Review*

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## Overview

### *About The Salvation Army*

The Salvation Army is an international Christian movement with a presence in 128 countries and a reputation built on 150 years of compassionate care and advocacy. In Australia, the Salvos are widely known and relied upon to deliver practical responses to individuals, families and communities in crisis. While we interact on a daily basis with people from all walks of life, we recognise a particular calling to those who might otherwise fall through the gaps of our social security nets, those who find themselves on the margins of our communities, and those who struggle to have their voices heard.

Today Salvation Army churches, community centres and social service networks provide more than 300 distinct social program activities in urban, regional and rural areas across the state. These activities range from frontline emergency support services and targeted interventions, through to more generalist responses. Programs include:

- Youth, adult and aged homelessness and housing services;
- Family violence support and accommodation services;
- Drug and alcohol support and treatment services;
- Material aid and emergency relief;
- Financial counselling and assistance, including Gamblers' Help;
- Community managed mental health services;
- Personal counselling and support;
- Aged care services;
- Youth and children's services, including out-of-home care;
- Education, training and employment services;
- Disaster response and recovery services;
- Chaplaincy and support services in courts and prisons; and
- Services for asylum seekers and refugees.

This support for disadvantaged Australians is driven by our values: integrity, compassion, respect, diversity and collaboration. We share our community's belief in a 'fair go' for all, which grounds our commitment to social justice and a particular interest in the health and wellbeing of those who are most vulnerable in our society.

### ***The Current Context***

Access to affordable and secure housing is a major issue for the people The Salvation Army works with. Rising housing prices are locking more people out of home ownership and resulting in people living in private rental for longer. Increased demand for private rental has priced many, if not most, of the people we work with out of the market and resulted in rising rates of housing stress among low income earners. These low income households are vulnerable to rental increases and eviction notices because they have few other affordable accommodation options. Many are forced to rely on substandard forms of housing such as boarding houses and caravan parks or become homeless.

The Salvation Army's 2016 Economic and Social Impact Survey (ESIS) showed that 75 per cent of people requesting emergency relief assistance lived in some form of rental accommodation. Of those who were in private rental, 90 per cent were experiencing housing stress, with nearly 70 per cent in extreme housing stress - that is, more than half their income went to housing costs. For the majority, who relied on Commonwealth income support payments to survive, after paying rent they had less than \$16 a day to live on.

In addition to this, 16 per cent of those who responded to the survey were homeless at the time. These respondents represent only part of the nearly 25,000 people who sought housing assistance from The Salvation Army in the last year. A 2016 snapshot of Salvation Army services saw marked increases in people sleeping in their car, living temporarily in hotels and rough sleeping. In this desperate housing environment, it is vital that tenants have strong protections for their rights, in order to make their homes safe, secure and sustainable.

The timing of this review of the Residential Tenancies Act highlights the need for legislation to adapt to changing market conditions. Good legislation is foundational to fairer and more equitable society. However, those who are negatively impacted by the conditions it seeks to regulate must be able to avail themselves of remedial mechanisms. Compliance also needs to be enforced without creating unintended consequences. At present, affordable housing with secure tenure is a much sought rarity for people on low incomes. This means that those who experience problems with their tenancy are less likely to raise them for fear of losing their housing. Adding to this difficulty is that too stringent a regime may result in rental properties being withdrawn from an already under-resourced market.

This submission aims to find a fair balance between the needs of vulnerable tenants and the sustainability of the private rental market.

## **Part B: Starting and maintaining a tenancy**

### **3. *Application of the RTA and lease lengths***

#### **3.1. Limitations to the scope of the RTA**

The Salvation Army supports the option to remove the five-year limit on the scope of the RTA. This would ensure greater protection for tenants seeking to enter into longer term lease agreements and potentially avoid more complex, expensive legal interventions by retaining the capacity for VCAT to be used in disputes.

#### **3.2. Long-term leasing in general tenancies**

The Salvation Army supports both options to (a) introduce an optional prescribed fixed-term agreement for general tenancies agreements of five years or longer and (b) provide for the option for tenants to extend fixed term leases for a subsequent period.

The current legislation assumes relatively short periods of rental tenure and therefore favours the rights of the landlord as an investor over the rights of the tenant to build a long-term home. When people lived in private rental for a short period of time prior to buying a house, this focus was appropriate. Now that the length of time people live in private rental is longer, the legislation needs to focus more on creating a private rental market that provides stability for a tenant and enables them to build a home and participate in society the same way that homeowners are able to do. Increasing support for longer term leases provides greater stability and security for both tenants and landlords.

