Regulatory Impact Solutions

Regulatory Impact Statement

Residential Tenancies Regulations 2020

Glossary

Term	Definition
The RTA	*Residential Tenancies Act 1997*
Amendment Act	*Residential Tenancies Amendment Act 2018*
The proposed Regulations	Residential Tenancies Regulations 2020
The current Regulations	Residential Tenancies Regulations 2019
ABS	Australian Bureau of Statistics
CAV	Consumer Affairs Victoria
The Department	Department of Justice and Community Safety
DELWP	Department of Environment, Land, Water and Planning
DHHS	Department of Health and Human Services
DoH	Director of Housing
DVO	Domestic violence order
ESV	Energy Safe Victoria
RIS	Regulatory Impact Statement *(this document)*
RTBA	Residential Tenancies Bond Authority
SARC	Scrutiny of Acts and Regulations Committee of Parliament
VCAT	Victorian Civil and Administrative Tribunal
VEOHRC	Victorian Equal Opportunity and Human Rights Commission
VEU	Victorian Energy Upgrades program

Types of rental accommodation regulated by the RTA *(for more detailed description, see Table 4 on page 24)*	
Part 2 (Rented premises)	Provides for rental agreements between rental providers and renters (a typical 'landlord/tenant' arrangement for an entire dwelling)
Part 3 (Rooming houses)	Provides for residency rights in relation to rooms and any common areas in a rooming house, between rooming house operator and residents
Part 4 (Caravan parks)	Provides for residency rights in a caravan parks between residents and caravan owners or caravan park owners
Part 4A (Residential parks)	Provides for site agreements between site tenants and site owners (typically the park operator)

Executive Summary

Background

The Residential Tenancies Regulations 2020 (the proposed Regulations) are proposed to be made under the *Residential Tenancies Act 1997* (the RTA).

The RTA supports a residential tenancies sector where informed rental providers and renters enter into mutually beneficial rental agreements. The RTA's objectives are to:

- promote a well-functioning rental market;
- ensure a fair balance between the rights and responsibilities of rental providers and renters; and
- provide for an effective and efficient dispute resolution process.

The RTA defines the rights and duties of rental providers and renters, rooming house operators and rooming house residents, caravan park owners, caravan owners and caravan park residents, and Part 4A site owners and site tenants.

The proposed Regulations will give effect to a number of reforms following a review of the RTA (the Review) as part of the Government's *Plan for Fairer, Safer Housing*. Following a lengthy review process involving substantial consultation, amendments to the RTA were made in 2018 by the *Residential Tenancies Amendment Act 2018* (Amendment Act). The RTA reform package incorporates more than 130 reforms, spanning all types of rental housing regulated by the RTA.

On 24 June 2015, as part of its *Plan for Fairer, Safer Housing*, the Victorian Government launched a comprehensive review of the RTA (the Review). The Review represented a once-in-a-generation opportunity to revisit the regulatory settings that have been in place since 1997, and to ensure they meet the needs of participants in today's rental housing market.

Public consultation was a significant feature of the Review, commencing with the release in June 2015 of the consultation paper *Laying the Groundwork*, followed by a series of six public consultation papers covering a broad spectrum of rental issues – from security of tenure to protections for people living in caravan parks and residential parks.

In January 2017, *Heading for Home*, an options paper outlining the outcomes of public consultation, was released for final discussion. During the Review, more than 4,800 public comments were submitted by a range of people and organisations.

A number of reforms made in the RTA have already commenced operation. Other amendments made to the RTA will not commence until 1 July 2020, and some will require Regulations to prescribe certain elements to allow the amendments to the RTA to have operational effect.

Appendix E (page 174) summarises the 139 reforms in the RTA reform package.

Before new regulations are made, the *Subordinate Legislation Act 1994* requires the preparation of a Regulation Impact Statement (RIS). The RIS process aims to ensure that the costs of the regulations are outweighed by the benefits, and that the regulatory proposal is superior to alternative approaches. The primary purpose of a RIS is to explain the reasons for the proposed Regulations and to invite interested parties to provide feedback before the Regulations are formally made.

What is proposed?

The proposed Regulations contain a wide range of items required to give effect to some of the outcomes of the Review. In this RIS, these items are categorised into the following groups.

Ensuring renters are in properties that provide conditions that meet minimum community expectations of a safe and habitable property.

Table 1

Proposed regulation[1]	**Why regulation is needed**
Safety-related activities • Rental providers would be responsible for ensuring electrical and gas safety checks are conducted every two years, ensuring smoke alarms and carbon monoxide alarms are in working condition and testing and replacing batteries, ensuring pool fences are maintained in good repair, and ensuring a water tank in bushfire-prone areas is maintained in good repair and cleaned as required. • Renters must give notice to the rental provider if smoke or carbon monoxide alarms or pool fences are not in working order. • Rental providers must keep records of electrical and gas safety checks. • Renters and rooming house residents would be under a duty not to remove, deactivate or interfere with the operation of prescribed safety devices.	Safety-related standards are provided for in specialist building and electrical safety legislation. However, these laws do not clarify how safety devices or gas and electrical appliances and installations are to be maintained by the parties in the context of a rental agreement. Lack of clarity around rental provider and renter responsibilities for safety-related maintenance under a rental agreement poses health and safety risks for renters. Feedback obtained as part of the Review, as well as knowledge gathered from Consumer Affairs Victoria's (CAV's) regulatory and compliance functions, identified that responsibilities for safety-related activities under a rental agreement was an area of concern, with anecdotal evidence of critical safety tasks not being done.
Rental minimum standards—heating • A requirement for a fixed heater in the main living area for all Class 1 and 2 rental properties, and prescribing a medium minimum energy efficiency standard (2-star rating) for heaters in Class 1 rental properties. • The phase out of liquid petroleum gas (LPG) fuelled gas heaters in the main living area of all Class 1 rental properties from 1 July 2023. • The heating standard would be phased in	It is a societal expectation that people can heat their home to a comfortable temperature, particularly during winter months. There is strong evidence that living in a cold home has significant, direct and indirect health impacts. Based on analysis by the Department of Environment, Land, Water and Planning (DELWP), an estimated 9 per cent of Class 1 and 16 per cent of Class 2 private rental properties in Victoria do not have any heating. An additional 2 per cent of Class 1 private rental properties would have a heater that is not compliant with the proposed 2-star standard, and another 2 per cent would have LPG

[1] These lists are a summary of key elements only. Readers should refer to the draft proposed Regulations released with the RIS for a complete description of the proposed requirements.

Proposed regulation[1]	Why regulation is needed
over three years from 1 July 2020.	heating. This totals 84,442 existing private rental properties that would be affected by the proposed heating standard, approximately 14 per cent of the private rental market. A recent survey of the Victorian rental market commissioned by DELWP found that over half of property managers (52 per cent) had poor knowledge of the health implications of properties with low energy efficiency, and only a third of rental providers (34 per cent) understood that properties with low energy efficiency can have negative health impacts on the occupants.[2]
Other rental minimum standards Minimum standards are proposed in relation to provision of working locks, vermin-proof bins, working toilet in appropriate area, a bathroom with supply of hot and cold water to a washbasin and shower or bath, a kitchen with a dedicated cooking area, oven and stove and working sink with hot and cold water, structurally sound and weatherproof premises, free from mould and damp caused by the building structure, electrical switchboards that meet prescribed standards, window coverings for privacy, natural and artificial light in all habitable rooms and either natural or artificial light in other internal rooms and hallways.	Overall, 11 per cent of renters described their property condition as 'poor' or 'very poor' when they moved in, with low income renters (those in the bottom two income quartiles) more likely to report that their property was in 'poor' condition (11 per cent compared to 7 per cent overall) and less likely to report that it was in 'excellent' condition (22 per cent compared to 29 per cent overall). Standards considered during the Review have tended to follow themes of health, safety, amenity and energy affordability. During the consultation on the proposed Regulations, stakeholders proposed a wide range of minimum rental standards that could be introduced.
Energy efficiency standards for end of life appliances The following minimum ratings will apply to replacement of appliances at their end of life, triggered by the 'urgent repairs' process: • water appliances are to remain at 3-stars under the WELS scheme (this is the same as the current Regulations); • heaters – will replicate the medium (2-star) efficiency rating standard for Class 1 rental properties (see above); and • dishwashers – 3-stars rating under the Greenhouse and Energy Minimum Standards (Dishwashers) Determination	Renters, unlike owner-occupiers, do not have the same agency to make energy efficiency upgrades to replace inefficient appliances with more efficient options. Rental providers generally do not take into account water and energy costs to renters when replacing appliances. The amended RTA allows rating standards to be prescribed for appliances, fixtures and fittings.

[2] Newgate Research (2018), *Research Report on Energy Efficiency in Rental Properties*, May 2018, unpublished.

Proposed regulation[1]	Why regulation is needed
2015 (energy) /3-stars WELS (water) rating	

A well-functioning rental market is improved where there is certainty on the rights and responsibilities between the parties. A lack of clarity leads to disputes between rental provider and renter, which can be time consuming and costly to resolve, as well as negatively affecting the renting experience.

Table 2

Proposed regulation	Why regulation is needed
Compensation for sales inspections Compensation (paid by rental providers to renters) for each time a property is to be made available for a sales inspection, is proposed to be ½ days' rent payable under the rental agreement.	Renters may currently seek compensation for the inconvenience of sales inspections (particularly open inspections) through the Victoria Civil and Administrative Tribunal (VCAT), which can be a costly and time consuming process. The amended RTA creates a right of compensation from 1 July 2020, but requires the amount of compensation to be prescribed in the Regulations.
Mandatory disclosure prior to rental agreement Rental providers must disclose to an intended renter (if known): • whether the premises or common property has been the location of a homicide in the past five years; • whether the premises has been used for the use, trafficking or cultivation of a drug of dependence; • whether the premises has been used for the storage of a drug of dependence; • whether the premises has previously been assessed to have friable or non-friable asbestos on the rented premises; • if the premises is affected by a building or planning application that has been lodged with the relevant authority. Rental providers must disclose to an intended renter: • any notice, order, declaration, report or recommendation issued by a relevant building surveyor, public authority or government department that applies to the rented premises or common property at the time of disclosure; **Example** Any building notices or orders, reports or recommendations issued by the Victorian Building Authority, local councils, relevant building surveyors, or municipal building surveyors, that relate to any	This reform ensures that information which can significantly impact upon a tenancy is disclosed prior to the beginning of the rental agreement. This reform is intended to improve a renter's ability to compare their rental options and make an informed decision to enter into an agreement. This is particularly relevant to security of tenure. The mandatory disclosures included in the proposed Regulations are considered the minimum information that potential renters should know when considering whether to enter a rental agreement.

Proposed regulation	Why regulation is needed
building defects or safety concerns such as the presence of combustible cladding, water leaks or structural issues affecting the rented premises or common property. • if there is a current domestic building work dispute under the *Domestic Building Contracts Act 1995* which applies to or affects the rented premises; • if there a current dispute under Part 10 of the *Owners Corporations Act 2006* (Owners Corporations Act) which applies to or affects the rented premises; • a copy of any Owners Corporations rules applicable to the rented premises. Equivalent information will be prescribed (under section 94I(d)) for disclosure by rooming house operators to residents before occupancy of a room commences.[3] For caravan and residential parks, disclosure must also be made if: • the caravan park/Part 4A park is liable to flooding; • the caravan site/Part 4A site is liable to flooding.	
Mandatory disclosure—embedded electricity networks It is proposed to require a rental provider provide to an intended renter the following details of the operator of an embedded electricity network (if present): • the ABN and trading name of the embedded network operator; • the phone number of the embedded network operator; and • the electricity tariffs and all associated fees and charges that may apply to the customer in relation to the sale of electricity, or where that information can be accessed.	Prescribing information in regulations is necessary in order to ensure that a renter can be informed of the relevant details about the embedded electricity network, such as the trading name of the embedded network operator, contact information and relevant offers available, in the most efficient possible way. This information is relevant to prospective renters who may need to consider potential energy costs and choice of provider when considering their rental options.
Mandatory disclosure—exit fees	Exit fees, such as deferred management fees (DMFs) and administration fees, are becoming

[3] Note that the rooming houses, the standard is if a rooming house is known by the rooming house operator to 'have been used for the trafficking, cultivation or storage of a drug of dependence'.

Proposed regulation	Why regulation is needed
It is proposed that park operators who charge an exit fee will be required to provide prospective site tenants with additional information about the exit fees to help prospective site tenants better understand their future liability. The proposed information is: • details of the site tenant's liabilities on permanent departure from the park; and • details of the site tenant's liabilities, or estimated liabilities, if the site tenant permanently departed after 1, 2, 5 and 10 years' residence in the park.	increasingly used in the parks sector. Feedback from stakeholders suggested there is a growing concern that many site tenants may not fully understand the actual amount to be paid in exit fees under different situations. Anecdotally, people are entering site agreements with DMFs without a clear appreciation of the actual costs involved of their exit from the park. These factors can severely impact a site tenant's financial outcomes, sometimes leading to difficulties affording aged care. Market research undertaken by the Department of Justice and Community Safety (the Department) indicated that 53 per cent of site tenants said they were aware they will be charged DMFs or exit fees if they vacate the park or sell their movable home, 28 per cent knew that they would not be charged exit fees and 19 per cent did not know if they will be charged. Of those that knew they will be charged exit fees, only 69 per cent were aware of how much those fees will be.
Urgent repairs and urgent site repairs—authorised amount It is proposed to update the prescribed 'urgent repairs' authorised amount from $1,800 to $2,500. It is also proposed to prescribe an authorised of amount $2,500 for 'urgent site repairs'. This will allow[4] renters, residents and site tenants to arrange for a greater amount of urgent repairs themselves, when the rental provider, rooming house operator, caravan park owner or site owner has failed to arrange the relevant repair within 7 days.	The current Regulations prescribe an amount of $1,800 for urgent repairs, a value which was inserted into the Regulations in 2011. That amount in 2019 is equivalent to $2,096 (adjusted for CPI and rounded to the nearest dollar). It is appropriate that the maximum reimbursable amount reflect general increases in prices, so that renters remain in a position to arrange urgent repairs of an amount that does not represent a high financial exposure to the rental provider.
Urgent site repairs—types of repairs It is proposed to prescribe urgent site repairs for the purposes of the RTA as any work necessary to repair or remedy: • any fault or damage which makes the site	The RTA does not define what amounts to urgent site repairs. The Amendment Act inserts of a new definition into the RTA to provide that 'urgent site repairs' means any work prescribed as urgent repairs. Regulations are needed to give effect to the urgent site repair provisions

[4] A renter may arrange for any value of urgent repairs to be undertaken provided they have given the rental provider written notice of cost of the repairs in accordance with the RTA and the rental provider has not arranged for the repairs to be done within 7 days, however the rental provider is only liable to reimburse up to the prescribed amount.

Proposed regulation	Why regulation is needed
or Part 4A site unsafe, unsecure or uninhabitable, including serious flood, storm, or fire damage to the site or Part 4A site, or structure or fixture on the site or Part 4A site owned by a caravan park owner or site owner; • any failure or breakdown of gas supply, electricity supply, water supply or sewerage access to, under or affecting a site or Part 4A site; • any fault or damage that impedes safe access to the site or Part 4A site; and • subsidence of a site or Part 4A site.	in the RTA.
Modifications to rented premises It is proposed to prescribe that a rental provider cannot unreasonably refuse consent for a renter to carry out (and pay for themselves) the following types of modifications: • 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	Regulations that prescribe types of modifications are required to give effect to the new provisions related to modifications under the amended RTA. These amendments recognise that previous requirements for rental provider approval impacted on a renter's ability to make their rental property feel more homely and reflective of their personal tastes. As people are increasingly remaining in the rental market for longer periods, the RTA needed to provide renters with flexibility to make restorable modifications, particularly if such modifications are needed to address a disability. Feedback from stakeholders during the Review and in the development of the proposed Regulations identified a range of types of modifications, for prescription in the proposed Regulations in addition to those provided for in the amended RTA.

Proposed regulation	Why regulation is needed

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—
  ○ installation of picture hooks or screws for wall mounts, shelves or brackets on surfaces other than brick walls;
  ○ installation of wall anchoring devices on surfaces other than brick walls to secure items of furniture;
  ○ installation of LED light globes which do not require new light fittings;
  ○ replacement of halogen or compact fluorescent lamps; and
  ○ installation of blinds or cord anchors.
• In all rented premises—
  ○ replacement of curtains where the originals are retained; and
  ○ installation of adhesive child safety locks on drawers and doors.	

