

1 March 2016

Residential Tenancies Act Review
Consumer Affairs Victoria,
GPO Box 123,
Melbourne, VIC 3001

By email: yoursay@fairersaferhousing.vic.gov.au

Dear Sir/Mdm,

Residential Tenancies Act Review – Issues Paper on Rent & Other Charges

CUAC is a specialist consumer organisation established in 2002 to represent Victorian energy and water consumers in policy and regulatory processes. As Australia's only consumer organisation focused specifically on the energy and water sectors, CUAC has developed an in-depth knowledge of the interests, experiences, and needs of energy and water consumers.

We have responded specifically to question 14 of the RTA Issues Paper on Rent and Other Changes (Issues Paper) as that question covers utility (energy and water) charges, which falls within the scope of CUAC's work.

What issues arise from the way in which provisions for rent and other charges in the Act balance the interests of tenants and landlords?

CUAC supports the current practice articulated in Box 3.2 (p.21 issues paper) where:

- Landlords are responsible for the water service charges, and also for non-individually metered properties, the water usage and sewage disposal charges;
- Tenants are responsible for water usage and sewage disposal charges for individually/separately metered properties;
- Landlords are responsible for the installation and initial connection costs for electricity, gas and oil supply, and also for non-individually metered properties, the usage charges (for individually/separately metered properties, tenants pay usage charges)

While we support the above, CUAC is of the view that as a matter of principle, all tenanted properties should be individually metered. Individual metering provides tenants with visibility of their usage and encourages energy and water efficiency practices. For non-individually metered tenancies, even though the RTA stipulates that landlords are responsible for the energy and water charges, it is likely that these costs are passed through to the tenants and recoverable via the rent that tenants pay. In this respect, there is no visibility for the tenant as to how these charges are bundled into their rent.

We note that the RTA (s56, s166, 206ZH) prohibits landlords of separately/individually metered tenancies from seeking overpayment for utility charges from tenants (i.e. more than the amount that the relevant utility supplier would have charged the tenant or the concession amount for tenants entitled to a concession). Some tenants (especially vulnerable consumers) will not be aware that they have been

overcharged or that they are entitled to a concession amount (unless the landlord informs them – there is no obligation for landlords to do so here) and even if they are aware of the overcharging, they may be deterred from raising the issue with their landlord or lodging a complaint for fear of reprisal (eviction or non-renewal of tenancy).

Re-selling arrangements

We would like to highlight the issue of tenants living in residences (including social/community housing) with an embedded (private) network where electricity is supplied by a “reseller” (instead of a licensed energy retailer). Such arrangements impact the cost of the tenants’ energy and water bills. It is also important from a consumer protection perspective as resellers’ customers are not entitled to equivalent consumer protections as energy retailers’ customers. In particular:

- There are practical barriers to exercising retailer choice and thus switch to a cheaper energy offer.
- Resellers’ customers have no access to the Energy and Water Ombudsman (Victoria) (EWOV) for complaint resolution.
- Resellers are not required to offer hardship programs to their customers.
- Concessions are not automatically applied to an electricity bill. Resellers’ customers have to apply to DHS for a rebate half yearly/annually and some eligible tenants may not be claiming their entitlements.

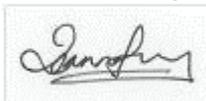
In rooming houses, caravan parks, residential parks and retirement villages, the problem of reselling has been ongoing for many years. In some situations, the tenancy is also not individually metered., and as mentioned earlier, there is no transparency with respect to tenants’ utility bills or any incentive to be energy efficient in these cases. With the growth in the number of high-rise residential developments, reselling is now a contemporary problem that is growing in Victoria and in other jurisdictions. Currently, the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) is reviewing the Victorian exemptions framework to ensure it is able to meet the interests of Victorian consumers.

A multi-prong approach needs to be taken to address the disadvantage that tenants may experience in re-selling arrangements. CUAC believes that at the very least, potential tenants need to be advised of what the implications of living in premises with a reselling arrangement is, and this should be highlighted in the tenancy agreement. We submit that this is a matter which the RTA can address.

The dispute resolution mechanisms in the RTA need to be strengthened with a view to providing tenants with more effective and accessible redress. Part of this would be making sure that tenants have information on their rights and who they can approach for help.

Please do not hesitate to contact the undersigned if you have further queries on this submission.

Yours sincerely,



Deanna Foong
Research & Policy Advocate
Consumer Utilities Advocacy Centre