

Response to *Residential Tenancies Regulations 2020*

Submitted to: Regulation Policy and Governance Services, Department of Justice and Community Safety

Submitted by: Miles Real Estate  
Contact: Tracey Dawe

December 18, 2019

Dear Sir/Madam,

Please find below the details of our submission prepared in consultation with, and on behalf, of our landlord clients. This submission provides feedback on five key proposed changes to the *Residential Tenancies Act 1997*.

Please do not hesitate to be in touch with Miles Real Estate to discuss further using the above contact details.

Sincerely,

Tracey Dawe  
Miles Real Estate  
(Property Management Division)

Proposed regulation	Miles response/recommendation
<p data-bbox="256 327 635 360"><i>1. Maximum bond amount</i></p> <p data-bbox="204 383 746 629">It is proposed to prescribe an amount of \$900 weekly rent, above which rental providers may require bond to be paid that exceeds one month's rent. (Bond will be limited to one month's rent where rent is below \$900 per week)</p>	<p data-bbox="775 327 1382 573"><b>Recommendation: Decrease the weekly rent amount from \$900 to \$500, above which rental providers may require bond to be paid that exceeds one month's rent. Bond will be limited to one month's rent where rent is below \$500 per week).</b></p> <p data-bbox="775 618 1382 909">Currently, more than 90% of all Miles rental properties (2400 in total) are rented at less than \$900/week. This proposed change in maximum bond amount would limit the assurity we can take on behalf of our landlords for the majority of our rental properties.</p> <p data-bbox="775 913 1382 1368">The purpose of a bond, is to hold in trust, an amount that will potentially take what it covers to reinstate a property to the same standard, minus fair wear and tear, that it was in when it was leased. Some long-term tenancies exceed 5 years. A one-month bond does not often cover the work, repairs or cleaning that is required to re-instate the property, leaving the landlord exposed, and our standards of professionalism and client care to all parties compromised.</p> <p data-bbox="775 1417 1382 1619">We suggest a compromise that lies between the current rate (\$350/week) and the proposed amount (\$900/week) of <b>\$500/week</b> at which a bond can exceed one month's rent.</p>
<p data-bbox="256 1715 746 1749"><i>2. Modifications to rented premises</i></p> <p data-bbox="204 1771 746 1973">It is proposed to prescribe that a rental provider <u>cannot unreasonably refuse consent</u> for a renter to carry out (and pay for themselves) the following types of modifications:</p>	<p data-bbox="775 1760 1382 2040"><b>Recommendation: the introduction of a mechanism that protects both landlord and tenant against the potential for additional costs at the end of the tenancy to reinstate the property to its pre-rental condition (minus fair wear and tear). For example, the ability for landlords to increase the bond</b></p>

- installation of picture hooks or screws for wall mounts, shelves or brackets on brick walls;
- installation of wall anchoring devices on brick walls to secure items of furniture;
- draughtproofing such as weather seals or installing caulking or gap filler around windows, doors, skirting and floorboards in homes without open flued gas heating;
- installation of low flow shower heads where the original is retained;
- installation of non-permanent window film for insulation and reduced heat transfer;
- installation of a security system by a qualified person which does not impact on the privacy of neighbours, where an invoice with the name of the installer is provided to the rental provider;
- installation of flyscreens on doors and windows;
- installation of a vegetable or herb garden; and
- any modification which contributes to the conservation of a registered place and is proposed to be undertaken in accordance with Part 5 of the *Heritage Act 2017* (Heritage Act).

It is proposed to prescribe the following types of modifications that a renter may carry out without the consent of the rental provider:

- In a rented premises that is not a registered place under the Heritage Act—

**amount above a month's rent for properties with a rental of \$500 or more (instead of \$900/week - see above).**

While Miles agrees that a tenant has the right to make their rental property a comfortable place to live and has no problem with the tenant being able to make smaller modifications to the property as outlined in the proposed changes without the RRP being able to unreasonably refuse consent, we suggest that a mechanism - such as an increased bond amount - needs to be put in place to protect the landlord against:

- Poor works carried out
- Cost of removal of what is modified at the end of tenancy
- Unintentional damage caused by the removal of any modifications, by the tenant, at the end of tenancy.

In summary, we believe a one month bond (for properties under \$900/week) will be spread too thinly when it comes to rectifying modifications and damage (other than fair wear and tear) at the end of a tenancy – especially relevant to longer term tenancies. A four week bond cannot be expected to cover all scenarios, including the rectification of modifications, damage caused by tenants and damage caused by pets (see below). This potentially creates a difficult scenario at the end of a lease where remedial works total more than one month's bond, even with the tenant's best intentions. This has the potential to:

- leave the landlord out of pocket and seeking further funds
- leave the tenant with a sizable bill
- increase the number of applications for further funds at VCAT, clogging up the system and potentially seeing