Condition reporting The proposed Regulations prescribe standard form condition reports for rental premises. The existing (non-mandatory) CAV condition report form for general tenancies is the basis of the standard report, and will also include: • information about the how to fill in the condition report; • a checklist reminding rental providers and renters to ensure compliance with requirements relating to cleanliness, repair, fitness for habitation and any other requirements at point of lease;	The condition report is an important source of evidence for both rental providers and renters who, at some stage, may rely on it should a bond dispute or damages claim arise. Without a condition report it is difficult for both rental providers and renters to support their claims about the state of the property and this can lead to complications and disputes during the tenancy. The amended RTA expands the requirements to complete a condition report. A standard form condition report must be prescribed to give effect to the parts of the RTA that require a condition report to be completed.

Proposed regulation	Why regulation is needed
• an indication of telecommunications connections to the property (including internet connections) and whether they are working; • the condition of all structures, fixtures, fittings and appliances in the rented premises; and • information about the recent service history for gas and electrical appliances, and safety devices such as the date of smoke alarm testing. The prescribed condition report encourages photos of the property to be taken for the purposes of a condition report, but not mandate their inclusion in a report as there may be accessibility issues for certain demographics. The proposed Regulations will also prescribe the standard form condition report for rooming houses, caravans park residencies and Part 4A sites. The condition reports will be tailored to reflect the different requirements of the different tenure types.	
Professional cleaning terms in rental and rooming house agreements • The proposed Regulations include professional cleaning terms in the proposed standard form agreements. (Note that for rooming house agreements, this would only apply to the resident's room and not the common areas.) • Prescribing a professional cleaning term will introduce an explicit requirement that the rental provider or rooming house operator can only require the renter or resident to arrange, or pay for, professional cleaning if this is needed to restore the rented premises or room at the end of the agreement to its original condition (subject to fair wear and tear).	Section 27C(1) of the RTA provides a professional cleaning term is a prohibited term in a rental agreement unless that term is included in the prescribed standard form rental agreement. For rooming houses, section 94AD(1)(d) of the RTA also provides that a professional cleaning term is a prohibited term, unless that term is included in the prescribed standard form fixed term rooming house agreement.
Liability for utilities In additional to responsibilities for utilities set out in the RTA, it is proposed to prescribe the following additional costs for which rental providers are responsible: • charges relating to the pumping out and	Where such items are not prescribed, expenses would still be incurred if rental providers would approve related works, however there may be dispute about who should pay for them to occur. If not prescribed, rental agreements may be

Proposed regulation	Why regulation is needed
cleaning of sewage and septic tanks, except where this is required as a consequence of damage caused by the renter; • costs and charges with respect to the initial installation of internet (including installing internet through the National Broadband Network) and telecommunication connections to the rented premises; • cartage charges for refilling fire safety water tanks; and • cartage charges for drinking water that are not based on the amount of water supplied to the rented premises during the renter's occupation. Caravan park owners and site owners will be responsible for charges relating to the pumping out and cleaning of sewage and septic tanks servicing a caravan site or Part 4A site (except where this is required as a consequence of damage caused by the resident or site tenant).	silent or unclear about whether a rental provider can recover the costs of these works from renters. Renters generally regard these as unfair or hidden costs, because at the time of entering the rental agreement, a renter would not know what these costs would be or how often they would need to make payment.

Prohibited terms
In addition to a number of prohibited terms included in the RTA, it is proposed to prescribe the following additional prohibited terms:
• a term which purports to unreasonably limit the renter's activities for the purpose of ensuring that:
  ○ an insurance policy of the rental provider is not invalidated or subjected to increased premiums; or
  ○ any benefits that may be paid under an insurance policy of the rental provider is not reduced;
• a term that requires the renter to indemnify the rental provider for any injury or damage arising from any conduct of the renter or visitor of the renter;
• a term which prevents the renter from making a claim for compensation if the rented premises are not available on the commencement date of the rental agreement;
• a term which requires initial rent to be paid by a payment method which requires
	There is a risk that rental providers may attempt to pass through the costs of ownership to renters. The RTA seeks to control this, but some rental providers may seek to circumvent these prohibitions by including terms that provide for the renter to reimburse the rental provider for certain expenses in relation to insurance, cleaning or other costs that arise from the rental provider's liabilities.

Proposed regulation	Why regulation is needed
additional costs (other than bank fees or account fees payable on the renter's bank account); • a term which requires the renter to use the services of a third-party service provider nominated by the rental provider; • a term which imposes fees for the safety-related maintenance of the rented premises where those activities are the responsibility of the rental provider; • a term which purports to make the renter liable for the rental provider's costs of filing an application at VCAT.	

Ensuring the regulatory framework reflects contemporary community expectations on matters such as discrimination in rental applications, family and personal violence, and renters experiencing homelessness or at risk of homelessness.

Table 3

Proposed regulation	Why regulation is needed
Maximum bond amount 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)	The amended RTA will prohibit rental providers requiring a bond of more than one month's rent, unless the rental provider applies to VCAT and is granted an exemption, or where the weekly rent is more than the prescribed amount. The proposed Regulation is needed to prescribe a suitable weekly rent.
Fixed terms agreement for rooming houses The proposed Regulations prescribe a new standard form fixed term rooming house agreement for Part 3 of the RTA.	Many rooming house residents are being disadvantaged by entering into Part 2 fixed-term rental agreements that are not well suited to their needs. The Amendment Act introduces a new type of agreement—fixed-term agreement for rooming houses into Part 3 of the RTA. From 1 July 2020, all rooming house operators will need to use the new fixed term standard form rooming house agreement for new agreements for a fixed term, specifying the terms and conditions of the resident's use and enjoyment of the rooming house. Regulations are required to prescribe the new standard form agreement.

Proposed regulation	Why regulation is needed
Rental applications The Amendment Act also provides that rental providers must include a prescribed information statement in a rental application form. The intention is that this will provide information to the potential renter (as well as educating rental providers and agents) about their rights. The proposed information statement sets out renters' rights under the *Equal Opportunity Act 2010* and includes common scenarios and examples of unlawful discrimination in relation to renting.	Many instances of rental providers and agents unlawfully discriminating against applicants and renters have been reported by the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) and were raised in submissions to the Review. Concern about unlawful discrimination persists among renters and is reiterated often by advocates. Even with the amendment to the RTA to prevent unlawful discrimination, potential renters may not be aware of this protection, or what they can do if they feel they have been discriminated against.
Rental provider must not request prescribed information from applicants The prescribed information that a rental provider or agent cannot require applicants to disclose is proposed to be: • 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; • the rental applicant's rental bond history including whether the applicant has ever had a claim made on their bond; • the applicant's passport if alternative proof of identification is provided; • a statement from a credit or bank which has not been redacted; • 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. It is proposed to prescribe equivalent information that cannot be requested in respect of Parts 3, 4 and 4A, with the following additional requirement for Part 3: • the income of the applicant where the proposed rent has not yet been disclosed to the applicant by the rooming house operator, unless the rooming house operator is the Director of Housing (DoH) or	During the Review, examples were given of rental providers and agents allegedly asking certain unnecessary questions in tenancy application forms, such as whether the applicant has previously taken action in a residential tenancies tribunal. Concerns were raised as to whether those questions are appropriate as they may have a chilling effect on renters asserting their legal rights. Other examples of questions that may be inappropriate for rental providers to ask is whether the applicant has ever had a claim made on their rental bond by a rental provider, or questions that request information about an applicant that is unnecessarily personal or intrusive.

Proposed regulation	Why regulation is needed
a registered housing agency.	
Family and personal violence The proposed Regulations expand the range of information that VCAT must take into account when determining an application to terminate a tenancy because of family or personal violence. The additional information will include documentary materials from a range of relevant persons (including police), bank statements, photographic and audio-visual evidence, electronic communications, oral evidence, the risk to personal safety of the specified person and any children occupying the premises, and whether the party who is alleged to have subjected the specified person to family or personal violence has been arrested, charged or released on bail.	Consistent with evidence received by the Royal Commission into Family Violence and to ensure the broadest access to the family and personal violence protections, there is a need to prescribe other matters that VCAT must take into account.
Goods left behind Despite having no monetary value, it is proposed that rental providers would not be able to destroy or dispose of the following items if they are left behind after the end of a tenancy: • labelled containers or urns containing human remains; • specialised medical devices, equipment and goods including prosthesis and prescription medication; and • medals and trophies.	The RTA allows a rental provider to destroy or dispose of goods left behind that have no monetary value. However, regulations may be made to prescribe goods of no monetary value that must be stored by the rental provider. It is likely that these the items proposed to be prescribed will have value to the former renter, and should therefore remain available for collection.
Temporary Crisis accommodation It is proposed that the Regulations prescribe 'temporary crisis accommodation' (TCA) as accommodation that is provided for: • a period of 'not more than 6 months'; and • which is accommodation provided by a Department of Health and Human Services (DHHS) accredited service agency for the purpose of delivering support services to a client who is: o experiencing homeless or at risk of experiencing homelessness; or o being subjected to family violence or at	DHHS provides funding to accredited non-profit, non-government organisations to deliver crisis supported accommodation, known as TCA in the RTA, to assist people experiencing homelessness or family violence, or who are at risk of homelessness or family violence. The new definition of TCA inserted by the Amendment Act requires regulations to be made to prescribe both a time period and accommodation that is prescribed to be TCA.

Proposed regulation	Why regulation is needed
risk of being subjected to family violence.	

A number of technical matters required by the RTA to be prescribed, or to remake the current Regulations.

These other technical matters include:

- prescribing standard forms and notices (mostly remaking existing forms with updates to terminology);
- allowing payments to be made by electronic funds transfer; and
- remaking a number of technical regulations from the current Residential Tenancies Regulations 2019.

Further information on these regulations is set out in Chapter 8 (page 122).

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1 Purpose of this Regulatory Impact Statement

The Residential Tenancies Regulations 2020 (the proposed Regulations) are proposed to be made under the *Residential Tenancies Act 1997* (the RTA).

The proposed Regulations will give effect to a number of reforms following a review of the RTA as part of the Government's *Plan for Fairer, Safer Housing*. Following a lengthy review process involving substantial consultation, amendments to the RTA were made in 2018 by the *Residential Tenancies Amendment Act 2018* (Amendment Act). The RTA reform package incorporates more than 130 reforms, spanning all types of rental housing regulated by the RTA: public and private residential housing, rooming houses, caravan parks and residential parks.

The proposed Regulations are required to enable a number of the reforms to be implemented. The proposed Regulations will replace the Residential Tenancies Regulations 2019 (the current Regulations),[5] with most of the elements of those Regulations either carried forward unchanged, or revised as necessary to reflect the agreed reforms.

Before new regulations are made, the *Subordinate Legislation Act 1994* requires:

To assist parties to review and comment on the proposed Regulations, the Subordinate Legislation Act requires the preparation of a Regulatory Impact Statement (RIS) for any regulations that impose a significant economic or social burden on a sector of the public, to be made available with the proposed Regulations.

The RIS process aims to ensure that the costs of the regulations are outweighed by the benefits, and that the regulatory proposal is superior to alternative approaches.

As required by the Subordinate Legislation Act, the assessment framework of this RIS:

- examines the nature and extent of the problem to be addressed;
- states the objectives of the proposed regulations;
- explains the effects on various stakeholders; and
- assesses the costs and benefits of the proposed Regulations and compares their impacts to other feasible alternatives.

The Commissioner for Better Regulation provides an independent assessment of RISs, which are assessed against the *Victorian Guide to Regulation* (VGR). [The Commissioner has determined that this RIS meets the requirements of the Subordinate Legislation Act.]

The Department of Justice and Community Safety (the Department) has now prepared the proposed Regulations for interested parties to review. Interested parties may make written submissions to the Department about the proposed Regulations before a final decision is made on whether to formally make them, and whether any changes are needed.

Following consideration of all submissions received in response to the proposed Regulations, a notice of decision and statement of reasons will be published. Once the Regulations are made,

[5] The Residential Tenancies Regulations 2019 were exempted from the requirement to prepare a RIS because they were of a fundamentally declaratory or machinery nature. The Minister for Consumer Affairs, Gaming and Liquor Regulation, as the responsible Minister, issued an exemption certificate under section 8(1)(c) of the Subordinate Legislation Act.

copies of all submissions are provided to the Parliament's Scrutiny of Acts and Regulations Committee (SARC). SARC examines these submissions to check that the Department has considered the views of stakeholders.

2 What are the problems being addressed by the proposed Regulations?

2.1 Context

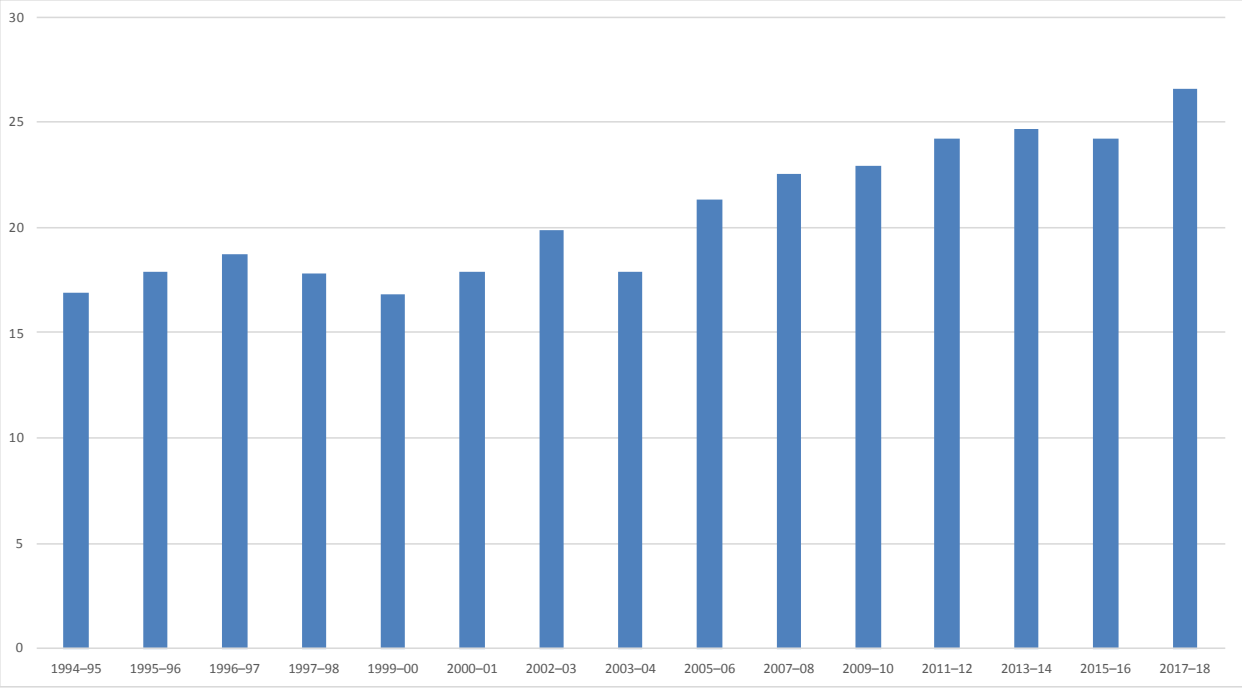
2.1.1 Residential tenancies in Victoria

Home ownership rates have been in decline for some time. The percentage of people living in a rented premises in Victoria has increased from 24.4 per cent in 1996 to 28.7 per cent in 2016.[6]

The residential tenancies sector in Victoria is for the most part a commercial environment in which private individuals supply residential accommodation for rent to other private individual renters and households. In Victoria, 90 per cent of residential rental properties are supplied by private rental providers, most of whom lease out a single property. Public and community housing providers fit into the category of institutional rental providers, and together make up approximately 10 per cent.

The proportion of Victorians living in privately rented premises has increased from around 17 per cent in 1995 to over 26 per cent.

Figure 1: Percentage of Victorians living in privately rented premises (1994-95 to 2017-18)[7]



The proportion of households that rent public housing has generally fallen over the same period, from about 4.5 per cent in 2000 to around 2 per cent in 2018.

[6] ABS, 2016 Census.
[7] ABS, 4130.0 - Housing Occupancy and Costs, 2017-18, published 17 July 2019.

2.1.2 Types of rental agreements

The RTA regulates four types of residential tenure, each under a different part of the RTA. The key features of each type of tenure are set out below.