### **4. *Rights and responsibilities before a tenancy***

#### **4.1. Unlawful discrimination against applicants and tenants**

The Salvation Army supports both options for tackling discrimination, specifically including an information statement about unlawful discrimination in application forms and strengthening linkages between the RTA and the Equal Opportunity Act 2010.

Although some legislation exists to limit discrimination against certain groups, The Salvation Army's experience demonstrates that discrimination is still commonplace. Both clients and frontline staff report that people have been excluded from private rental, and in some cases even community housing, based on appearance, age, their relationship status, having a disability, having mobility aids or assistance animals, if they have children or are on income support - factors that have no direct bearing on tenancy. Increased and explicit protection against such discrimination in the RTA is a positive step.

**4.2. Privacy and use of tenancy application information**

The Salvation Army supports the option to prohibit a landlord or agent from using information in a tenancy application for any other purpose than assessing that application. This basic privacy principle - that information should only be used for the purpose for which it was obtained (ie. a tenancy application) - should be embedded in the RTA.

**4.3. Tenancy databases**

The Salvation Army supports the options to prohibit charging fees for a copy of a tenant's listing and to give VCAT power to make an order if database listing is unjust in the circumstances.

Concerns about the impact of residential tenancy databases and their effects on our clients' ability to access housing were raised in consultations with Salvation Army services. The practice of real estate agents and landlords 'blacklisting' tenants through the use of tenancy databases increases the vulnerability of already disadvantaged clients and puts them at risk of homelessness. Many of The Salvation Army's clients rely on government income support payments to survive, meaning that even a relatively small charge for access to their own information can create an unreasonable burden.

Our services identified women and children experiencing family violence as particularly vulnerable to unjust outcomes from database listings. Women experiencing family violence, including financial abuse, can be held responsible for their partner's failure to pay rent and/or damage made to the property. If victims of family violence are listed as responsible for these breaches, they, and their children, are prevented from accessing private rental, which could result in women choosing to stay or to return to a violent relationship to avoid homelessness. This kind of example illustrates why an appeal to a third party such as VCAT to change a database listing is an important option.

**4.4. Disclosures and representations prior to entering a tenancy**

The Salvation Army supports the options to require disclosure of certain information and to prohibit false, misleading or deceptive representations prior to tenancy. Such changes would bring the RTA in line with Australian Consumer Law and should provide pathways for remedy in case of breach.

#### 4.5. **Details of landlord for legal proceedings**

The Salvation Army has no preference between the alternative options given in this case. Either the option for the landlord's details to be recorded in the tenancy agreement or to be provided by the agent upon request of a court or tribunal give reasonable pathways for legal action where required.

#### 4.6. **Terms of tenancy agreement**

The Salvation Army supports the following options:

- A comprehensive standard prescribed tenancy agreement;
- Blacklist of tenancy agreement prohibited terms;
- Offence to include invalid or prohibited term.

In addition to current legislation favouring landlords, the social context of unaffordable housing puts additional pressures on prospective tenants that result in power imbalances when it comes to negotiating tenancy agreements. Salvation Army services regularly report that clients choose to take up or remain in unacceptable rental conditions rather than risk homelessness. Because of this imbalance, The Salvation Army also supports retaining the status quo for enforcement of additional terms. Creating tenancy agreements from a blank slate (with limited exceptions) for enforceable terms gives further powers to landlords beyond the RTA.

### **5. *Rights and responsibilities during a tenancy***

#### 5.1. **Processes for breach**

The Salvation Army supports the option to tailor the remedy for breach of duty to reflect the nature of duty and any loss suffered, specifically to differentiate between breaches that require action and those that require the cessation of actions.

Due to the vulnerability of its client group, The Salvation Army is broadly supportive of legislative, policy and practice frameworks that encourage restorative actions when breaches occur and support the longer term stability and sustainability of tenancies. Legal frameworks that rely on transactional responses to breaches act to further disadvantage tenants who would respond better with more relational approaches. This includes tenants who have a history of adverse involvement with institutions and bureaucracies, those with lower levels of literacy and educational attainment, intellectual disability or mental health problems. The Salvation Army has supported many people in similar situations to maintain successful tenancies by actively engaging with them when (or, where possible, before) a breach occurs.