<ul style="list-style-type: none"> <li>○ installation of picture hooks or screws for wall mounts, shelves or brackets on surfaces other than brick walls;</li> <li>○ installation of wall anchoring devices on surfaces other than brick walls to secure items of furniture;</li> <li>○ installation of LED light globes which do not require new light fittings;</li> <li>○ replacement of halogen or compact fluorescent lamps; and</li> <li>○ installation of blinds or cord anchors.</li> </ul> <ul style="list-style-type: none"> <li>● In all rented premises— <ul style="list-style-type: none"> <li>○ replacement of curtains where the originals are retained; and</li> </ul> </li> </ul> <p>installation of adhesive child safety locks on drawers and doors.</p>	<p>both landlords and tenants waiting weeks to receive a hearing.</p> <p>Although the landlord’s entitlements do not change as a result of this proposed change, their ability to seek these entitlements may extend in weeks and months.</p> <p>Always looking for ways to streamline the rental process, Miles suggests this proposed change, without the correct mechanism in place to protect the rights of both RRP and tenants, will lead to unnecessary administration, time delays and negative experiences for all parties.</p>
<p><i>3. Rental provider must not request prescribed information from applicants</i></p> <p>The prescribed information that a rental provider or agent cannot require applicants to disclose is proposed to be:</p> <ul style="list-style-type: none"> <li>● whether the applicant has previously taken legal action or had a dispute against a rental provider, rooming house operator, caravan owner, caravan park owner, site owner or specialist disability accommodation (SDA) provider;</li> <li>● the rental applicant’s rental bond history including whether the</li> </ul>	<p><b>Recommendation: Modify the proposed amendment to reinstate items that can be requested to include:</b></p> <ul style="list-style-type: none"> <li>● <b>the applicant’s passport including visa information</b></li> <li>● <b>a statement from a credit or bank (unredacted)</b></li> </ul> <p>Part 1: Passport as alternative identification</p> <p>Miles undertakes a rigorous tenant evaluation process to carefully assess each applicant and their suitability for every property, and its individual letting criteria (e.g. length of lease etc).</p>

<p>applicant has ever had a claim made on their bond;</p> <ul style="list-style-type: none"> <li>• the applicant’s passport if alternative proof of identification is provided;</li> <li>• a statement from a credit or bank which has not been redacted;</li> <li>• details of the rental applicant’s nationality or residency status, if this information is not required to assess eligibility for public housing or community housing.</li> </ul>	<p>An important part of this process is thoroughly checking all supporting documentation, including passports to determine (where relevant to the applicant) their residency and visa status. International applicants deserve to be evaluated on the same basis as all other applicants, however removing the ability to assess their residency and visa status obscures information that is otherwise important to evaluation of the applicant as a valid tenant.</p> <p>Summary: We recommend retaining the ability to ask for passport as proof of identity, citizenship and/or residency status to ensure the applicant meets the criteria to fulfil the criteria of a letting (e.g. a 12 month lease).</p> <p>Part 2: Redacted bank statements</p> <p>As per above, as part of the tenant evaluation process, we look for proof of income. If a bank statement is redacted, this significantly reduces its effectiveness as a tool to assess the applicant’s financial wellbeing. This has an impact on both tenant and landlord. From an owner’s point of view, they are unable to make an informed decision or assessment of financial viability. From a tenant’s point of view, they weaken their application by not being able to supply documentation with unredacted, up-to-date financial information to support their application.</p> <p>We are managing a landlord’s major asset, and this includes an accurate risk assessment of the tenant. This asset, together with the tenants’ legal rights, should both be protected.</p>
<p><i>4. Removal of notice to vacate</i></p>	<p><b>Recommendation: The no fault, 120 day notice to vacate is reinstated.</b></p>

	<p>If we have understood currently, the removal of the 120 day’s notice to vacate has been withdrawn leaving only two options:</p> <ol style="list-style-type: none"> <li>1. A 60 day notice to vacate for reasons of renovation, demolition, forthcoming sale or owner or close family member to moving back in – all of which must be supported by documented evidence/proof.</li> <li>2. 90 notice to vacate at the end of tenancy, as long as it relates to the first lease agreement. Beyond the first lease agreement, the only option a landlord has is to enact the 60 day notice to vacate based on one of the above valid reasons (with supporting documentation).</li> </ol> <p>Miles would suggest that providing only one pathway/option for a landlord to remove a tenant verges on being dictatorial and infringes on their rights as the owner of the property. Our discussions with landlords suggest it may also have the effect of discouraging owners from placing their investment properties on the long-term rental market – at a time when Melbourne’s demand for accommodation is at its highest. They will opt for short term rental options such as Airbnb.</p> <p>We would like to suggest that more balanced ‘end of tenancy’ options are provided for landlords.</p> <p>Furthermore, can you please provide guidance on what type of documentation or supporting evidence is required to show a tenant that the landlord (or close family member) is moving back into the property?</p>
<p>5. <i>Pets</i></p>	<p><b>Recommendation: Introduction of mechanism that allows a fair and reasonable bond to be held in trust (in addition to the</b></p>

**standard one-month's rental) to cover costs to remediate potential damage caused by pets.**

With pets now more widely accepted into lease agreements, the potential for damage to the property also increases (unintentional or otherwise).

Is there a proposed mechanism for holding tenants accountable for the damage their pets can cause? Could this be a 'pet bond' as was originally suggested at the beginning of the residential tenancy act review process in 2017?

The current (and proposed) bond regulations make no allowance for anything before a month's rental as bond. For example, damage to floorboards by pets (that is beyond fair wear and tear) could result in thousands of dollars of repairs needing to be made. Even with responsible tenants with the best intentions, we believe that a landlord and their property should be protected by a further pet 'assurity'.

In summary, we have no opposition to pets being more widely accepted in rental properties, but would like to see a mechanism that ensures pet owners are accountable for their pet's actions/potential damage during their tenancy.