Table 4: Types of rental tenure

Part of RTA	Key feature	Description
Part 2	Renting a whole dwelling	Part 2 regulates 'tenancy agreements' between 'landlords' (both private and social housing) and 'tenants'. From 1 July 2020, the Amendment Act will update the terminology in the RTA to 'residential rental agreements', 'residential rental providers' and 'renters'. For the purposes of this report, the terms 'rental agreement', 'rental provider' and 'renter' will be used. Most rented premises in Victoria are leased under Part 2. In 2016, there were estimated to be 614,291 rented properties in Victoria.[8]
Part 3	Renting a room	Part 3 regulates residency rights in rooming houses. A rooming house is a building where one or more rooms are available to rent, and four or more people in total can occupy those rooms. A Part 3 residency right allows a resident to: • reside in a room that he or she occupies (either exclusively or in a shared room); and • use the common facilities in the rooming house. From 1 July 2020, Amendment Act will provide for a new tailored Part 3 fixed term agreement for rooms in a rooming house.
Part 4	Caravans[9] and rented movable dwelling in caravan parks	Part 4 regulates residency rights in caravan parks and movable dwellings. A Part 4 residency right applies to a resident who either: • rents a caravan park site and also rents the caravan situated on the site; • owns the caravan situated on a rented caravan park site; or • rents a Part 4A site but does not own the Part 4A dwelling on the site. A person is not a Part 4 resident if they: • are staying in a caravan while on holiday; • own a caravan in a caravan park but live somewhere else as their main residence; or • have not obtained a written agreement from the park owner, or resided at the site for at least 60 consecutive days. From 1 July 2020, the Amendment Act will amend the definition of caravan park 'resident' to address the problem of holiday-makers becoming 'accidental' residents, by ensuring that a person who has a genuine holiday arrangement will not meet the definition of a resident, even if they occupy the site for 60 or more days. The reform will also ensure that park operators will not be able to avoid the operation of the RTA by putting people genuinely residing in the park on artificial 'holiday' agreements.

[8] ABS, 2016 Census data for all dwelling types (other than caravans, cabins, houseboats, improvised homes) that were reported as being rented. Dwellings reported as 'other tenure type' or 'tenure type not stated' were not included.
[9] For the purposes of Part 4, 'caravan' can include not just movable dwellings like caravans and mobile homes that can be registered with VicRoads, but also *immovable* dwellings in a caravan park (such as a cabin).

Part 4A	Renting a site for situating an owned movable dwelling (other than a caravan)	Part 4A regulates 'site agreements' between site tenants and site owners. • A site tenant owns a Part 4A dwelling[10] but rents the Part 4A site under a site agreement. • The site tenant rents the site from a site owner (usually the same person as the park operator). • The site agreement allows the site tenant to have their purchased dwelling situated on the site, and to use the facilities and common areas of the park.

2.1.3 History of the legal framework for residential rental agreements

Rental agreements are agreements under which a person lets premises as a residence to another person. The terms of the agreement, whether or not in writing and whether express or implied, typically include terms such as the rights and conditions on use of the premises, the rent to be paid, the duration of the rental period, and processes to change these terms during the life of the agreement or to extend the agreement.

Historically, the terms of a rental agreement reflect whatever bargain is reached between the residential rental provider (often known as a landlord) and the renter (or tenant).

However, governments have long recognised that bargains reached between rental providers and renters often reflected uneven bargaining power, disputes about the terms of the agreements often arose, and it was difficult to enforce rights under those agreements (either legally or due to unwillingness of renters). Therefore, legislation governing the making and enforcing of rental agreements has been in place for some time.

Before 1980, commercial and residential tenancies were regulated in the same way. The *Residential Tenancies Act 1980* (the 1980 Act) was introduced in recognition of the difference in bargaining power between rental providers and renters of residential property, and the need to improve protections for renters. The broad principles underlying the 1980 Act were to:

- define the rights and duties of the rental provider and renter in a rental agreement and ensure that both parties were aware of them;
- overcome inequities and anomalies in residential tenancies law without interfering with the rental housing market;
- generally provide just solutions to common problems that arise in a rental agreement;
- provide effective and speedy procedures for a rental provider's recovery of possession; and
- provide a renter with security of tenure, bearing in mind the rental provider's rights as owner of the property.

Following a comprehensive review of residential tenancies regulation in 1995, reforms were introduced that created the current Act—the *Residential Tenancies Act 1997* (the RTA). Since then, notable changes have included: amendments in 2002 concerning security of tenure and fair rent mechanisms; minor amendments in 2010 introducing regulation of movable dwelling site

[10] A 'Part 4A dwelling' is a manufactured home, defined in the RTA as a dwelling owned by a site tenant and designed, built or manufactured to be transported from one place to another for use as a dwelling. It does not include dwellings that can be registered with VicRoads, such as traditional caravans.

agreements, regulation of residential tenancies databases[11], powers to make minimum standards for rooming houses, safety and emergency management procedures for caravan parks; and increased penalties.

The RTA retains guiding principles very similar to those of the 1980 Act, and they can be summarised as follows, to:

- promote a well-functioning rental market;
- ensure a fair balance between the rights and responsibilities of rental providers and renters; and
- provide for an effective and efficient dispute resolution process.

The RTA aims to support a residential tenancies sector where informed rental providers and renters enter into mutually beneficial rental agreements. During the period of the rental agreement, rental providers receive rent and maintain the property in good repair; renters pay rent, avoid damage and keep the property reasonably clean. Where repairs or other issues arise with a property, these are expected to be resolved in a quick and inexpensive manner.

The RTA defines the rights and duties of rental providers and renters, rooming house operators and rooming house residents, caravan park owners, caravan owners and caravan park residents, and Part 4A site owners and site tenants. The RTA also provides for the resolution of disputes by the Victorian Civil and Administrative Tribunal (VCAT) and the establishment of the Residential Tenancies Bond Authority (RTBA).

The operation of the RTA is supported by the current Regulations, which are made under section 511 of the RTA. The current Regulations mainly prescribe a series of standard forms and notices required under the RTA, including the standard form rental agreement. They also prescribe particular information for the purposes of the RTA, such as the maximum amount that a rental provider is liable to reimburse a renter for urgent repairs.

2.1.4 Review of the RTA

On 24 June 2015, as part of its *Plan for Fairer, Safer Housing*, the Victorian Government launched a comprehensive review of the RTA (the Review) with the publication of a Consultation Paper, *Laying the Groundwork.*

The Review was undertaken in four stages:

- stage one included the public release of a Consultation Paper, *Laying the Groundwork*, exploring trends in the residential tenancies market;
- stage two involved the public release of six Issue Papers and sought extensive public feedback;
- stage three saw the public release of the Options Discussion Paper, *Heading for Home*; and
- stage four involved the development of the RTA reform package and passage of the Amendment Act.

The Review represented a once-in-a-generation opportunity to revisit the regulatory settings that have been in place since 1997, and to ensure they meet the needs of participants in today's rental housing market.

[11] Residential tenancies databases, sometimes known as tenancy 'blacklists', are privately run databases which list tenant information. They can only be listed on a tenancy database if they breached their agreement (for limited reasons prescribed in the RTA) and because of the breach they owe an amount more than the bond, or VCAT has made a possession order.

Public consultation was a significant feature of the Review, commencing with the release in June 2015 of the consultation paper *Laying the Groundwork*, followed by a series of six public consultation papers covering a broad spectrum of rental issues – from security of tenure to protections for people living in caravan parks and residential parks.

In January 2017, *Heading for Home*, an options paper outlining the outcomes of public consultation, was released for final discussion. During the Review, more than 4,800 public comments were submitted by a range of people and organisations.[12]

The RTA reform package incorporates more than 130 reforms, spanning all types of rental housing regulated by the RTA: public and private residential housing, rooming houses, caravan parks and residential parks.

A number of reforms made in the RTA have already commenced operation – these are summarised in the table below.

Table 5: Reforms to residential tenancies already commenced

Date	Reform
10 September 2018	Appointment of the Commissioner for Residential Tenancies.[13]
1 February 2019	Long-term leasing is a new option under the RTA.[14]
3 April 2019	Compensation for park closure is available for eligible caravan and residential park residents. Suppression of rooming house address details from the public register to protect residents threatened by interpersonal or family violence.
19 June 2019	For rental agreements entered into on or after 19 June 2019, rental providers must not increase rent more than once in any 12-month period (increased from the previous 6-month minimum interval). Rental providers can give renters the 'red book' in electronic form, if the renter has agreed in writing to receive notices and other documents in this way.

Other amendments made to the RTA will not commence until 1 July 2020, and some will require corresponding Regulations to prescribe certain elements to allow the amendments to the RTA to have operational effect.[15] Appendix E summarises the 139 reforms in the RTA reform package and for each reform whether:

- the Amendment Act provides for a regulation to implement the reform; and
- the Department intends to make a regulation as part of the proposed Regulations – in some instances there is a regulation-making power, but it is not necessary to prescribe anything in the regulations in order for the provision to operate, so it is intended to hold the regulation-making power in 'reserve'.

[12] Copies of the papers and submissions can be found at engage.vic.gov.au/fairersaferhousing.
[13] This is a non-legislative reform. The Commissioner for Residential Tenancies advocates for improvements in renting rights and practices in Victoria and provides independent advice to the Victorian Government to help make renting fairer.
[14] This was implemented by commencement of the *Residential Tenancies Amendment (Long-term Tenancy Agreements) Act 2018*.
[15] At the time of drafting this RIS, Parliament was considering whether pet reform should be introduced early. Parliament must pass the Consumer Legislation Amendment Bill 2019 to facilitate early commencement of this reform.

2.2 Evidence of the need for the reforms in the proposed Regulations

2.2.1 Views on the appropriateness of existing legislative protections

Through the feedback from the extensive public consultation process since 2015, the Department identified a number of emerging gaps, where the legislative framework no longer reflected the current rental market or the community's expectations for a fair system. As a supplement to public consultation, the Department commissioned separate market research through EY Sweeney.[16] The study presents primary data from renters, rental providers, and residents of moveable dwellings and caravan parks about their overall satisfaction with renting, their views on whether current regulation achieved an appropriate balance of rights, and their preferences and experiences on key issues arising from the Review.

Since the RTA commenced operation in 1997, there have been many changes in the residential accommodation market and the characteristics and needs of renters and rental providers. In the past, private rental was commonly a relatively short-term transitional arrangement, which ended in renters moving to home ownership or in a move to social housing. This is no longer the case with growing numbers of Victorians renting indefinitely, and around one third of private renters considered to be 'long-term', having rented continuously for over 10 years. An increasing number of long-term renters are either older people on fixed incomes, or families with children, for whom stability and security of tenure are important.

The incentives and drivers of rental providers have also changed, with rental property becoming an important business investment for many people and a significant part of their savings plan for retirement.

An imbalance of bargaining power between rental providers and renters is a fundamental problem underlying a number of the problems identified in the Review. In some areas, the balance of rights and responsibilities set out in the RTA do not reflect contemporary expectations, which contributes to problems with security of tenure, property conditions, and disputes.

The wellbeing of renters can be adversely impacted by a reluctance to exercise their rights, which becomes more apparent for low-income and disadvantaged renters who have fewer housing options.

The Review identified the following problems across six key thematic areas:

- *security of tenure:* compromised security of tenure as a result of unfair use of 'no fault' terminations, particularly the use of the 'no specified reason' (NSR) for periodic tenancies and 'end of fixed term' (EOFT) notice to vacate;
- *property conditions, health and safety:* inadequate regulation of property conditions including lack of condition reporting, delays in responding to repairs requests and resolving repairs disputes, unclear responsibilities for safety-related maintenance, poor rental property standards and difficulty enforcing rooming house minimum standards;
- *rights and responsibilities of rental providers and renters:* an imbalance of rights and responsibilities between the parties, particularly when a renter needs to leave a fixed-term rental agreement early in cases of severe hardship or special circumstances, impacts of sales campaigns on quiet enjoyment and privacy, pet-related damage and in the context of goods left behind;
- *affordability and the upfront and ongoing costs of tenancies:* relating to costs of entering a tenancy, including the frequency of rent increases and maximum bond amounts;

[16] *Rental experiences of tenants, landlords, property managers, and parks residents in Victoria*, Final Report, 17 May 2016 accessed via engage.vic.gov.au/fairersaferhousing.

- *alternate forms of tenure:* issues specific to alternative tenure types including the inappropriate use of fixed-term rental agreements in rooming houses, pre-contractual disclosures and representations in parks, compensation for park closures, and consultation on park rules; and
- *vulnerable and disadvantaged renters and renters experiencing family violence:* issues specific renters who are victims of family violence or personal violence, including difficulties terminating a tenancy where the perpetrator of the violence is a co-renter and victims being unfairly held liable for tenancy-related debts or being listed on a tenancy database due to the actions of the perpetrator of the family or personal violence.

The reforms agreed by the Government were framed around the reality that a growing proportion of Victorians are priced out of home ownership and likely to rent for longer periods of time. There is, consequently, a need to rebalance the market through additional protections for a highly diverse population of renters.

2.2.2 A focus on providing protection for vulnerable people

The Productivity Commission recently commented on the nature of the rental market and how it can have significant impact on vulnerable private renters. It noted:[17]

> *Australia's private rental market works well for most people, most of the time. The market has adapted to a fast-growing population as well as to several structural shifts — stemming from the coincident rise in house prices as well as to the declining availability of social housing. These forces have culminated in an increase in the share of the population renting privately since the mid-1980s — a reversal of the long run decline in this share since World War II. Once considered a short-term form of tenure for young people, more families with children are renting nowadays, and they are renting for longer periods.*
>
> *However, there are concerns with vulnerable private renters, most of whom have low incomes. Many vulnerable private renter households struggle with rental affordability. Two-thirds spend more than 30 per cent of their income on rent — the commonly used benchmark for identifying 'rental stress' — and many spend much more. 170,000 households have less than $250 available each week after paying rent.*

2.3 Specific problems addressed by the proposed Regulations

The proposed Regulations deal with a wide range of matters, that give effect to the outcomes of the Review.

The problems addressed by the proposed Regulations include the following areas:

- **Safe and habitable properties** – many renters are not in properties that provide conditions that meet minimum community expectations of a safe and habitable property. The proposed Regulations will provide additional protections for a diverse population of renters and minimise the need for dispute resolution in areas where disputes are common.
- **Clarifying rights and responsibilities** – a well-functioning rental market is improved where there is certainty on the rights and responsibilities between the parties. A lack of clarity leads to disputes between rental provider and renter, which can be time consuming and costly to resolve, as well as negatively affecting the renting experience. In particular, a lack of clarity can lead to exploitation of the party with little or no bargaining power (usually the renter), where a rental provider may take advantage of the lack of clarity by seeking to recover extra payments

[17] Productivity Commission, *Vulnerable Private Renters: Evidence and Options* (Research Paper), 7 September 2019, https://www.pc.gov.au/research/completed/renters

from the renter above the agreed rent, for costs that may not be known or clearly understood at the time of entering the rental agreement.

- **Community expectations** –many of the reforms in the Amendment Act require the making of regulations aimed at modernising the regulatory framework to reflect contemporary community expectations on matters such as discrimination in rental applications, family and personal violence, and renters experiencing homelessness or at risk of homelessness.
- **Minor and technical changes** – a number of technical matters required by the RTA to be prescribed, or to remake the current Regulations, including forms and notices.

To assist stakeholders in reading this RIS in relation to individual elements of the proposed Regulations, the discussion on the specific problems addressed by the proposed Regulations is contained in the relevant chapter as follows. The chapters are grouped according to the type of reform, and within each chapter, elements of the proposed Regulations are presented setting out:

- the problem being addressed by the proposed Regulations;
- the identification of feasible options that could address the problem (the proposed Regulations and any alternatives that have been considered); and
- the costs and benefits of the feasible options.

The chapters are organised as follows:

Chapter 5: Ensuring that renters are provided with safe and habitable living arrangements—see page ii

- Responsibilities for safety
- Minimum standard of rental properties
- Energy efficiency for end of life appliances

Chapter 6: Enhancing the functioning of the rental market by improving clarity and certainty of rights and responsibilities between rental providers and renters—see page 74

- Compensation for sales inspections
- Mandatory disclosures
- Mandatory disclosures—exit fees
- Urgent repairs and urgent site repairs
- Modifications to rented premises
- Condition reporting
- Prescribed professional cleaning terms in rental agreements and fixed term rooming house agreements
- Liabilities for utilities
- Prohibited terms

Chapter 7: Ensuring that the regulated elements of residential tenancies reflects current community expectations—see page 106

- Maximum amount of bond
- The need for a separate fixed term agreement for rooming houses
- Rental applications—discrimination

- Rental provider must not request certain information from applicants
- Family and personal violence
- Goods left behind at the end of a tenancy
- Temporary crisis accommodation

Chapter 8: Other minor proposals—see page 122.

2.4 Consultation

The amendments to the RTA implement the outcomes of the Government's review of RTA (the Review). The Review involved extensive public consultation, underpinned by a stakeholder engagement strategy and supported by a dedicated visual brand and website. Drawing on stakeholder submissions, broader consultation across government, as well as the results of independent market research, a package of more than 130 reforms to the RTA were developed. At the time of making amendments to the RTA, it was recognised that some matters would be dealt with via regulations to give effect to the outcomes of the Review.

- During the course of the Review, over 4,800 public comments were received in response to the public release of the Consultation Paper and six Issues Papers during 2015 and 2016, and the Options Discussion Paper in early 2017. These included 508 written submissions, 700 contributions to online forums and 3,070 comments on social media.
- To supplement public consultation, the Department commissioned EY Sweeney to conduct independent market research of the rental market. The report *Rental experiences of tenants, landlords, property managers, and parks residents in Victoria* (May 2016) was the largest survey of the rental market undertaken in Australia.[18]

The proposed Regulations are in part informed by these consultation processes.