In these cases, both tenants and landlords benefit from more sustainable tenancies. However, such interventions rely on more relational and less transactional means of dealing with breaches.

For the most part, 'three strikes' rules act against the interests of vulnerable tenants, particularly where these may be accumulated in relatively short periods of time where the tenant has not been able to access any additional support that would help with compliance. Furthermore, where these rules are broadly interpreted, so that they do not have to apply to the same kind of breach, a collection of relatively small, unrelated and individually remedied circumstances can be combined to work against tenants' interests - despite reasonable attempts to rectify each situation.

#### **5.2. Pets in rented premises**

The Salvation Army supports the option that a 'no pets' clause is unenforceable if it is unreasonable. As the Options Discussion Paper notes, many people keep household pets for companionship and wellbeing. This is a particularly important factor for people who are otherwise socially isolated. Salvation Army workers have frequent engagements with people whose bond with their pet is highly valued and has a positive impact on their wellbeing. In some cases, people have been forced to make an unreasonable choice between abandoning a much-loved animal companion and obtaining or retaining their housing.

Because many of The Salvation Army's clients already struggle to come up with the financial resources required to establish a tenancy, an optional pet bond is not supported. However, optional pet consent clauses in the standard prescribed tenancy agreement may be a good compromise that meets the interests of all stakeholders.

#### **5.3. Rights of entry**

The Salvation Army supports the following options:

Seven days' notice for general inspection or valuation and landlord liability for tenant loss caused during entry. The option of 'reasonable' inspections to show to prospective purchasers, with right to compensation for tenant is also supported, though it is noted that there does not appear to be existing agreement between tenants and landlords on the 'reasonable' frequency of such inspections. The proposed maximum of two inspections a week favours many landlords' views on this subject but is twice the amount thought reasonable by two thirds of tenants.

In addition, giving notice of an inspection only in writing may disadvantage some tenants. Wherever possible, the tenant should be able to nominate their preferred method of receiving such notices.

The Salvation Army also supports increasing the current notice period for entry to show prospective tenants from 24 to 48 hours, within 21 days of termination. As with notifications for inspections by prospective purchasers, the tenant should be able to nominate their preferred method of receiving such notices.

With regard to entry to take advertising images, options that rely on tenants' capacity to raise objections in writing or to represent their rights at VCAT could result in further disadvantaging some vulnerable tenants. As noted earlier, a reliance on transactional and bureaucratic mechanisms does not work in the best interests of some people, for whom relational engagement strategies deliver better outcomes.

5.4. **Sub-letting and assignment**

The Salvation Army shares the concerns of the Tenants Union of Victoria that the proposed options in this area appear to represent a backward step from the current situation for tenants.

6. ***Rights and responsibilities at the end of a tenancy***

6.1. **Lease break fees**

The Salvation Army supports the options of codifying common law compensation principles for lease break fees and having fixed lease break fees as an optional clause in prescribed tenancy agreement. However, in order not to create significant disadvantage for tenants, these changes rely on the effective implementation of the following two options regarding severe hardship and special circumstances.

6.2. **Severe hardship**

The Salvation Army supports the option where in cases of tenant severe hardship, compensation to landlord is capped at two weeks' rent. In addition, VCAT should take a tenant's severe hardship into account when awarding compensation after a lease is broken. Compensation for landlords when a lease is broken may also take severe hardship into account, provided that it does not shift the burden of such hardship directly to the tenant. The variation between these responses acknowledges both the existing power differential between tenants and landlords, as well as the current social context where affordable housing is in high demand.

This context makes it easier for landlords to re-let properties than it is for tenants to access suitable housing options.

### 6.3. **Lease breaking in special circumstances**

The Salvation Army supports the option that tenants not be required to pay lease break fees, if any of the following apply:

- the tenant has been offered and accepted accommodation in social housing (public or community housing);
- the tenant requires special or personal care (including if the tenant has been offered and accepted a placement in Specialist Disability Accommodation);
- the tenant requires temporary crisis accommodation, or other alternative accommodation following an incident involving family violence;
- the landlord notifies the tenant of their intention to sell the property during the fixed term, if the proposed sale was not already disclosed to the tenant before the tenancy agreement commenced; or
- the landlord has refused the request of a tenant with a disability to make reasonable modifications to the property to meet their special needs.