To further inform the development of the proposed Regulations and the preparation of this RIS, the Department conducted additional consultation with industry participants and other areas of government. Consultation was extensive; further details are contained in Appendix A.

The release of the proposed Regulations provides a further opportunity for any interested party to provide comment before the proposed Regulations are made.

[18] The report is available on the Fairer Safer Housing website: https://engage.vic.gov.au/fairersaferhousing

3 Objectives

The RTA's guiding principles are to:

- define the rights and duties of rental providers and renters, rooming house operators and residents, caravan park owners, caravan owners and residents, and site owners and site tenants;
- provide for an effective and efficient dispute resolution process;
- provide for the establishment of the Rooming House Register; and
- provide for a centralised system for the administration of bonds and establishment of the RTBA.

The Review aimed to ensure that the RTA provides a fair balance between the rights and obligations of people who rent their home (renters and residents of rooming houses and park style accommodation), and the people they rent their homes from (rental providers, rooming house operators and park operators), both now and into the future.

The objectives of the proposed reforms were to:

- promote a healthy and well-functioning rental market;
- ensure that renters are provided with safe and habitable living arrangements; and
- reduce unnecessary costs for both renters and rental providers.

The objectives of the proposed Regulations are to implement the outcomes of the Review and further support the operation of the RTA by providing additional specificity to ensure the effective operation of the RTA and support the reform objectives as noted above. This will include additional prescription to:

- ensure that renters are provided with safe and habitable living arrangements;
- enhance the functioning of the rental market by improving clarity and certainty of rights and responsibilities between rental providers and renters; and
- more generally, ensure that the regulated elements of residential tenancies reflect current community expectations.

4 A note on identifying feasible options in this RIS

4.1 Approach to identifying options

The following chapters (5-8) set out the proposed Regulations, the problems they seek to address, and the impacts (costs and benefits). Where feasible, alternative options to addressing the problem are also identified.

For many elements of the proposed Regulations, the feasible options identified in the RIS have been limited. This is because:

- For a number of parts, the proposed Regulations provide the missing information required to give full effect to the agreed reforms resulting from the Review. Those reforms were subject to a lengthy public consultation process, which also considered alternative approaches at that time. Amendments have been made to the RTA to implement the reforms, however in some cases, some detail is needed to be prescribed in regulations. This RIS does not re-examine the outcomes of the Review.
- For much of what is proposed, prescribing information in the way proposed is the only mechanism available to address the problem. That is, where the problem has been identified as being a gap in the legal framework, and the RTA has specifically been amended to allow for regulations to be made to implement the reform, non-regulatory approaches would not address the problem. This is because the government, and Parliament by passing the Amendment Act, have already determined that certain types of information is to be prescribed, under quite specific heads of power. Refer to Appendix E which summarises the 139 rental reforms and whether a regulation is required to implement the relevant reform.
- While some of the heads of power being used for the proposed Regulations would allow a much broader range of matters to also be included in the Regulations, and stakeholders have suggested various other matters to be prescribed under these heads of powers, these options have not been considered in detail where they are clearly beyond the problem sought to be addressed by the relevant reform provided for in the Amendment Act.

This means that, in practical terms, the feasible alternative options are limited to design choices about *what* is prescribed under each head of power. As such, the options include:

- Where the proposed Regulations prescribe a dollar amount—such as compensation for sales inspections, reimbursement of renter-initiated urgent repairs, or threshold for the legislative limit on bonds—possible alternatives would include any other amount. However, it is not practical to examine every possible amount in this RIS. Instead, the RIS discusses the nature of the impacts associated with prescribing certain amounts, and the rationale for choosing the proposed amounts. Stakeholders may wish to provide reasons why a different amount should be preferred.
- Where the proposed Regulations prescribe a list of matters to which sections of the RTA will apply—such as minimum rental standards, or matters required to be disclosed before a tenancy begins—possible alternatives include various combinations of those matters proposed. It is not practical to present all possible combinations in this RIS, however it is intended that the examination of costs and benefits of the proposed Regulations will allow stakeholders to see how each listed matter contributes to the costs and benefits. Stakeholders are invited to comment on the individual elements of each proposal and can suggest a particular combination of matters should be the preferred option.

The assessment of options in this RIS has therefore followed a two-step process. This chapter outlines the proposed approach and identifies where other options are feasible. Where such alternative options are not preferred on qualitative grounds, the reasons for them not being

preferred are discussed in this chapter. Where there are alternative options that also directly address the same underlying problem, and are capable of being compared to the proposed Regulations, these are discussed further in the following chapters that assess the costs and benefits of the proposed Regulations.

In assessing feasibility of options, the Department has been mindful to balance objectives of achieving a fair and safe rental market whilst ensuring that rental providers and renters are not subject to unnecessary costs. Of course, all proposed options are assessed against a base case of no regulations, meaning that if the benefits are not expected to outweigh the costs of any option, it is open to not prescribe anything.

The base case includes the requirements of the RTA. Some of the amending provisions from the 2018 Amendment Act have commenced,[19] while some have not. It has been assumed that all rental providers will comply with the proposed Regulations and make changes required under these proposed measures when they are required to make them and not any earlier.

All remaining amendments will commence from 1 July 2020 unless proclaimed earlier.[20] As noted in Chapter 2, most amendments to the RTA are able to have effect without the need for regulations, while some amendments will require regulations before they have any practical impact.

It is also noted that, for parts of the Regulations that do not impose a material cost burden, the RIS only discusses in qualitative terms why that proposal is preferred. This is consistent with the requirements of the *Victorian Guide to Regulation*, that analysis be proportional to the impact and that RISs should focus on the more significant elements of the Regulations. Nevertheless, stakeholders may wish to comment on whether there are better ways of implementing those elements.

4.2 Transitional arrangements

Transitional arrangements in the Amendment Act[21] provide that amendments to sections 17, 19, 26, 26A, 27, 27A, 30, 36, 37, 38, 39, 40, 41, 42, 43, 44, 49, 50 and 66 of the RTA do not apply to fixed term rental agreements or periodic agreements entered into before 1 July 2020. Amendments to those sections only apply to new rental agreements entered into on or after 1 July 2020 and fixed term agreements that roll over into periodic agreements on or after 1 July 2020.

The transitional arrangements also provide that the following reforms, which are being implemented in the proposed Regulations, do not apply to fixed term rental agreements and periodic tenancies entered into before 1 July 2020:

- section 27B (prohibited terms);
- section 27C (professional cleaning obligations and safety-related activities for renters and rental providers);
- Divisions 1A of Part 2 (including prescribed information in rental application forms and information that must not be requested from prospective renters);
- Divisions 1B of Part 2 (including mandatory disclosure before entering a tenancy); and
- section 65A (rental minimum standards).

[19] Ss 5(6), 123, 124, 235, 323–327 commenced on 3 April 2019 (Special Gazette No. 128); ss 34(5)(c), 53(4), 368 commenced on 19 June 2019 (Special Gazette No. 228).
[20] Note that at the time of drafting this RIS, Parliament was considering whether the pet reform should be introduced early. Parliament must pass the Consumer Legislation Amendment Bill 2019 to facilitate early commencement of the pet reform.
[21] See section 368 which inserts new Schedule 1, Division 5 into the RTA.

These reforms will only apply to new fixed term rental agreements entered into on or after 1 July 2020 and fixed term agreements that roll over into periodic agreements on or after 1 July 2020.

5 Ensuring that renters are provided with safe and habitable living arrangements

Many renters are not in properties that provide conditions that meet minimum community expectations of a safe and habitable property. The proposed Regulations will provide additional protections for a diverse population of renters and minimise the need for dispute resolution in areas where disputes are common.

5.1 Responsibilities for safety

5.1.1 The problem to be addressed

Safety-related standards are provided for in specialist building and electrical safety legislation. However, these laws do not clarify how safety devices or gas and electrical appliances and installations are to be maintained by the parties in the context of a rental agreement.

Energy Safe Victoria (ESV) recommends that rental providers should ensure that a safety check for all gas and electrical appliances is carried out at regular intervals agreed between rental providers and renters, and at least every two years. ESV advises that regular servicing of gas appliances is preferred over placing reliance on a carbon monoxide alarm.[22]

Lack of clarity around rental provider and renter responsibilities for safety-related maintenance under a rental agreement poses health and safety risks for renters. Gas installations, electrical appliances and smoke alarms that are not maintained and/or safety tested at regular intervals can result in carbon monoxide poisoning, fire, property damage, serious injury and even death. Where maintenance and testing are not regularly undertaken there is an increased risk of injury or death to renters.

There are also a number of recommendations which have been made by the Victorian Coroner relating to fire safety, maintenance of smoke alarms, the provision of safety information and pools which have supported a more prescriptive approach to clarifying obligations of rental providers and renters in relation to safety-related maintenance. Faulty electrical and gas installations can be a source of fires, which can cause death and injury and damage to property.

Research has identified that the most severe fires occurred in homes without working smoke alarms. Since a significant number of severe fires occur at night, working smoke alarms are the most effective way to alert sleeping residents to the danger of these fires. A working smoke alarm provides the earliest possible warning of a fire to a renter, providing time to escape and to call for emergency assistance. Increasing the likelihood of containing the fire to the room of origin reduces the structural damage to the rental property and losses to the owner through loss of rental income, out of pocket expenses for repairs and increased insurance premiums.

Prior research by Worcester Polytechnic Institute for the Metropolitan Fire Brigade (MFB) using residential fire incident data from 2008-2013 indicated that where a smoke alarm is not present or failed to operate 0.73 per cent of fires resulted in a fatality. The research has also found that where a smoke alarm is not present or failed to operate 4.9 per cent of fires resulted in injury.

Swimming pool and spa fences are regarded as the most effective means to prevent children drowning. In relation to safety barriers, the Building Regulations 2018 provide that:

- the owner of the land must take all reasonable steps to ensure that a barrier restricting access to the swimming pool or spa is properly maintained (reg. 141); and

[22] See https://esv.vic.gov.au/gas-technical-information-sheets/36-carbon-monoxide-alarms-for-domestic-use/

- an occupier of the land must take all reasonable steps to ensure that a barrier restricting access to the swimming pool or spa is operating effectively (reg. 142).

The specific responsibilities between a rental provider (who may or may not be the owner of the land) and a renter may be uncertain given these requirements, in the context of the current Regulations, especially as frequent monitoring and maintenance of these facilities may impact on a renter's quiet enjoyment of the rented premises. This could lead to situations where the pool fence is not adequately maintained.

Recent changes to the *Building Act 1993*[23] (Building Act) and new regulations[24] scheduled to commence in December 2019 impose a regulatory compliance regime that will require the owner of the land on which a swimming pool is located to register the swimming pool and have the fence periodically inspected to ensure it meets the relevant standard. However, situations may arise between those inspections (e.g., damage) which highlight the need for clarity about maintenance of the pool and pool fence during the tenancy period.

Maintenance, including the cyclical cleaning of water tanks has been an issue that has previously been raised with the Department. Water tanks often accumulate sludge which coats the surface of the inside of the tank. This becomes obvious when the tank level gets low and dirt starts to contaminate drinking water, and may also present a health hazard. There is a lack of clarity about who should pay for cleaning the tank, and re-filling the tank with clean water. Cleaning is recommended by the Commonwealth Department of Health to occur every two to three years.[25] Non-frequent cleaning is typically considered part of the maintenance requirements of a rental provider.

Feedback obtained as part of the Review, as well as knowledge gathered from Consumer Affairs Victoria's (CAV's) regulatory and compliance functions, identified that responsibilities for safety-related activities under a rental agreement was an area of concern, with anecdotal evidence of critical safety tasks not being done. As such, the outcome of the Review was to amend the RTA to require:

- rental agreements to include prescribed safety-related activities for rental providers and renters;
- rental providers to comply with any prescribed requirements for the keeping and production of records of gas and electrical safety checks conducted at the rented premises; and
- renters and rooming house residents to not remove, deactivate or interfere with prescribed safety devices unless it is reasonable to do so.

Without prescribing safety-related activities, requirements and safety devices in proposed Regulations, this outcome of the Review would not be achieved.

Other work programs to address safety in rented premises

Following the 2018 Coroners Court inquest into the death of Sonia Sofianopoulos, a review of open flued gas space heaters, with options such as a phase out, mandatory installation of carbon monoxide alarms and mandatory servicing of gas heating appliances, will be undertaken and assessed through a separate regulatory impact statement process led by the Department of Environment, Land, Water and Planning (DELWP).

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[23] *Building Amendment (Registration of Building Trades and Other Matters) Act 2018*.
[24] See https://engage.vic.gov.au/new-safety-standards-private-swimming-pools-and-spas
[25] Department of Health, *Guidance on use of rainwater tanks*, https://www1.health.gov.au/internet/publications/publishing.nsf/Content/ohp-enhealth-raintank-cnt-l~ohp-enhealth-raintank-cnt-l-5~ohp-enhealth-raintank-cnt-l-5.8 [Accessed 24 October 2019].

Many open flued gas heaters are likely to be installed in older rental properties and renters will often be unaware of what type of heater is installed and whether it has been recently serviced.

Regular service checks, which include testing for carbon monoxide leakage and negative pressure conditions, are an important way of mitigating risks associated with open flued gas heaters already installed in Victorian homes. Prescribing mandatory safety-related maintenance for rental providers in the proposed Regulations will help to keep Victorian rental properties safe and warm.

5.1.2 Identification of feasible options

The Amendment Act inserts a new section 27C(2) into the RTA to provide that a standard form rental agreement may include prescribed safety-related activities to be completed by the rental provider and the renter during the term of the agreement:

- New section 63A provides that a renter must undertake any safety-related activities set out in the rental agreement if that agreement contains a term prescribed under section 27C(2).
- New section 68A provides that the rental provider must undertake any safety-related repairs and maintenance activities set out in the rental agreement if that agreement contains a term prescribed under section 27C(2).

Safety-related activities

The proposed Regulations would make rental providers responsible for the following prescribed safety-related activities:[26]

Electrical safety activities

- The rental provider must ensure an electrical safety check is conducted every two years by a licensed or registered electrician of all electrical installations, fittings and appliances in the rented premises and must provide the renter with the date of the most recent safety check on request by the renter.
- If an electrical safety check of the rented premises has not been conducted within the last two years at the time the renter occupies the premises, the rental provider must arrange an electrical safety check as soon as practicable.

Gas safety activities (if the rented premises contains any gas installations or connections)

- The rental provider must ensure a gas safety check is conducted every two years by a licensed or registered gasfitter of all gas installations and fittings in the rented premises and must provide the renter with the date of the most recent safety check on request by the renter.
- If a gas safety check has not been conducted within the last two years at the time the renter occupies the premises, the rental provider must arrange a gas safety check as soon as practicable.

Smoke alarm safety activities

- The rental provider must ensure that:
    - each smoke alarm is correctly installed and in working condition;
    - each smoke alarm is tested according to the manufacturer instructions at least once every 12 months; and

[26] These regulations would be made in relation to section 27C(2) of the amended RTA, which provides that a rental agreement in the standard form may include a prescribed term that sets out safety-related activities to be completed by the rental provider and the renter during the term of the agreement. Section 27C only applies to rental agreements entered into on or after 1 July 2020.

- the batteries in each smoke alarm are replaced as required.

- The rental provider must immediately arrange for a smoke alarm to be repaired or replaced as an 'urgent repair' if they are notified by the renter that it is not in working order.
- The rental provider must, on or before the occupation day, provide the renter with the following information in writing:
    - information on how each smoke alarm in the rented premises works;
    - information on how to test each smoke alarm in the rented premises; and
    - information on the renter's obligations to not tamper with any smoke alarms and to report if a smoke alarm in the rented premises is not in working order.

Carbon monoxide alarm safety activities (if the rented premises contains any carbon monoxide alarms)

- The rental provider must ensure that:
    - each carbon monoxide alarm is correctly installed and in working condition;
    - each carbon monoxide alarm is tested according to the manufacturer instructions at least once every two years; and
    - the batteries in each carbon monoxide alarm are replaced as required.
- The rental provider must immediately arrange for a carbon monoxide alarm to be repaired or replaced as an 'urgent repair' if they are notified by the renter that it is not in working order.
- The rental provider must, on or before the occupation day, provide the renter with the following information in writing:
    - information on how each carbon monoxide alarm in the rented premises works;
    - information on how to test each carbon monoxide alarm in the rented premises; and
    - information on the renter's obligations to not tamper with any carbon monoxide alarms and to report if a carbon monoxide alarm in the rented premises is not in working order.

Pool fence safety activities (if the rented premises contains a pool fence)

- The rental provider must ensure that the pool fence is maintained in good repair.
- The rental provider must immediately arrange for a pool fence to be repaired or replaced as an 'urgent repair' if they are notified by the renter that it is not in working order.

Bushfire-prone area activities (if the rented premises is in a designated bushfire-prone area under section 192A of the Building Act and a water tank is required for firefighting purposes)

- The rental provider must ensure the water tank and any connected infrastructure is maintained in good repair and cleaned as required.

Renters would be responsible for the following prescribed safety-related activities:

The renter must give written notice to the rental provider as soon as practicable after becoming aware:

- that a smoke alarm in the rented premises is not in working order;
- that a carbon monoxide alarm in the rented premises is not in working order; and
- that a pool fence in the rented premises is not in working order.

Relocatable pool safety activities (if a relocatable pool is erected on the rented premises)

A renter must not erect a relocatable pool on the rented premises for more than one day, unless the renter has given prior written notice to the rental provider.

Note:

Regulations made under *Building Act 1993* apply to any person erecting a relocatable pool.

Prescribed safety devices

The Amendment Act also provides that renters and rooming house residents would also be under a duty not to remove, deactivate or interfere with the operation of a prescribed safety device (unless reasonable to do so in the circumstances).[27] Following consultation with stakeholders, it is proposed to prescribe the following safety devices for the purposes of renters' duties (section 63A) and rooming house residents' duties (section 114A):

Table 6: Safety devices that a renter or resident may not remove or interfere with

Prescribed safety devices for renters and rooming house residents
• smoke alarm • carbon monoxide alarm • residual current device • pool fence • fire sprinkler system • fire exit • fire extinguisher • fire hydrant • fire hose reel • fire blanket • fire window • emergency lighting • security camera located in common area • hot water safety device

Record keeping of gas and electrical safety checks

New section 68B inserted into the RTA will require that rental providers must comply with any prescribed requirements for the keeping and production of records of gas and electrical safety checks conducted at the rented premises.[28]

It is proposed that the Regulations will prescribe the following recording keeping requirements:

Gas safety check

- A record of a gas safety check must include the following information:
    - the name and licence or registration number of the licensed or registered gasfitter who conducted the check;
    - the date the check was conducted; and
    - the results of the check, including any repairs that were required and actions taken to address the repair.
- A record of a gas safety check must be kept until a record of the next gas safety check is created.
- A record of the most recent gas safety check must be provided to the renter within 7 days of receipt by a rental provider of a written request from the renter.

[27] These items would be prescribed in relation to new sections 63A and 114A of the amended RTA. These obligations would apply to all renters and rooming house residents from 1 July 2020.
[28] This obligation would apply to all rental providers from 1 July 2020.

Electrical safety check

- A record of an electrical safety check must include the following information:
    - the name and licence or registration number of the licensed or registered electrician who conducted the check;
    - the date the check was conducted; and
    - the results of the check, including any repairs that were required and actions taken to address the repair.
- A record of an electrical safety check must be kept until a record of the next electrical safety check is created.
- A record of the most recent electrical safety check must be provided to the renter within 7 days of receipt by a rental provider of a written request from the renter.

Other options considered

The proposed Regulations provide for a comprehensive articulation of responsibilities for renters and rental providers, however, have focused on only those matters that represent a high risk if not carried out.

In allocating responsibility for safety-related maintenance between the parties, a factor taken into consideration by the Department was whether, and how frequently, the rental provider would need to enter the rental premises to comply with the safety-related duty and the impact this would have on the renter's amenity and quiet enjoyment.

An alternative option is a smaller set of prescribed responsibilities, omitting some of what is proposed. The assessment of costs and benefits (in section 5.1.3) breaks down the impacts of each element, allowing stakeholders to comment on whether setting only some of the proposed responsibilities is better.

Another option would be prescribing additional responsibilities. Renter advocates were generally in factor of limiting the safety-related activities imposed on renters and the number of prescribed safety devices, given that non-compliance can trigger the breach of duty provisions under the RTA. Similarly, rental provider stakeholders advocated for restricting the number of responsibilities allocated to rental providers, taking into account the costs of compliance.

In particular, the renter stakeholders raised concerns about a proposal that the renter should be responsible for dusting smoke alarms in accordance with the rental provider's instructions (under section 27C(2)), if it were also proposed to include smoke alarms in the list of prescribed safety devices (under section 63A) that a renter must not remove, deactivate or interfere with. Stakeholders also noted that many renters may have difficulties accessing smoke alarms and it would be unreasonable to require a renter to clean the smoke alarms if this was the case. Consistent with this feedback, the proposed Regulations do not include a prescribed duty to clean smoke alarms.

While some stakeholders have suggested other responsibilities that could be included under this head of power, the Department did not consider they were necessary and/or appropriate to be included, given the intent of the reforms and the scope of the problem identified. As such, these have not been assessed further in this RIS. Stakeholders may wish to comment on whether there are further matters that could be considered.

5.1.3 Costs and benefits of safety-related obligations

Costs

The proposed obligations would only apply to newly entered rental agreements, or where a fixed term rental agreement rolls over into a periodic rental agreement on or after 1 July 2020. Existing fixed term or periodic tenancy agreements entered into before 1 July 2020 will not be affected.

The Department drew on research by EY Real Estate Advisory Service Market Quotes on the proportion of existing rented premises that would not meet the proposed standard, and applied those percentages to the number of total premises that become subject to the proposed requirement each year (see Appendix B). The costs of complying with each obligation were estimated using the assumed costs used by EY Real Estate Advisory Service Market Quotes and updated based on further advice from Energy Safe Victoria (ESV).

The total costs to private rental providers, excluding the Director of Housing (DoH), of meeting the safety-related obligations is shown in the following table:

Table 7: Costs of rental provider safety-related obligations (excluding the Director of Housing)

Year (from 1 July)	Number of premises subject to obligations[29]	Electrical installation testing[30]	Gas installation testing[31]	Smoke alarm testing[32]	TOTAL (NPV)
2020	182,093	$6,828,489	$5,690,407	$2,731,395	$15,250,291
2021	327,767	$5,252,684	$4,377,236	$4,727,415	$14,357,335
2022	435,749	$10,057,121	$8,380,934	$6,043,111	$24,481,167
2023	517,525	$7,582,603	$6,318,836	$6,901,165	$20,802,603
2024	581,143	$11,337,670	$9,448,058	$7,451,454	$28,237,181
2025	632,242	$8,585,533	$7,154,611	$7,794,855	$23,534,999
2026	674,775	$11,742,844	$9,785,703	$7,999,266	$29,527,813
2027	711,514	$8,984,756	$7,487,297	$8,110,381	$24,582,434
2028	744,406	$11,758,201	$9,798,501	$8,158,956	$29,715,659
2029	774,821	$9,108,259	$7,590,216	$8,165,689	$24,864,164
TOTAL (NPV)		**$91,238,160**	**$76,031,800**	**$68,083,687**	**$235,353,647**

This gives a total cost to rental providers across private rental properties of $235 million over the ten-year life of the proposed Regulations (NPV, using a real discount rate of 4 per cent). While the proposed Regulations make the rental provider responsible for these activities, it is expected that most of these costs would be (at least to some extent) passed through to private renters in the form of higher rents. The above costs, if fully passed through to higher rents to the private renter as they

[29] Number of properties to which the proposed requirements will apply each year (cumulative) includes existing properties as they become subject to the proposed obligations (e.g., when entering a new rental agreement) and new rental properties that become available. See Appendix B for further discussion.

[30] Assumes 26 per cent of the properties subject to the obligation have electrical installations that require testing do not currently meet this requirement, at an average cost of $150 per service (*EY Real Estate Advisory Service Market Quotes).* Testing is done every second year.

[31] Assumes 13 per cent of the properties subject to the obligation have gas installations that require testing do not currently meet this requirement, at an average cost of $250 per service (*EY Real Estate Advisory Service Market Quotes; cost based on advice from ESV).* Testing is done every second year.

[32] Assumed 13 per cent of premises that have (or are required to have) smoke alarms do not already have them tested at least once a year (*EY Real Estate Advisory Service Market Quotes).* The assumed average cost is $120 per property to test alarms and replace periodically.

become subject to the safety checks, would increase rents by an average of $300 per annum (or less than $6 per week) over the life of the proposed Regulations. It is unlikely that the full amount would be passed through, as these costs would already be reflected in market rents for premises that already undertake these safety-related checks. That said, there may be some rental properties that operate at near-cost (particularly likely to be properties at the lower end of rents) where pass through of costs to renters is inevitable.

The costs associated with maintaining swimming pool fences and water tanks in bushfire prone areas has not been separately quantified. There are already existing obligations on the owner or occupier to do these activities. For example, in relation to swimming pool fences, the Building Regulations 2018 provide that:

- the owner of the land must take all reasonable steps to ensure that a barrier restricting access to the swimming pool or spa is properly maintained (reg. 141); and
- an occupier of the land must take all reasonable steps to ensure that a barrier restricting access to the swimming pool or spa is operating effectively (reg. 142).

The proposed Regulations merely clarify which party is responsible (i.e., the rental provider will not be able to use a rental agreement to shift their existing obligations onto the renter in these areas).

Safety-related maintenance costs for carbon monoxide alarms has not been modelled as it is assumed that a small amount of private rental properties have carbon monoxide alarms currently installed and therefore will not be required to conduct annual tests on them. These costs have however been modelled for the DoH below, as data provided by the Department of Health and Human Services (DHHS) indicates that there is one carbon monoxide alarm installed for each rental property managed by the DoH.[33]

The proposed safety-related activities for renters are not considered to be a material burden and are not quantified in this RIS.[34]

Stakeholders may wish to provide evidence of the costs and benefits of the safety-related activities not identified in this RIS.

Impacts on the Director of Housing

Some of these costs to rental providers will fall on the government. The DoH is the largest rental provider in the state, and DoH premises will be required to comply with the proposed Regulations. In relation to the proposed safety-related requirements, the following costs have been estimated based on data provided by DHHS.

[33] Note that a separate RIS led by DELWP is considering the mandatory installation of carbon monoxide alarms in residential properties, including rental properties.

[34] Rental providers have a right of entry to carry out a duty under the RTA or rental agreement (section 86(1)(c)). Therefore, there is no requirement for renters to be present while safety-related maintenance is carried out at the rented premises. Some renters may choose to be present and safety-related maintenance activities may cause inconvenience for some renters, however, this is not expected to impose a material cost on renters.

Table 8: Costs of safety-related obligations on the Director of Housing

Year (beginning 1 July)	Number of premises subject to obligations[35]	Electrical installation testing[36]	Gas installation testing[37]	Smoke alarm testing[38]	Carbon monoxide alarm testing[39]	TOTAL (NPV)
2020	5,775	0	$143,931	$305,853	$143,931	$593,714
2021	11,105	0	$127,739	$565,534	$276,779	$970,051
2022	16,025	$718,754	$246,440	$784,689	$362,568	$2,112,451
2023	20,566	$637,894	$218,716	$968,314	$491,773	$2,316,696
2024	24,758	$1,230,659	$317,143	$1,120,823	$605,292	$3,273,916
2025	28,626	$1,092,210	$281,464	$1,246,119	$702,615	$3,322,408
2026	32,197	$1,583,730	$363,550	$1,347,651	$792,583	$4,087,514
2027	35,493	$1,405,560	$322,651	$1,428,463	$875,357	$4,032,031
2028	38,535	$1,815,476	$391,521	$1,491,245	$951,885	$4,650,127
2029	41,343	$1,611,235	$347,475	$1,538,368	$1,022,521	$4,519,599
TOTAL (NPV)		**$10,095,516**	**$2,760,629**	**$10,797,058**	**$6,225,304**	**$29,878,508**

It should be noted that due to the relatively low turn-over rate in public housing, there will still be a sizeable portion of DoH premises that will not be subject to the safety-related maintenance requirements by the expiry of the proposed Regulations. However, DHHS may decide to conduct safety checks consistently on all DoH properties rather than wait for them to transition to a new rental agreement, in which case the safety-related costs would be higher.

Benefits

The proposed safety-related obligations in relation to testing of electrical and gas appliances and ensuring working smoke alarms recognises that the reduction of risk involves both reducing the source of harm (e.g., fires) and the consequence should the harm arise.

Three key areas of benefit have been identified for quantification; reduced loss of life, reduced injury and reduced property damage.

[35] Assume DoH turnover of 7.7 per cent per annum. Assume no increase in public housing stock (75,000 properties).
[36] DHHS have advised that electrical safety checks are only conducted by DOH when a property is vacant (approximately 5,000 per year, each test is $115).
[37] DHHS moved from a 5 year gas heater service program to a 2 year gas heater service program in March 2018. DHHS will have additional costs for checking other gas appliances of $36 per check. Data provided indicates that this will impact on 72 per cent of public housing.
[38] DHHS have advised that the DoH has a 10 year smoke alarm replacement program for all smoke alarms. The smoke alarm is replaced prior to the expiry date (unless the renter reports a fault, in which case the smoke alarm is replaced earlier). The cost of each smoke alarm test is estimated to be $36 based on data provided by DHHS. Estimated 1.5 smoke alarms per property.
[39] DHHS commenced the installation of carbon monoxide alarms in DoH properties in March 2018. DHHS has advised that carbon monoxide alarms have a lithium battery with a 10 year warranty that cannot be removed. The carbon monoxide alarm would be replaced prior to expiry date (unless the renter reports a fault, in which case the would alarm be replaced earlier). DHHS has provided data indicating 72 per cent of properties had carbon monoxide alarms, with the cost of each test estimated at $36. The amount of properties affected slowly decreases over time as gas heaters are replaced by a 2-star heater under the heating minimum standard or when the heater reaches its end of life (section 5.3).

In 2016 there were 3,500 preventable house fires per year[40] and 28.7 per cent of properties are rental properties[41], and only around half of properties have a working smoke alarm[42,43] that could have prevented a fatality and/or reduced property damage.

As noted above, research indicates that where a smoke alarm is not present or failed to operate 0.73 per cent of fires resulted in a fatality. The research has also found that where a smoke alarm is not present or failed to operate 4.9 per cent of fires resulted in injury.

The expected benefits for both the private and public rental sector are summarised in table 9.

It is assumed that currently 50 percent of rental properties do not have a working smoke alarm, resulting in approximately 1004 preventable fires in rental properties. Table 9 looks at the transition towards all rental properties having functional smoke alarms, as they progressively become subject to the smoke alarm safety-related maintenance. This then stops preventable house fires in rental properties, resulting in benefits from insurance savings, deaths and injuries prevented.

Table 9: Benefits of electrical and gas appliance testing and smoke alarms checks (private and public rental sector)

Year (from 1 July)	Fires prevented	Deaths prevented	Injuries prevented	Benefits (NPV)[44]
2020	147	1.1	7.2	$10,031,354
2021	223	1.6	10.9	$14,337,265
2022	274	2.0	13.4	$17,079,110
2023	326	2.4	16.0	$19,623,295
2024	373	2.7	18.3	$21,413,718
2025	410	3.0	20.1	$22,749,104
2026	443	3.2	21.7	$23,488,131
2027	471	3.4	23.1	$24,006,194
2028	494	3.6	24.2	$24,318,823
2029	502	3.7	24.6	$23,892,735
TOTAL	**3663**	**27**	**179**	**$200,939,729**

The quantified benefits of these are $201 million over ten years (NPV, using a real discount rate of 4 per cent). The valuation is based on average damage to property in the event of fire of $32,640 per premises (based on insurance claim data), the value of a statistical life (VSL) of $4.62 million per death avoided (based on Office of Commissioner for Better Regulation guidance on value of a statistical life, updated to 2019 values)[45], and an average cost of fire-related injuries of $76,740 per patient.[46]

[40] MFB Media Release August 2016.
[41] Census 2016 Dwelling Structure by Dwelling Type. Available at: http://stat.data.abs.gov.au/Index.aspx?DataSetCode=ABS_C16_T24_SA [Accessed June 2019].
[42] Analysis of Preventable Fire Fatalities of Older People and People with Disabilities (2011).
[43] https://www.domain.com.au/news/the-shocking-number-of-melburnians-with-smoke-alarms-that-might-not-work-20180605-h110ap/
[44] Included is a sum of the benefits from insurance claims, prevented injuries and deaths each year given an annual discount rate of 4 per cent.
[45] VSL methodologies account for the lost productivity from a person's death but not for the intrinsic value of that person.
[46] Metropolitan Fire Brigade (VIC) (MFB).

This estimate of benefits ($201 million over ten years) is less than the estimated quantified costs associated with electrical, gas, carbon monoxide and smoke alarm checking ($268 million over ten years).[47] While this is a net loss, there are predicted to be further qualitative benefits to regular safety checks that cannot be quantified, as discussed earlier, that offset the total cost.

5.2 Minimum standard of rental properties

5.2.1 The problem to be addressed

At the start of a rental agreement, a rental provider must ensure that their rental property is vacant and in a reasonably clean condition. This is in addition to the rental provider's duty to maintain the property in good repair. Market research commissioned by the Department in 2016[48] found that rental property conditions were reported as generally good, with two in three (68 per cent) of renters describing their property as in 'excellent' or 'good' condition when they moved in (including 39 per cent 'good').