### 6.4. **Goods left behind**

The Salvation Army supports the options for updating notification requirements for stored goods and retargeting and streamlining CAV assessment process. There should be no changes to the existing procedures for immediate disposal of perishable foodstuffs, dangerous goods, and goods of no monetary value, or the existing procedures for personal documents left behind. Of the remaining options, Option 6.6A to implement stored goods procedure based on NSW model is the preferred option because it preserves tenant's effects which may have low monetary value but high personal value.

## 7. ***Bonds and rent***

### 7.1. **Maximum bond amounts and rent in advance**

The Salvation Army supports the option to remove all exemptions for exceeding a bond amount of one month's rent, except by application to VCAT. The changes in rental values since the RTA last put a dollar value on exemptions demonstrate the challenges of linking legislation to market rates. Any broader category of exemptions opens the way to further disadvantaging low income tenants.

**7.2. Bond claims**

The Salvation Army supports the option of speedier bond repayments when all parties are in agreement. This is especially important for low income tenants who may not have other financial means to establish a new tenancy. The option for automatic bond repayments for tenants when a claim is not disputed (7.3C) appears to be the most efficient way to achieve speedier repayments in most cases. Option 7.3B (the NSW model) is not supported as this puts too great an onus on tenants to meet short timelines during a period of major disruption (ie. moving house).

**7.3. Frequency of rent increases**

The Salvation Army supports the options of limiting rent increases to no more than once every 12 months and disclosing rent settings in fixed term leases.

The current six-month limitation on rent increases is especially difficult for low income earners, many of whom are already experiencing moderate to severe housing stress. In these cases, even a small rent increase can make their housing unaffordable.

While the transparency of disclosing rent increase calculations in fixed term leases is a welcome improvement, a cap on the proportion that rents can be increased would also be of benefit. Neither the current legislation nor the proposed options regulate how much rent can be increased at any one time and unfairly places the onus of preventing unreasonable rental increases on the tenant. Instead of depending on tenants to apply to VCAT if a rent increase is unreasonable, the RTA should actively regulate how much landlords can increase rent every 12 months. The Salvation Army supports the Tenancy Union Victoria's recommendation of setting a rent increase cap at no more than 120 per cent of the rate of CPI for the previous 12 months. Information regarding rent charged to previous tenants should also be published for new properties listed to increase transparency and ensure rents are not increased exorbitantly between tenants. Landlords should have to apply to VCAT if they want to raise the rent higher than the cap.

**7.4. Rent arrears**

See terminations (Section 11).

7.5. **Rent payment fees and methods**

The Salvation Army supports the options of having one fee-free method of paying rent and that landlords must accept Centrepay payments. Both of these options would help low-income tenants to establish and sustain tenancies.

7.6. **Rental bidding**

The Salvation Army supports the option for rental properties to be advertised at a fixed price and that landlords and agents cannot request or accept rental bids. Rental bidding disproportionately impacts vulnerable and low-income tenants and facilitates discriminatory practices.

**8. *Property conditions***

8.1. **Effectiveness of current regulation**

No further comment.

8.2. **Condition reporting – Measuring changes in a property’s condition**

The Salvation Army supports the following options:

- Expanded circumstances in which a condition report is required;
- Change timeframe for returning condition report;
- Condition report as evidence of need for repair;
- Tenant to complete condition report if one is not provided;
- Condition report checklist; and
- Prohibition on false, misleading or deceptive information.

These options represent a range of improvements on the current legislation. However, it is noted that vulnerable and disadvantaged tenants may still be unwilling to raise issues with property conditions, if they feel that this may put their tenancy at risk.

Whilst the introduction of condition reports that take into account situations of family violence is welcomed, it is noted that further expectations imposed by agents or landlords immediately following a family violence incident may cause additional stress to an already difficult situation. The process for these reports should take into account existing procedures, such as police reports, and minimise the impact of having to revisit a violent incident and intrusion into a family’s home.

### 8.3. **Condition of vacant property at the start and end of a tenancy**

The Salvation Army supports the following options:

- Composite repair and cleanliness duties and consideration of additional criteria;
- Cleanliness and good repair clarified through guidelines;
- Prescribed cleanliness and repair checklist; and
- Opportunity to repair or clean premises after vacating.

However, we do have some concerns that additional obligations on tenants (such as steam cleaning carpets) may be cost prohibitive for some tenants on low incomes.

### 8.4. **Locks and security devices**

The Salvation Army supports the requirement for reasonable security measures, including single-action deadlocks on external doors.