Problems with housing were not frequently reported, although when they did arise, these problems tended to relate to critical amenities. For example:

- a very small minority of renters (3 per cent) reported that their electricity and water was not in good working condition, or not connected at all, and
- 18 per cent reported having no heating, or heating that was not in good working condition.

Although available data on housing quality does not indicate how much of Victoria's rental housing stock would be classified as 'dilapidated' or 'uninhabitable', recent ABS data (which uses a different definition) indicates that around 83.6 per cent of surveyed rental properties are structurally sound.

Overall, 11 per cent of renters described their property condition as 'poor' or 'very poor' when they moved in, with low income renters (those in the bottom two income quartiles) more likely to report that their property was in 'poor' condition (11 per cent compared to 7 per cent overall) and less likely to report that it was in 'excellent' condition (22 per cent compared to 29 per cent overall).

Similarly, more recent research commissioned by DELWP in 2018 found that 9 per cent of renters rated the quality of their property as 'poor' while 21 per cent of renters rated their property as excellent.[49]

Under the amended RTA, from 1 July 2020 a rental provider must ensure that rented premises comply with any prescribed rental minimum standards on or before the day on which the renter enters into occupation of the premises.[50] If the rented premises do not comply with a rental minimum standard on the day the renter enters into occupation of the premises, the renter may request an 'urgent repair' to trigger compliance with the standard.[51]

The Amendment Act includes the power[52] to prescribe rental minimum standards including, but not limited to, the following:

- the cleanliness and state of repair of rented premises;
- the privacy, security and amenity of rented premises; and

[47] Includes costs for both the public and private rental sector.
[48] *Rental experiences of tenants, landlords, property managers, and parks residents in Victoria*, Final Report, 17 May 2016 accessed via engage.vic.gov.au/fairersaferhousing.
[49] Newgate Research (2018), *Research Report on Energy Efficiency in Rental Properties*, May 2018, unpublished.
[50] Section 65A(1).
[51] Section 65A(2).
[52] New section 511(1)(ac).

- prescribing or requiring compliance with any other standards prescribed under any other Act or law in relation to, or applicable to, the condition of any residential premises, including energy and water efficiency standards.

The rental minimum standards in the proposed Regulations will only apply to new rental agreements or where a fixed term rental agreement rolls over into a periodic rental agreement on or after 1 July 2020. Existing fixed term or periodic tenancy agreements entered into before 1 July 2020 will not be affected.[53]

Standards considered during the Review have tended to follow themes of health, safety, amenity and energy affordability. During the consultation on the rental reforms, stakeholders proposed a wide range of minimum rental standards that could be introduced. The Minister's Second Reading speech identified eight minimum standards that were 'basic, yet critical requirements which no reasonable person could object to', being:

- a vermin-proof rubbish bin;
- a functioning toilet;
- adequate hot and cold water connections in the kitchen, bathroom and laundry;
- external windows that have functioning latches to secure against external entry;
- a functioning cooktop, oven, sink and food preparation area;
- a functioning single-action deadlock on external entry doors;
- functioning heating in the property's main living area; and
- window coverings to ensure privacy in any room likely to be a bedroom or main living area.

Housing issues such as dampness and insulation were also raised during the Review. Some of these matters, such as damp and structural soundness, fall within the rental provider's general duties to ensure the rented premises are reasonably clean and in good repair (which has been interpreted by the courts as including a standard of fitness for habitation), however, prescribing these items explicitly in the regulations could provide additional clarity, and hence reduce disputes. Other issues such as insulation are not covered by rental providers' existing duties under the RTA and would require prescription as rental minimum standards in order to be enforced (see section 5.2.2).

Energy efficiency standards

The power to prescribe rental minimum standards under the amended RTA has been flexibly designed, so that it can incorporate energy and water efficiency standards imposed under other legislation.

It is a societal expectation that people can heat their home to a comfortable temperature, particularly during winter months. Thermal comfort is important for health and well-being as well as productivity. Human thermal comfort depends on the metabolic rate (internal heat production), the heat loss from the body and the climate conditions.[54] A lack of thermal comfort can cause physical and emotional stress among building or dwelling occupants.[55] There is strong evidence that living in a cold home has significant, direct and indirect health impacts. According to the World Health Organization (WHO) *Housing and Health Guidelines* (2018), cold indoor temperatures are often a consequence of low outdoor temperature, structural deficiencies (i.e., lack of insulation or

[53] See section 368 of the Amendment Act, which inserts new Schedule 1, Division 5 into the RTA.
[54] Choudhury & Majumdar (2011). Factors affecting comfort: human physiology and the role of clothing. Available at: https://www.sciencedirect.com/science/article/pii/B9781845695392500016[Accessed June 2019].
[55] Choudhury & Majumdar (2011) op cit.

air-tightness) and lack of heating. The WHO recommends 18°C as a safe indoor temperature to protect the health of general populations during cold seasons.[56]

Cold indoor temperatures have been associated with increased respiratory morbidity and mortality, such as the exacerbation of asthma and Chronic Obstructive Pulmonary Disease (COPD) symptoms, as well as cardiovascular morbidity and mortality due to increased blood pressure.[57] A study comparing deaths from hot and cold exposure, found that 6.5 per cent of deaths in Australia are related to cold exposure, compared to 0.5 per cent attributed to hot weather exposure, and that this compared unfavourably with countries like Sweden where cold temperatures were responsible for 3.7 per cent of deaths.[58]

Despite compelling evidence linking living in cold homes with adverse health consequences, a recent survey of the Victorian rental market commissioned by DELWP found that over half of property managers (52 per cent) had poor knowledge of the health implications of properties with low energy efficiency, and only a third of rental providers (34 per cent) understood that properties with low energy efficiency can have negative health impacts on the occupants.[59]

The comfort of the home, including access to heating, is vitally important for people's wellbeing and their ability to socialise. A home without heating or which is poorly heated may have a profound impact on quality of life, for example, people may not invite friends and family to visit or may spend more time in bed because they cannot keep warm in their home.

A warm living space is essential both for households that spend most of their time at home (e.g., the elderly, disabled and young children), and for those who are working or at school and other activities during the day but need a comfortable setting for eating, recreation or studies.

It is assumed that where there is no heating in a rental home, renters are highly likely to compensate by using portable electric heaters (i.e., portable oil or fan heaters). However, some renters may not compensate for the lack of heating, and instead reside in an unheated home with adverse health, productivity and social consequences. The absence of any heating in rental properties has been an issue raised by tenancy advocacy groups in Victoria in recent years.

Many other renters are impacted by high energy costs due to inefficient or costly to run heating.[60] Compared to owner-occupied properties, rental properties use less efficient appliances and the properties are generally older, in poorer repair and more likely to be thermally inefficient.[61,62,63] This means that renters face a number of challenges in heating their homes, and that it will be harder to make their home comfortable and to manage their energy costs. Compounding the lack of adequate heating in rental homes, data on Victoria's existing housing stock indicates that rental properties are likely to be amongst the poorest for energy performance. There is a significant body of literature

[56] World Health organization (WHO) Housing and Health Guidelines (2018). Chapter 4. Indoor temperatures and insulation. Available at: https://apps.who.int/iris/bitstream/handle/10665/276001/9789241550376-eng.pdf?ua=1
[57] World Health organization (WHO) Housing and Health Guidelines (2018). Chapter 4. Indoor temperatures and insulation. Available at: https://apps.who.int/iris/bitstream/handle/10665/276001/9789241550376-eng.pdf?ua=1
[58] Gasparrini A, Guo Y, Hashizume M, et al. Mortality risk attributable to high and low ambient temperature: a multicountry observational study. Lancet. 2015;386(9991):369-75.
[59] Newgate Research (2018), *Research Report on Energy Efficiency in Rental Properties*, May 2018, unpublished.
[60] Advice provided by DELWP.
[61] Ibid ACOSS 2013 reference immediately above.
[62] Department of Economic Development, Jobs, Transport and Resources (DEDJTR) (2015) *Quantitative & Qualitative Consumer Research Report – Consumer Engagement with Energy,* (unpublished)
[63] Barrett, A and T. Archer, 2010, *Utilities and residential tenancies, Part 1: The regulatory context*, Tenants Union of Victoria.

that shows that renters are at increased risk from rising energy prices compared to other household segments.[64]

Heating

As a first step, the Government has considered opportunities to apply existing standards to improve outcomes for renters and is considering efficiency requirements for a functioning heater. Heating is a key priority due to affordability concerns (heating represents about half of a typical Victorian household's energy consumption), and associated health benefits.

The Department has been working closely with DELWP to explore options for a 'functioning heating requirement' that incorporates efficiency and affordability considerations. The aim is to deliver improved affordability and thermal comfort for renters, and to balance the costs of the unit and installation for rental providers with running costs (i.e. including energy savings) for renters.

In the rental market, regulatory measures to require functioning heating in the main living area through the RTA reforms are considered necessary due to numerous barriers in the rental market which cannot be sufficiently addressed through the market or non-regulatory measures. Financial incentives (such as the Victorian Energy Upgrades (VEU) program) have not been taken up by rental providers to the same extent as owner-occupied households.

Introducing a minimum heating standard will improve the living and thermal conditions of the worst performing Victorian rental homes and have societal and economy-wide benefits.

5.2.2 Identification of feasible heating options

The proposal for a minimum standard in relation to 'functioning heating in the property's main living area' is the focus for initial consideration of the application of energy efficiency requirements, as allowed under the new section 65A.[65]

The effectiveness of a heater in heating a space to a comfortable temperature is influenced by the heating capacity of the unit (the heating output in kW), the size of the space to be heated (m2) and the degree to which the space will retain heat (thermal shell). The outdoor temperature is also a significant factor in heating effectiveness.

Heating capacity is determined by several factors – the amount of energy drawn by the heater (in kilowatts or megajoules), the efficiency in which the heater converts the energy input into an output and factors such as whether there is a fan to move the heat through the room. Some types of heaters are more effective at converting energy to heat output than others. The heating capacity is also the basis for measuring the energy efficiency of a heater.

In addition to the capacity and efficiency of a heater, it is critical to the provision of adequate heating that a heater is also affordable to operate. Heating capacity, efficiency and energy affordability are therefore key elements in examining available heating types and specifying a minimum standard.

Key considerations for the framing of this minimum standard for heating are outlined below.

- **A 'basic' minimum performance standard; not seeking 'best-practice'**

  By prescribing minimum standards, the Government ensures that all renters occupy premises that provide for basic amenity, safety and security. As a basic standard, the focus is on a fixed heating source that services the main living area—not for heating that services the whole house or multiple living areas. The basic minimum standard needs to be set at a level that provides

[64] ACOSS, Brotherhood of St Laurence and the Climate Institute, *Empowering Disadvantaged Households to Access, Affordable Clean Energy, 2017.*

[65] Section 65A only applies to rental agreements entered into on or after 1 July 2020.

effective benefits for the renter (efficient heating for comfort and health without excessive costs) and also does not impose an excessive or unreasonable impact on the rental provider (i.e., for the capital and installation costs of new and replacement heaters). For the heating standard, this means that heating is required in the 'main living area' only, and that the level of efficiency of the heater is not set at 'best practice' or highest available efficiency.[66]

There will be many rental properties that already meet the requirements of the prescribed minimum standard for heating and other conditions. The aim of the prescribed minimum standard is to bring poor performing rental properties up to a basic minimum standard.

- **Simple to communicate and easy to measure compliance**
  The heating standard needs to be framed so that rental providers, property managers and renters can easily identify whether properties already comply, and if not, can take simple steps to ensure compliance. Standards that are not overly technical are easier for rental providers, property managers and trades to identify compliant products. This means providing a plain English definition of the space to be heated and easy to follow guidance on what heaters/heating systems meet the minimum standard. For example, a star rating is an established method of distinguishing between products. A star rating is used to specify water efficient fittings and appliances (using a 3-star WELS rating) in the current Regulations.
- **Does not impose unreasonable or excessive purchase and installation costs on the rental provider**
  Minimum heating and energy efficiency standards should not unduly burden the rental provider financially. The standards should be set at a basic level that allows rental providers to access government rebates (such as the VEU program) for installing more efficient, or 'best practice' heaters on the market.
- **Framed to cover majority of rental properties**
  A standard would ideally be framed to cover the majority of rental properties which are subject to the identified problem. Standards need to allow for different building types and designs. However, it is recognised that there will be circumstances in which the installation of a more efficient heater could be constrained by structural barriers, such as in apartments (Class 2 buildings) where the choice of heater can be limited by access to gas or appropriate space to install the external unit of a split system air conditioner.
- **Well-established national standards that are subject to ongoing review and updates**
  A standard that draws on existing energy efficiency standards that are national and are subject to reviews and updates.

Heaters that can be easily moved present an issue for compliance, in comparison to heaters that are fixed, hard-wired, plumbed or flued in to a wall or surface. It will be in the interests of both rental providers and renters to ensure that the standard requires a fixed or installed heater that cannot be removed from the property.

Given the intention of providing heating for the main living area, the standard is to be applied to space heaters only (defined as 'a device used to heat a single, small area') – but will not limit the use of central or ducted heating systems that service the main living space. Space heaters will be the most cost-effective option for meeting the basic minimum standard. The standards will not constrain rental providers from installing ducted heating systems and these could provide greater thermal comfort for renters by heating the whole of the house.

[66] Refer to the second reading speech, *Residential Tenancies Amendment Act 2018*.

A key consideration is the ability of heaters to adequately heat the living area and to be affordable to operate.

Proposed Regulation

Medium energy efficiency option (the preferred option)

The objective of this option is that all rental properties in Victoria will have access to a functioning heater servicing the main living area of their home. The option is designed to ensure that heaters installed in the main living area of Class 1 rented premises meet a 'basic' or minimum energy performance standard, and do not lock renters in to high running costs, contributing to energy affordability issues.

A requirement for a fixed heater in good working order in the main living area would be introduced for all Class 1 and 2 rental properties,[67] as well as prescribing a minimum 2-star (medium) energy efficiency standard for heaters in Class 1 rental properties.

The medium energy efficiency standard is:

- non-ducted air conditioners or heat pumps must have a 2-star rating or above – it is assumed that most rental providers would install a reverse cycle air conditioners (RCAC) to comply with this standard;
- gas space heater must have a 2-star rating or above;
- ducted heating or hydronic heating systems must have an outlet in the main living area; and
- slow combustion wood heaters in the main living area (if allowed by local councils).

Note that electric resistance heaters (electric panel heaters) would not meet the proposed standard.

It would also phase out liquid petroleum gas (LPG) fuelled gas heaters in the main living area of all Class 1 rental properties by 2023 – rental providers would be required to replace it with an alternative heater that meets the medium energy efficiency standard.

While Class 2 properties (i.e. apartments) are proposed to require a fixed heater to be installed, it is proposed to exclude Class 2 rented premises from meeting the minimum energy efficiency (2-star) standard due to the following constraints:

- the structural adequacy of the building or poor availability of plant space of the Class 2 property (i.e., apartment) may not physically allow (as reasonably practicable) the installation of heaters that meet the medium energy efficiency standard (i.e., RCACs or gas space heaters);
- there may be excessive costs to overcome structural or technical barriers or to meet owners corporation specifications to install energy efficient heaters in Class 2 properties; and
- owners corporations may object to the installation of RCACs or gas heaters if the installation would significantly and negatively change the structure or aesthetics of the building, require complex installation processes or affect the amenity of the building for other occupants.

It is also to be noted that Class 2 properties generally have improved thermal performance compared to Class 1 properties. This is because apartments are generally smaller and share walls, floors or ceilings, which reduces external surfaces through which heat can be lost. This generally means that less energy will be required to heat apartments. Class 2 properties therefore have some

[67] Definition by the Victorian Building Authority (VBA):

- Class 1 buildings - a single dwelling that is a detached house; or one of a group of attached properties (i.e. townhouses)
- Class 2 buildings - typically multi-unit residential buildings where people live above and below each other (i.e. apartment buildings).

protections against high energy bills (compared to Class 1 properties), which may offset the exemption of the energy efficiency requirement for Class 2 rentals.[68]

Exempting Class 2 rental properties from the energy efficiency requirement allows rental providers to install any type of fixed heater, such as electric resistance heaters, in the main living area.

[68] The average cost of heating a medium living area in a 2-star Class 2 property, with a base efficiency heater in Melbourne is 30 per cent less than a Class 1 space.

Proposed phasing of heating minimum standard

Table 10: Proposed phasing of heating minimum standard – Only applicable to rental agreements entered into on or after 1 July 2020

Year 1 (1 July 2020) – Class 1 and 2 buildings must have installed a heater in the main living area **Applies to new rental agreements entered into from 1 July 2020**
Class 1 properties: Rented premises must have a heater installed in the main living area on occupation or risk termination by the renter before possession. If a heater is not installed on the day of commencement, a minimum 2-star energy efficient heater must be installed. If the renter moves in and then discovers there is no heater, then they can request an 'urgent repair' under section 65A(2) to trigger compliance with the heating minimum standard. The installed heater must meet minimum 2-star energy efficiency standard (s72(3)). **Class 2 properties:** The rented premises must have a heater installed in the main living area on occupation or risk termination by the renter before possession. If the renter moves in and then discovers there is no heater, then they can request an 'urgent repair' under section 65A(2) to trigger compliance with the heating minimum standard. The rental provider can choose to install any type of heater (i.e. there is no energy efficiency requirement for class 2 rental properties).
Year 3 (1 July 2022) – Class 1 buildings with non-energy efficient heaters must replace with energy efficient heater **Applies to new rental agreements entered into from 1 July 2020**
Class 1 properties: The rented premises must have a minimum 2-star energy efficient heater installed in the main living area on occupation or risk termination by the renter before possession. If the renter moves in and then discovers the heater is not a minimum 2- star energy efficient heater, then they can request an 'urgent repair' under section 65A(2) to trigger compliance with the heating minimum standard. The replacement heater must meet the minimum 2- star energy efficiency standard (s72(3)).
Year 4 (1 July 2023) – Class 1 buildings must replace LGP fuelled heater with energy efficient heater **Applies to new rental agreements entered into from 1 July 2020**
Class 1 properties: The rented premises must have a minimum 2-star energy efficient heater installed in the main living area, which is not fuelled by LGP, on occupation or risk termination by the renter before possession. If the renter moves in and discovers that the heater is a LPG fuelled heater, then they can request an 'urgent repair' under section 65A(2) to trigger compliance with the heating minimum standard. The replacement heater must meet the minimum 2-star energy efficiency standard (s72(3)).

LPG fuelled heaters are deemed to comply with the minimum 2-star energy efficiency standard between Years 1 and 3.

From Year 4 (1 July 2023) onwards, LPG fuelled heaters are no longer compliant with the minimum 2-star energy efficiency standard.

Other options identified

Low energy efficiency option –

- Requires fixed heater for all Class 1 and 2 rental properties (no energy efficiency requirement).
- This option prescribes a minimum standard for a fixed heater servicing the main living area for all Class 1 and 2 rental properties.
- This option does not set a minimum energy efficiency requirement.

High energy efficiency option –

- Requires fixed heater for all Class 1 and 2 properties with high energy efficiency requirement for Class 1 rental properties only.
- This option prescribes different standards for Class 1 and Class 2 rental properties, recognising technical constraints of Class 2 buildings.
- For Class 1 rental properties, a high energy efficiency standard for a heater that services the main living area (3.5-star energy rating for non-ducted air conditioners or heat pumps; 4-star rating for gas space heaters).
- For Class 2 rental properties, a minimum standard for a fixed heater servicing the main living area (no energy efficiency requirement).

All options can include or exclude the proposed phase out of LPG heaters.

5.2.3 Energy efficiency options not assessed in this RIS

The focus of options considered in this RIS is on an energy efficiency standard for heating. During consultation on the proposed Regulations, stakeholders also suggested cooling and insulation as energy efficiency standards that should be considered for inclusion in the proposed Regulations.

EY Sweeney market research commissioned by the Department found that rental providers reported the following energy efficient features in their properties:

- insulation in roof and/or floor – 76 per cent (all properties) and 9 per cent (at least one property);
- draught proofing or weather-sealing on windows and exterior doors – 44 per cent (all properties) and 12 per cent (at least one property);
- energy efficient heating – 42 per cent (all properties) and 14 per cent (at least one property);
- energy efficient hot water system – 41 per cent (all properties) and 12 per cent (at least one property); and
- energy efficient cooling – 32 per cent (all properties) and 15 per cent (at least one property).[69]

[69] *Rental experiences of tenants, landlords, property managers, and parks residents in Victoria*, Final Report, 17 May 2016 accessed via engage.vic.gov.au/fairersaferhousing.

The Department has been working with DELWP during development of the rental minimum standards to evaluate options for helping Victorians improve the comfort and energy efficiency of their rented homes.

The Department has chosen heating as the first step because the vast majority of energy use in Victorian homes is spent on heating (57.4 per cent). [70] A heating (including energy efficiency) standard would provide a significant improvement in the circumstances of many renters – those currently without any heating or with very high cost/inefficient forms of heating. However, a fully effective response to thermal comfort would require additional measures to ensure that rental properties have ceiling insulation and draught sealing. In addition, an energy efficiency standard for hot water systems in rental properties would provide renters with significant benefits in terms of reduced energy bills.

It is proposed that other energy-related standards would be developed in due course to ensure basic amenity and energy affordability for renters, including a:

- ceiling insulation standard to improve the thermal performance of rental properties and maximise the effectiveness of heating – this has not been assessed for the purposes of the proposed Regulations, but development of future work by DELWP will commence from 2020; and
- hot water system energy efficiency standard to help renters manage the costs of this basic service – for development by DELWP from 2021.

Insulation

The evaluation of heating options in this RIS highlights the importance of the building shell and that a basic standard for ceiling insulation would contribute to the improved effectiveness and efficiency of heaters installed in properties. This would need to be pursued as a separate process from 2020 as there are several issues that will require careful consideration to ensure insulation is installed safely and effectively, and to determine an appropriate standard that is simple to administer and cost effective. As a first step, DELWP is commencing work for the consideration of a minimum insulation standard for rental properties.

Hot water systems

Hot water makes up approximately a quarter of an average household's energy bill. The benefits of introducing a minimum energy efficiency standard are recognised, but detailed work will be required to determine how standards might be set, and the potential industry impacts of any standards, including working closely with national energy performance standards processes.

Cooling

An additional area for future work is whether standards on cooling should be prescribed, as a means to improve amenity, health and reduce energy bills. The Department notes that 75 per cent of renters surveyed reported that they have air conditioning in their current rental property (65 per cent in good working condition and 10 per cent not in good working condition).[71]

Under the preferred 2-star heating standard proposed, it is likely that many rental providers will install RCACs in Class 1 rental properties (split systems or window wall units which are less common) that have the dual function of heating and cooling for no to little additional cost. This would provide a side benefit of a cooling function being available to renters for minimal (if any) additional purchase cost to rental providers. The use of RCAC cooling during summer months, particularly during

[70] Compared to 19.0 per cent water heating, 14.9 per cent appliances, 3.5 per cent cooking, 3.5 per cent lighting and 1.8 per cent cooling (*Residential Baseline Study for Australia 2000 – 2030*, EnergyConsult, Aug 2015).
[71] *Rental experiences of tenants, landlords, property managers, and parks residents in Victoria*, Final Report, 17 May 2016 accessed via engage.vic.gov.au/fairersaferhousing.

heatwave events will have positive health outcomes, particularly for at risk population groups such as children, people over the age of 65 years and those with psychiatric, cardiovascular and pulmonary illness who are more vulnerable to the negative impact of high temperatures on health.[72]

The Department will continue to consult with DELWP on the potential for further standards to be prescribed under the RTA.

5.2.4 Assessing the costs of benefits of the feasible heating options

There is no definitive data set for the prevalence of heaters in rental properties in Victoria. The most extensive study of appliances in homes was conducted by the Australian Bureau of Statistics (ABS) in 2012.[73] This study has been used to identify the type of heaters in rented homes and the associated number of rental households.

Based on an analysis by DELWP, it is estimated that up to 9 per cent of Class 1 private properties (39,769) and 16 per cent of Class 2 private properties (26,998) could be without a heater based on ABS (2012) and Census (2016)[74] derived data, totalling 66,767 private properties.[75]

Further, an additional 2 per cent of Class 1 private properties would have a heater that is not compliant with the proposed heating 2-star standard and another 2 per cent would have an LPG heater. This adds up to a total 84,442 existing private rental properties that would be affected by the proposed heating standard, approximately 14 per cent of the private rental market.[76]

The following table sets out the estimated impacts of the options considered on private rental providers.

Table 11: Costs and benefits of energy efficiency (heating) options on the private rental market[77]

Option	Costs[78]	Benefits[79]
Low energy efficiency	• Over the ten years of the proposed Regulations, this would require rental providers to purchase and install heaters in around 50,766 Class 1 rental premises and 33,720 Class 2 rented premises.[80] • This is a total cost to rental providers of around $49.6 million (NPV over ten years) to purchase additional heaters for	• The cost to rental providers of providing heaters would be partially offset by renters no longer having to purchase their own portable heaters (approximately $80 per heater), saving approximately $9.3 million over 10 years (NPV). • As there would be no efficiency rating on the heaters provided, it is expected that most heaters

[72] Hajat, Shakoor & O'Connor, Madeline & Kosatsky, Tom. (2010). Health effects of hot weather: From awareness of risk factors to effective health protection. Lancet. 375. 856-63. 10.1016/S0140-6736(09)61711-6.
[73] ABS 4670.0 Household Energy Consumption Survey, Australia, 2012 (released in 2013).
[74] Census (2016) data. Dwelling Structure by Dwelling Type. Available at: http://stat.data.abs.gov.au/Index.aspx?DataSetCode=ABS_C16_T24_SA [Accessed June 2019].
[75] Assumes a 3 per cent growth rate in rental properties per annum from the 2016 Census
[76] 13 per cent of Class 1 properties and 16 per cent of Class 2 properties would be affected.
[77] Note that there would be additional unquantified health, amenity and wellbeing benefits for renters which are not reflected in this table.
[78] For the purpose of the cost benefit analysis, it is assumed that rental providers will install a RCAC under the medium and high energy efficiency options. Rental providers could choose a gas space heater; however, this would involve additional cost.
[79] Benefits for the medium and high energy efficiency option are shared between the private and public rental sectors.
[80] There are 39,769 Class 1 and 26,998 Class 2 rental properties that currently have no heating in the private sector. The numbers above differ as they are based on the amount of properties that enter new agreements after 1 July 2020, including rental property growth of 3% per annum (detailed in Appendix B).

	rental properties that currently have no heater provided.[81]	installed by rental providers would not provide any energy cost savings.
Medium energy efficiency (**the preferred option**)	• Over the ten years of the proposed Regulations, this would require rental providers to purchase and install heaters that meet the prescribed medium (2-star) energy efficiency rating in around 73,329 Class 1 rented premises and install heaters (no minimum rating) in 33,720 Class 2 rented premises. • This is a total cost to rental providers of around $109 million (NPV over ten years) to install heaters for rental properties that currently have no heater or (for Class 1 buildings from 1 July 2020 for new rental agreements) heating that does not meet the proposed rating.[82]	• Renters would avoid the need to purchase their own heaters (saving approximately $80 per portable heater), where no heater would otherwise be provided (total saving of $9.3 million over ten years (NPV)). • Renters would benefit from lower energy costs: of $312.3 million cumulative savings over ten years (NPV). • Total savings of $321.6 million over ten years (NPV). • Improved comfort and health benefits - where the new medium (2-star) energy efficiency heating has an adequate heating capacity for the main living area, this could provide significant winter health benefits compared to rented premises that have no heating, or plug-in electric heating that is not adequate for the space.
High energy efficiency	• Over the ten years of the proposed Regulations, this would require rental providers to purchase and install heaters that meet the prescribed high energy efficiency rating in around 186,143 Class 1[83] rented premises and install heaters (no minimum rating) in 33,720 Class 2 rented premises. • This is a total cost to rental providers of around $278.7 million (NPV over ten years) to install heaters for rental	• Renters would avoid the need to purchase their own heaters (saving approximately $80 per portable heater), where no heater would otherwise be provided (total saving of $9.3 million over ten years (NPV)). • Renters would benefit from lower energy costs of $439.5 million cumulative savings over ten years (NPV). • Total savings of $448.8 million over ten years (NPV). • Improved comfort and health

[81] This is based on DELWP estimates that this option would involve additional investment by rental providers of $424 for Class 2 and up to $848 for Class 1 properties (where 2 heaters may be required).

[82] This is based on DELWP estimates that this option would involve additional investment by rental providers of $1540 to install a base level RCAC in Class 1 rental premises, and $424 for electric resistance heaters in Class 2 premises. The modelling in this RIS for Class 1 premises does not take into account rebates under the VEU scheme if the rental provider chooses to upgrade from an electric heater to a 3.5 RCAC or 4-star gas space heater (i.e. a heater that is *above* the minimum 2-star standard proposed).

[83] The key assumption here is that an additional 20 per cent of private rental properties have heaters that meet the medium (2-star) efficiency standard but not the high efficiency (3.5/4-star) standard. All of these medium efficiency heaters would have to be replaced with a high efficiency heater.

	properties that currently have no heater or (for Class 1 buildings from 1 July 2020 for new rental agreements) heating that does not meet the proposed rating.[84]	benefits - where the new high efficiency heating has an adequate heating capacity for the main living area, this could provide significant winter health benefits compared to rented premises that have no heating, or plug-in electric heating that is not adequate for the space.

See Appendix C for a detailed breakdown of costs and benefits.

The quantified impacts reflect the 'direct' consequences to renters and rental providers. In practice, the changes brought about by the proposed heating standard may have subsequent impacts, that do not affect the overall costs and benefits of the proposal but give rise to transfers between parties. A relevant impact in relation to this proposal is where changes in energy bills of renters that receive energy concessions results in the amount of that rebate being proportionally reduced.[85] In essence, the benefit of lower energy bills would be shared between the renter and the Government (in the form of lower rebates needed to be provided). Hence, there would be a saving to the Government associated with this reform, but it has not been separately estimated how much of the benefits quantified above would flow through to lower rebate payments.

On the other hand, the additional costs to rental providers identified above may be partially offset by access to the Government's VEU program should the rental provider choose to install a higher efficiency heater (above the 2-star standard proposed) that meets the VEU requirements.[86] This program allows certain activities that improve energy efficiency (such as replacement of particularly appliances) to be able to generate 'certificates' which have a market value. This market value is generally reflected in a lower cost to the property owner of upgrading an appliance. The VEU is a market-based scheme, as hence the value of certificates changes based on a range of factors such as demand for upgrades, and the overall number of certificates required each year.[87] Therefore, the potential cost reduction to rental providers has not been subtracted from the cost to rental providers modelled in this option.[88]

Based on the assessment of costs and benefits in the above table, the 'medium' (2-star) energy efficiency option is the preferred option. The medium energy efficiency option is preferred over the 'low' energy efficiency option, where no energy efficiency standard would be required for the type of heater installed in Class 1 rental properties.

The 'low' efficiency option would mean that rental providers could choose to install any heater type that is available on the market, and it is assumed that most rental providers would install the lowest

[84] This is based on DELWP estimates that this option would involve additional investment by rental providers of around $1688 to install a higher RCAC in Class 1 premises and $424 for an electric resistance heater for Class 2 premises. Under the high energy efficiency option, VEU rebates are only available to rental providers who install heaters *before* the introduction of the proposed heating standard.

[85] The concession is a generally 17.5 per cent of usage and service costs. About 44 per cent of Victorian households receive energy concessions funded through DHHS. In 2019-20, the Government will provide $591.8 million in funding for home-based energy, water and rates concessions.

[86] See Section 15 of the *Victorian Energy Efficiency Target Act 2007* requires that the greenhouse gas savings from an upgrade must not have occurred without the VEU program. Where energy efficient upgrades are required by the proposed standard, they will no longer be eligible under the VEU program.

[87] The VEU scheme targets for heating (which determines the demand for certificates) for the period 2021 to 2025 are currently being reviewed as part of a separate RIS process lead by DELWP.

[88] Note that access to VEU does not change the overall likely cost of the proposal, it merely means that some of the costs will be met elsewhere.

cost heater (with associated poor performance in heating a space) such as an electric resistance heater. This option would not address affordability impacts on renters with heaters that have a limited capacity to heat a living area and high operating costs. Health and comfort benefits to renters are likely to be constrained because of renters self-limiting heating use due to energy cost pressures, or limited ability of low-cost heaters to sufficiently heat the main living space.

The medium energy efficiency option is preferred over the 'high' energy efficiency option in order to align with the legislative aims of introducing a basic or minimum standard, rather than seeking to achieve best-practice, which would impose higher costs on rental providers and also require rental properties who have medium energy efficiency heaters to replace them with high energy efficiency heaters. DELWP analysis of the heating options also gave consideration to the impact of a minimum rating standard on manufacturers, retailers and installers. The higher rating standard would result in a small number of models currently in the market being eligible, and hence was considered to have a significant impact on competition. The analysis shows up to 49 per cent of the RCAC market and 40 per cent of the gas space heater market would be excluded under the high energy efficiency option, whereas only 1 per cent and 16 per cent of the RCAC and gas space heaters (respectively) would be excluded under a medium energy efficiency option.

It is also proposed to supplement the preferred option with the phase out of LPG heaters in the main living area of Class 1 rental properties. LPG (bottled gas) for heating presents the highest running costs for renters.[89] This is due to the high cost of LPG compared to other fuel sources.