### 8.5. **Health, safety and amenity standards at point of lease**

The Salvation Army supports the introduction of minimum standards for private rental properties. The current lack of minimum standards leaves renters vulnerable to being forced to live in substandard and sometimes dangerous properties including structurally unsound dwellings and properties with no hot water, no cooking facilities, no insulation and no fire escape. This is particularly true for low income earners who often do not have the luxury of being able to pay a little more in rent to move and live in a nicer property. Regulations outlining minimum standards for properties managed by the Director of Housing have been in place since 1997 and standards for rooming houses were adopted in 2012. Similar regulations should be adopted for all private rental properties and included in the RTA. Of the various alternatives given in the options paper, the preferred options are:

8.13D Minimum health, safety, amenity standards for vacant premises

8.14A Staggered implementation; and

8.15A Conditional letting where properties meet particular requirements.

The latter two options give more flexibility to landlords to remedy property conditions. While we are concerned that more vulnerable tenants may be more exposed to renting properties in substandard conditions, we are equally concerned that more hardline approaches will result in the withdrawal of more rental properties from an already under-resourced market.

#### 8.6. **Condition of premises during a residential tenancy**

The Salvation Army supports the following options:

- Rental agreement to clarify responsibility for particular maintenance;
- Specific provision for safety related maintenance; and
- Offence to tamper with any safety devices.

#### 8.7. **Modifications**

The Salvation Army supports option 8.20B - No requirement to approve certain modifications.

Reasonable property modifications should be allowed by default. Tenants now live in private rental long enough that they should be allowed to make reasonable modifications to a property to fit their needs, particularly if those needs relate to a disability. Under current legislation landlords can refuse to allow a tenant to make modifications, even if the tenant is making these modifications at their own cost.

Minor changes such as wall hangings, shelves and other adornments should be allowed in recognition of the length of time many people spend living in private rental. Being able to make these minor changes to a property is a key aspect of making a house a home. Tenants should not be denied the opportunity to create a home simply because they continue to rent. These minor modifications should not affect a tenant's ability to reclaim their bond.

The Salvation Army supports a limited liability for removing fixtures and/or restoring the property with explicit exceptions for health, disability, ageing, safety and security related modifications. For instance, when reasonable modifications such as the installation of railings or ramps that do not require significant structural change to the property are requested due to a disability, legislation should grant tenants the right to make these changes as a matter of course without affecting their ability to reclaim their bond.

#### 8.8. **Liability for access to services**

The Salvation Army supports the options to update a landlord's liability in line with modern installation and supply practices and for recovery of reasonable service charges in social housing.

### 8.9. **Reporting and addressing damage**

The Salvation Army supports the following options:

- Tenant must notify landlord of, and compensate for, damage;
- Guidelines and explicit exclusion of fair wear and tear;
- Remedies for damage;
- Consideration of depreciation in claims for compensation; and
- Requirement for tenant email and / or forwarding address.

### 8.10. **Resolving disputes about repairs**

The Salvation Army supports the following options:

- Expand list of urgent repairs;
- Require tenant to report defects;
- Guidelines clarifying time frames for responding to urgent repairs;
- Faster resolution of repairs disputes;
- Enabling property owners to join an owners corporation to proceedings;
- Increase authorised repair amount;
- Landlord repairs and maintenance bond;
- Better access to Rent Special Account;
- Increased range of remedies for a breach of repairs duty; and
- Special provision for excessive usage charges caused by leaks, intermittent faults or hidden problems.

## 9. ***Rooming houses***

### 9.1. **Rooming house definition and emerging accommodation models**

The Salvation Army supports the option for a future inter-governmental project to consider whether rooming house definition requires amendment to capture emerging accommodation models. Given the dynamic nature of the housing market and the proposed changes to the RTA, this project should begin as soon as possible.

### 9.2. **Declared rooming houses**

The Salvation Army support the option for buildings owned or leased by registered housing agencies to be declared rooming houses where they meet the function of a rooming house and where the conditions for tenants are improved by the change of classification.



9.3. **Unregistered rooming houses**

The Salvation Army supports the option to test where a building owner or agent ought to have known that a premises was operating as an unregistered rooming house.

The Salvation Army also supports the option for enhanced inspection powers for CAV rooming house inspectors. We recommend the implementation of processes whereby residents can maintain their privacy when rooming houses are being inspected.

9.4. **Operation of rooming house without building owner consent**

No options proposed.

9.5. **Tenancy agreements in rooming houses**

The Salvation Army supports the option to allow rooming house residency agreements with a specified occupancy period and to remove use of tenancy agreements for occupancy of rooms in rooming houses. Removing this will allow for the level of security with flexibility that residents of rooming houses may need, distinct from the needs of tenants in other private rental arrangements.

9.6. **House rules**

The Salvation Army has no objection to the option for display of house rules to be required in common areas as well as in each resident's room and the development of guidance for model house rules. House rules should not claim powers beyond the scope of the RTA or other legislation. Therefore, The Salvation Army supports the option for no termination for breach of house rules, if these rules are invalid or not appropriately established.

9.7. **Pets in rooming houses**

The Salvation Army recognises the shared nature of rooming houses and the subsequent provision in the RTA in its current form, whereby residents require the consent of the operator to keep a pet in a rooming house. As discussed in 5.2, many people The Salvation Army have provided support to have found barriers to retaining their pets in private rental and rooming house accommodation. A lack of options for changing this provision to be more welcoming to pets in rooming houses may continue to pose a barrier for people seeking accommodation with pets.

9.8. **Rights of entry**

The Salvation Army supports the option for two month frequency for general inspection of resident's room with 48 hours' notice.

9.9. **Utilities**

The Salvation Army supports the option for operators to charge residents for water consumption where there are separately metered rooms.

9.10. **Minimum standards**

The Salvation Army supports the option amend rooming house minimum standards, where this would result in overall benefits to residents.

9.11. **Personal security and security of mail**

The Salvation Army supports the option for operators to provide mailboxes for each room and ensure sorting of mail.

9.12. **Quiet enjoyment of other residents**

The Salvation Army supports the option to restrict resident's quiet enjoyment duty to conduct within the property boundary of a rooming house.

## **Part C: Dispute resolution and ending a tenancy**

### **10. *Dispute resolution services and mechanisms***

10.1. **Tools for independent resolution of disputes**

The Salvation Army supports the option to enhance CAV's information and advice services. In particular, we appreciate the inclusion of a commitment to retaining telephone information and advice for people who may not be able to access digital or online information, and measures to produce information and provide advice in various simple and accessible formats.

10.2. **Third-party assisted non-binding dispute resolution**

The Salvation Army oppose the option to extend CAV's Frontline Resolution and Conciliation Services to landlords, property managers, and rooming house and park operators. CAV should retain its current service provision to consumers and not extend the scope to include providers.

10.3. **Binding agreements, orders and determinations**

The Salvation Army supports the option to establish a specialist administrative dispute resolution service that makes binding orders. Presently, administrative barriers posed by dispute resolution through VCAT prevent tenants and residents in general, but those experiencing vulnerability or disadvantage in particular, from promoting their rights under the RTA. There is significant benefit in combining an informal and non-adversarial dispute resolution service which can assist with maintaining tenant and landlord relationships with the certainty provided by binding orders and subsequent compliance requirements for both parties.

**10.4. Quality of decision-making by VCAT**

The Salvation Army supports option 10.4A to introduce re-hearing process for residential tenancies cases at VCAT. Despite the additional time and resource requirement for VCAT administration, this option is positive for tenants as appealing VCAT decisions may enable tenants to retain their tenure when re-hearing is in their favour.

**10.5. Compliance and enforcement**

The Salvation Army supports the option to expand civil remedies under the RTA. Presently, there is limited opportunity for tenants to seek recourse for landlord, rooming house and park operator non-compliance with the RTA, and some tenants, particularly those who are vulnerable or disadvantaged, may be subject to living in poorly maintained properties. Proposals in this review with regards to dispute resolution and compliance and enforcement may contribute to increasing compliance with minimum standards which in turn may improve living conditions for rental property tenants and residents.

**11. *Terminations and security of tenure***

**11.1. Terminations instigated by landlord or owner: tenant at fault**

- 11.1.1. The Salvation Army opposes the option to introduce a process for termination orders to the RTA. This option would remove opportunities for tenants to rectify breaches and establishes the possession order hearing as the first stage of eviction. Our preferred option is changing the name and wording of notices to vacate, which would inform tenants of and provide the opportunity to challenge possession.
- 11.1.2. The Salvation Army welcomes the option to require VCAT consideration of reasonableness in making possession orders. This would allow VCAT to balance various interests, such as hardship, for either the tenant or the landlord and other stakeholders such as neighbours, and whether termination would be proportional and reasonable, or whether other measures would be more appropriate to the circumstances.
- 11.1.3. The Salvation Army does not support the option to clarify the description of damage and include injury. We also oppose the option to require a landlord to apply directly to VCAT for a termination order for damage. Bypassing the notice to vacate in order to go directly to termination orders may put people at risk of homelessness, especially where a termination order may be given on the same day as notice.

- 11.1.4. The Salvation Army does not support the option to clarify the description and guidelines for interpretation of danger and opposes the option to require a landlord to apply directly to VCAT for a termination order for danger for the same reason as 11.1.3 above.
- 11.1.5. The Salvation Army opposes the options for VCAT to terminate tenancy if it was appropriate to give notice to leave; for notice to leave to be served on a resident for a visitor's serious violence; and for notice to leave to include practical information for a suspended resident. These options increase the risk of unnecessary evictions and eliminate opportunities to maintain tenancies where an issue is not ongoing. Additionally, we recommend that any notice to leave should be accompanied with practical information for the suspended resident, such as accessing crisis services.

The Salvation Army supports the options for a suspended resident to arrange for authorised representative to collect goods and for VCAT to hear an application within two business days, with adjournment of no more than five business days.

- 11.1.6. The Salvation Army supports the option to increase the notice period for termination for disruption. We oppose the options to amend the conditions under which a possession order must not be made and require a landlord to apply directly to VCAT for a termination order for disruption. Termination due to a single disruption is an inappropriate and unnecessary escalated response.
- 11.1.7. The Salvation Army supports the option for tenants to negotiate a repayment plan where seven days' rent is owed. However, further clarity is required around extensions for repayment plans. This option may offer less protection to tenants without further clarity. We support the option to require that repayment of arrears invalidate termination processes. We oppose the option to enable VCAT to make a termination order for repeated late payment of rent. This would enable eviction even where rent is one day late, which is an unnecessarily escalated response and would have negative impacts on the security of tenure.

We support the option to amend provisions for rooming houses to be consistent with general tenancies.

- 11.1.8. The Salvation Army supports the option to place a time limitation on compliance orders. We oppose the options to require a landlord to apply directly to VCAT for a termination order for failure to comply with a VCAT order and to amend conditions under which a possession order must not be made. These options would remove opportunities for tenants to rectify breaches and maintain housing tenure.

- 11.1.9. The Salvation Army supports option 11.22A to require a conviction to be in place for a notice to vacate for use of the premises for illegal purpose.
- 11.1.10. The Salvation Army opposes the option to include parting with possession for consideration without consent as grounds for termination. “Parting with possession” should be clarified to ensure that tenancies would not be terminated for reasonable parting with possession, such as hosting guests or engaging housesitters.
- 11.1.11. The Salvation Army opposes the option to expand the definition of antisocial behaviour to include a wider range of behaviours and people who may be affected by those behaviours. We consider the behaviours outlined in the proposed expansion to be too broad and subjective. This would enable unnecessary escalation to termination.

## **11.2. Terminations instigated by landlord or owner: tenant not at fault**

- 11.2.1. The Salvation Army supports option 11.25A to remove the notice to vacate for the end of a fixed term agreement. We oppose the option to enable the notice to vacate for the end of a fixed term agreement to specify the date on or after the end of the fixed term.
- 11.2.2. The Salvation Army supports option 11.27D to remove the notice to vacate for no specified reason. Limiting notices to vacate for specified reasons would place a reasonable onus upon landlords and offers tenants greater security.
- 11.2.3. The Salvation Army supports the options to require notice to vacate to be accompanied by evidence of change of use and to allow for greater VCAT discretion granting possession orders. We do not have any preference between options 11.30A to extend notice periods to 90 days for change of use terminations or 11.30B extend notice periods for long term tenancies, as extending notice periods is a positive change overall. We see no significant change in implementing the option to clarify conditions under which rooming house residents are given notice when building lease terminates.
- 11.2.4. The Salvation Army supports the options to require disclosure of any mortgagee repossession proceedings at point of lease; to require a mortgagee in possession to produce court judgment for possession order; to require a mortgagee in possession to give 60 days’ notice to vacate and compensate tenant; and to require a mortgagee in possession to honour agreements where consent is granted.

**11.3. Terminations provisions and security of tenure**

The Salvation Army supports Model 1. This model provides tenants with the strongest security of tenure and removes avenues for termination for ambiguous or discretionary reasons.

**11.4. Terminations instigated by the tenant: landlord at fault**

No options provided, see related comment above 11.1.8.

**11.5. Terminations instigated by the tenant: landlord not at fault**

11.5.1. The Salvation Army does not have any comment on options for termination after the death of a sole tenant.

11.5.2. The Salvation Army supports the option to enable tenant to give a reduced notice period, where they have accepted offer of public or community housing. The lack of investment into public housing over the last few decades has also created a critical housing shortage where wait lists for public housing are many thousands of households long. As such, where a tenant has been offered public or community housing, they should be free to accept this offer and provide reasonable notice of intention to vacate their rental property.

**12. *Family violence***

The Salvation Army works extensively with women and children who have experienced family violence, far too many of whom have subsequently faced homelessness. We welcome changes to the RTA that support the findings of the Victorian Royal Commission into Family Violence.

**12.1. Access to family violence protections in the RTA**

The Salvation Army supports option 12.1C to allow VCAT to consider anything it believes relevant in regard to family violence situations. This option, which allows VCAT to consider any evidence of family violence, would enable more timely access to the family violence provisions in the RTA and allow for consideration of evidence in circumstances where family violence safety notices, interim intervention orders, or final intervention orders have not yet been issued. Access to the family violence provisions in the RTA enable people to choose to maintain their tenancy and in turn their connections with their local community and social networks, allow for considerations of hardship and ensure that protected persons would not be subject to any debts or liabilities associated with the tenancy.

Similarly, in the pursuit of timely responses and resolution, The Salvation Army supports the option for family violence related applications to be heard by VCAT within a specified time, such as 3 business days. We also support the option whereby an applicant may include the parent or guardian of a child who is a victim of family violence, so that family violence related protections under residential tenancies legislation would be available to children.

**12.2. Terminating a tenancy**

The Salvation Army supports the option for victims of family violence to terminate a tenancy via a notice to vacate rather than entering into a lengthier process with VCAT.

**12.3. Modifications to rented premises**

The Salvation Army supports the option for non-structural modifications to be made without consent. This option would allow for the timely installation of fixtures such as locks, which would enhance safety for a person who has experienced family violence and remains in their residence. We would welcome specifying reasonable modifications that could be made without consent, in order to ensure that tenants can take safety measures without risk of financial liability associated with restoring property to the original condition at the end of a tenancy.

**12.4. Residential tenancy databases**

The Salvation Army supports the option for restriction on listings made by landlords and agents. Following from our earlier discussion in 4.3, this option would protect women who have experienced family violence from any unjust outcomes arising from breaches which result in listing on tenancy databases, even where breaches were undertaken by the perpetrator of family violence.

The Salvation Army supports the option for a VCAT order to remove and prevent listings in tenancy databases due to actions of another person. As previously discussed, this would ensure that a victim of family violence would not be associated with breaches for which they are not responsible and subsequently discriminated against in the private rental market.

The Salvation Army supports the option for VCAT order to remove or edit information from listings in tenancy databases due to risk to safety. We welcome measures to ensure the safety of people who have experienced family violence, addressed in this option by excluding information that would pose a risk to a person's safety, but we recognise that where a person is responsible for a breach, they may be listed in a tenancy database.

**12.5. Challenging notices to vacate**

The Salvation Army supports the option to enable a notice to vacate to be challenged in the context of family violence. We welcome a process by which a person who has experienced family violence and has received a notice to vacate due to an action or conduct by the perpetrator may be protected and not exposed to further crisis, such as instability in their housing. However, we are concerned that there is a high burden of proof required to access the challenge process.

**12.6. Compensation orders and claims against the bond**

The Salvation Army supports the option of apportioning liability in the context of family violence both where the perpetrator is a co-tenant and where they are not. We welcome protection from financial liability for people who have experienced family violence, but as above, we are concerned about the inappropriate burden of proof.

**12.7. Serving notices and documents**

The Salvation Army supports option B to require that VCAT serve the notice to the perpetrator of family violence. The onus for serving notice should not be placed upon a victim-survivor of family violence to have to confront the perpetrator. Therefore, we welcome the option for VCAT to service notices rather than the person who has experienced family violence.

## **CONCLUSION**

The Salvation Army looks forward to continuing to work with the Victorian Government as an interested stakeholder with a key interest in vulnerable client groups. If you would like to discuss any of the issues discussed in this submission please contact The Salvation Army Victoria Social Programme and Policy Unit.