The proportion of households in the general population who use LPG is very low compared to natural gas and electricity for heating. A conservative estimate is that there are currently around 8,837 (or 2 per cent) of Class 1 private rented premises in Victoria with LPG heaters.

The cost of replacing these with a heater that meets a RCAC under the preferred medium energy efficiency standard is $1,540 (unit and installation costs) per rented premises. However, the savings to the renter in reduced energy costs is around $879 per year. Hence, after three years, the benefits will outweigh the costs.

Several recent consultant reports have considered the impact of minimum standards but found different degrees of cost pass through by rental providers and the final impact on renters. EY Sweeney research[90] commissioned by the Department found that as a result of the introduction of minimum standards, 9 per cent of rental providers would increase rent, 4 per cent would sell the property and 4 per cent would not acquire future rental properties. Research commissioned by DELWP suggests that the impact of 'pass through' costs of energy efficiency upgrades on the rental market as a whole would be minimal.

The Department expects that the benefits to renters of the proposed heating standard are expected to exceed the costs[91] to rental providers. Even if the costs are passed through to renters in the form of slightly higher rents (on average only expected around $2 per week), savings in the form of lower energy bills and avoided costs means that renters should be financially better off overall. That said, there is a lack of data on the impact of rental minimum standards on the supply of rental housing.

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[89] Based on analysis commissioned by DELWP (2019).

[90] Rental experiences of tenants, landlords, property managers, and parks residents in Victoria, Final Report, 17 May 2016 accessed via engage.vic.gov.au/fairersaferhousing

[91] Note that rental providers have a right of entry to carry out a duty under the RTA or rental agreement (section 86(1)(c)). Therefore, there is no requirement for renters to be present while work is carried out at the rented premises install or replace a heater that is compliant with the heating minimum standard. However, some renters may be temporarily inconvenienced while the heater is installed. This is considered a low, one-off impact and has not be quantified as part of this RIS.

Impacts on the Director of Housing

Under the DHHS Housing Design Guidelines (Version 2.0, December 2018)[92], all DoH properties must have fixed heating in the main living area. Feedback from DHHS indicates that all public housing properties have heating. Therefore, the additional cost burden for the DoH only relates to the medium (2-star) and high energy efficiency options.

Under the medium energy efficiency option (the preferred option), there will be a cost impact on the DoH of $23.8 million over 10 years (NPV) to replace (upgrade) heaters in 9,752 DoH properties. It should be noted that due to the slow turnover rate of public rental properties, not all DoH properties will be subject to the heating minimum standard after 10 years and therefore there will be extra costs for the DoH after the 10 year period (expiry of the proposed Regulations). These additional costs are however mostly offset by the energy efficiency standard for replacement end of life heaters (detailed in section 5.3), which will result in most other non-compliant heaters in DoH properties being replaced via the 'urgent repair' process.

Detailed modelling of the impact of the preferred heating minimum standard on the DoH is in Appendix C.

Under the high energy efficiency option, there will be a cost impact of $34.4 million over 10 years (NPV) to replace heaters in 15,771 DoH properties.

It is assumed that the benefits from the heating minimum standard will be the same across the public and private sector. Therefore, the benefits of the proposed standard have not been modelled separately for public housing properties in this RIS.

Total benefits for the medium (2-star) efficiency standard are $274.4 million, while for the high efficiency standard they are $364.6 million.

5.2.5 Identification of feasible options—other minimum standards for rental properties

The Amendment Act includes the power under section 65A[93] to prescribe rental minimum standards including, but not limited to, the following:

- the cleanliness and state of repair of rented premises;
- the privacy, security and amenity of rented premises; and
- prescribing or requiring compliance with any other standards prescribed under any other Act or law in relation to, or applicable to, the condition of any residential premises, including energy and water efficiency standards.

Proposed Regulation

It is proposed to prescribe the following other rental minimum standards for rented premises:

Locks

- Rented premises must have at least a functioning single action deadlock on all external entry doors, other than any screen door attached to an external door.
- An exemption applies where the rented premises is a registered place and a request for a permit to alter the relevant features of the premises to comply with the locks standard has been refused in accordance with Part 6 of the *Heritage Act 2017* (Heritage Act).

Vermin proof bins

- Rented premises must have access to a vermin proof rubbish bin and recycling bin supplied by the Council or compatible for Council waste collection.

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[92] DHHS: *Housing Design Guidelines* (Version 2.0, December 2018) https://dhhs.vic.gov.au/housing-design-guidelines

[93] Refer to new section 511(1)(ac) which sets out the regulation-making power.

Toilets

- Rented premises must contain a toilet in good working order which is connected to a sewer, wastewater treatment system under the *Environment Protection Act 1970* (such as a sceptic tank) or any other system approved by the local council.
- The toilet must be in a room solely for the purposes of the toilet, or in a bathroom or combined bathroom and laundry, or a separate enclosed structure that is intended to be used as a toilet area.

Bathroom facilities

- Rented premises must have a bathroom that is connected to a reasonable supply of hot and cold water and which contains a washbasin and a shower or bath.
- All shower roses in a rental property must be 3-star WELS rating or one or 2-star if a 3-star rating cannot be installed or, when installed, will not operate effectively due to the age, nature or structure of the plumbing at the premises.

Kitchen facilities

The following amenities must be provided in the rented premises:

- A dedicated area which is intended to be used for cooking and food preparation.
- A sink in good working order that is connected to a reasonable supply of hot and cold water.
- An oven in good working order.
- A stovetop in good working order which:
    - in a premises which is two bedrooms or less, has two or more burners
    - in a premises which has 3-6 bedrooms, has 4 or more burners
    - in a premises which has 7 or more bedrooms, has 5 or more burners.
- An exemption applies where the rented premises is a registered place and a request for a permit to alter the relevant features of the premises to comply with the kitchen facilities standard has been refused in accordance with Part 6 of the Heritage Act.

Laundry facilities

If laundry facilities are present in the rented premises, they must be connected to a reasonable supply of hot and cold water.

Structural soundness

The rented premises are to be structurally sound and weatherproof.

Mould and dampness

Each room in the rented premises must be free from mould and damp caused by or related to the building structure.

Electrical safety

From 1 July 2022, all power outlets and lighting circuits in the rented premises must be connected to:

- a switchboard type Circuit Breaker that complies with AS/NZS 3000 Electrical installations, as published from time to time; and
- a switchboard type Residual Current Device that complies with—
    - AS/NZS 3190 Approval and test specification—Residual current devices (current-operated earth-leakage devices), as published from time to time; or
    - AS/NZS 61008.1 Residual current operated circuit-breakers without integral overcurrent protection for household and similar uses (RCCBs): Part 1: General rules, as published from time to time; or
    - AS/NZS 61009.1 Residual current operated circuit-breakers with integral overcurrent protection for household and similar uses (RCBOs) Part 1: General rules, as published from time to time.

Window coverings

From 1 July 2021, each window in a room at the rented premises that is likely to be used as a bedroom or as a living area must be fitted with a curtain or blind that can be opened or closed by the renter to:

- reasonably block light; and
- provide reasonable privacy to the renter.

Windows

All external windows in the rented premises which are capable of opening must:

- be able to be set in a closed or open position; and
- have functioning latches to secure against external entry.

Lighting

- The internal rooms, corridors and hallways of the rented premises must have access to light, either natural or artificial, which provides a level of illuminance appropriate to the function or use of those rooms.
- Each 'habitable room'[94] of the rented premises must have access to:
    - natural light, including by borrowed light from an adjoining room, during daylight hours which provides a level of illuminance appropriate to the function or use of the room; and
    - artificial light during non-daylight hours which provides a level of illuminance appropriate to the function or use of the room.
- An exemption applies where the rented premises is a registered place and a request for a permit to alter the relevant features of the premises to comply with the lighting standard has been refused in accordance with Part 6 of the Heritage Act.

Proposed timing of rental minimum standards

General duties under the RTA already require vacant premises to be reasonably clean and in good repair (which has been interpreted by the courts as including a standard of fitness for habitation).

The only proposed rental minimum standards not currently covered under rental providers' existing general duties relate to heating (discussed above), window coverings and electrical safety.[95]

The Department has therefore proposed arrangements to phase in these rental minimum standards, with window coverings commencing in Year 2 (1 July 2021) and electrical safety commencing in Year 3 (1 July 2022). An alternative option would be to apply all minimum standards from 1 July 2020, however, it was considered that this would impose too significant a burden on rental providers, given the additional costs that may be required to meet the standards for these items.

[94] A 'habitable room' has the same meaning as defined in the Building Code of Australia.

[95] Note that the complimentary amendments to section 70(1) of the RTA will increase a rental providers' duty in relation to the securing of all external doors with a functioning deadlock.

Table 12: Proposed phasing of rental minimum standards (excluding heating) – Only applicable to rental agreements entered into on or after 1 July 2020

<table>
<tr><td colspan="2">Applies to new rental agreements entered into from 1 July 2020
Rental minimum standards commence Year 1 (1 July 2020)
• Locks
• Vermin proof bins
• Toilets
• Bathroom facilities
• Kitchen facilities
• Laundry facilities
• Lighting
• Structural soundness
• Windows
• Mould and dampness</td></tr>
<tr><td rowspan="2">Tenancy entered into on or after 1 July 2020</td><td>Must comply with rental minimal standard on occupation or risk termination by the renter before possession (s65A(1)).</td></tr>
<tr><td>If the renter moves in and discovers non-compliance with a particular rental minimum standard, then they can request an ‘urgent repair’ under section 65A(2) to trigger compliance.</td></tr>
<tr><td>Fixed or periodic tenancy entered into prior to 1 July 2020</td><td>Compliance is based on general duties to require vacant premises to be reasonably clean and in good repair only.</td></tr>
<tr><td colspan="2">Applies to new rental agreements entered into from 1 July 2020
Window coverings minimum standard commences Year 2 (1 July 2021)</td></tr>
<tr><td rowspan="2">Tenancy entered into on or after 1 July 2020</td><td>Must comply with window coverings minimum standard on occupation or risk termination by the renter before possession (s65A(1)).</td></tr>
<tr><td>If the renter moves in and discovers non-compliance with the window coverings rental minimum standard, then they can request an ‘urgent repair’ under section 65A(2) to trigger compliance.</td></tr>
<tr><td>Fixed or period tenancy entered into prior to 1 July 2020</td><td>Compliance is based on general duties to require vacant premises to be reasonably clean and in good repair only.
The window coverings minimum standard will not apply.</td></tr>
<tr><td colspan="2">Applies to new rental agreements entered into from 1 July 2020
Electrical safety minimum standard commences Year 3 (1 July 2022)</td></tr>
<tr><td rowspan="2">Tenancy entered into on or after 1 July 2020</td><td>Must comply with electrical safety minimum standard on occupation or risk termination by the renter before possession(s65A(1)).</td></tr>
<tr><td>If the renter moves in and discovers non-compliance with the electrical safety minimum standard, then they can request an ‘urgent repair’ under section 65A(2) to trigger compliance.</td></tr>
<tr><td>Fixed or periodic tenancy entered into prior to 1 July 2020</td><td>Compliance based on general duties to require vacant premises to be reasonably clean and in good repair only.
Dangerous electrical faults fall within the definition of an ‘urgent repair’, however, the electrical safety minimum standard will not apply.</td></tr>
</table>

Other options considered

Alternative options include prescribing only some of the above elements. The assessment of costs and benefits will allow consideration of the impacts of each of the proposed minimum standards, and stakeholders may wish to comment on whether a smaller subset of these standards would be better.

During consultation, stakeholders suggested a range of additional rental minimum standards that could be prescribed. It is important to note that the standards are intended to be 'basic, yet critical requirements which no reasonable person could object to'.[96]

As such, some suggested standards have not been included in the proposed Regulations as they either go beyond what is considered a minimum community expectation (and therefore renters who consider those things important can choose rented premises which meet their specific needs, or negotiate with the rental provider), or are more appropriately dealt with through other provisions in the RTA or the proposed Regulations. For example, stakeholders suggested a dual flush toilet as a potential minimum standard. However, the proposal to prescribe the existing 3-star WELS standard for end of life replacement water appliances (discussed below) incorporates the dual flush standard and allows rental providers to replace toilets over a longer period of time than if the 3-star rating were imposed as a rental minimum standard. Advice from Yarra Valley Water is that around 20 per cent of owner-occupiers and 25 per cent of renters still have a single flush toilet in regular use.

Stakeholders may wish to provide evidence of the costs and benefits of any additional standards not identified in this RIS.

5.2.6 Costs and benefits of other minimum rental standards

The majority of the proposed rental minimum standards do not impose requirements over and above a rental providers' existing duties to ensure that their rental property is vacant and in a reasonably clean condition, and to maintain the property in good repair (which have been interpreted by the courts as including a standard of fitness for habitation). As such, it is expected that only the proposed minimum standards related to heating, window coverings and electrical safety should require additional action by rental providers to meet the relevant standard.

The proposed minimum standards include that rented premises must have at least a functioning single action deadlock on all external entry doors, and all external windows of the rented premises must have functioning latches to secure against external entry. Section 70 of the RTA (as amended by the Amendment Act) already requires all external doors to be secured with a functioning deadlock and the provision of locks for all windows capable of having a lock. The proposed standards in relation to locks will specify the type of deadlock (single action) and provide for functioning latches for windows that are not capable of having a lock. It is not considered that these standards would impose an additional cost on rental providers. However, including this as a prescribed rental minimum standard means that the renter will have access to the remedies that attach to rental minimum standards, including the ability to trigger compliance by requesting an urgent repair.

The following table sets out the assumed proportion of rented premises (private and public sector) that will need to be upgraded to meet each proposed minimum standard (other than heating), and the average estimated costs of meeting that standard. It shows the total incremental cost over the life of the proposed Regulations, as a net present value (NPV) using a real discount rate of 4 per cent.

For further detail on the assumptions, and the number of rented premises affected each year, see Appendices B and C.

[96] Second Reading Speech, *Residential Tenancies Amendment Act 2018*.

Table 13: Costs of meeting rental minimum standards (other than heating)

Minimum standard[97]			**TOTAL COST (NPV)**
Exiting properties that enter new rental agreement on or after 1 July 2020			
To begin from July 2020			
Toilets	% not meeting standard	0.25%	
	Cost to meet standard	$150	$264,586
Bathroom facilities – efficient show head	% not meeting standard	43%	
	Cost to meet standard	$200	$60,678,445
Bathroom facilities – shower/bath	% not meeting standard	0.1%	
	Cost to meet standard	$5,000	$3,527,817
Water supply elements	% not meeting standard	0.45%	
	Cost to meet standard	$350	$1,111,262
Kitchen facilities	% not meeting standard	0.5%	
	Cost to meet standard	$300	$1,058,345
Lighting	% not meeting standard	0.5%	
	Cost to meet standard	$1,000	$3,527,817
Mould and dampness*	% not meeting standard	5%	
	Cost to meet standard	$100 (p.a)	$22,801,819
To begin from July 2021			
Window coverings	% not meeting standard	5%	
	Cost to meet standard	$600	$19,705,359
To begin from July 2022			
Electrical safety	% not meeting standard	5%	
	Cost to meet standard	$1000	$30,411,982
TOTAL			**$143,087,433**

* while all other minimum standards have been costed on the basis of a once-off cost to the rental provider to make the premises meet the standard, for mould prevention/removal, this is expected to involve ongoing costs to the rental provider. Hence in calculating the total (NPV) amount, the cost to meet the standard is an annual cost, and the number of premises that will need to take action accumulates each year.

A detailed breakdown of the above costs is provided in Appendix C.

The cost of compliance with rental minimum standards will be borne by rental providers in the first instance. However, it is expected that at least some of any additional costs will be passed through to renters through higher rents for the rented premises affected. Spread over all rental premises, the total incremental costs of the minimum standards are around $165 per rented premises (over ten years). However, the costs will be focused on those properties that do not currently meet the proposed rental minimum standards, which is a much smaller number of premises.

It is unknown how many of the proposed standards an individual rented premises may not already meet. If a single rented premises needed to be upgraded to meet all the proposed minimum standards, the additional cost could be around $8,700. However, if this was reflected in increased

[97] These costs cover the entire rental market, including public housing. Advice from DHHS indicated that the prevalence of not meeting certain standards and the costs associated to meet the standard in public housing did not differ from the private rental market.

rents (and recovered over ten years), it would amount to a higher rent of around $17 per week for the small number of rented premises affected.[98]

EY Sweeney research[99] commissioned by the Department as part of the Review found that:

- as a result of the introduction of minimum standards, 9 per cent of rental providers would increase rent, 4 per cent would sell the property and 4 per cent would not acquire future rental properties;
- two in three (64 per cent) of renters would be willing to pay more for an energy efficient property (insulation, draught proofing, heating, cooling); and
- only 19 per cent of renters would choose the property with cheaper rent and no energy efficient features, and the remaining 18 per cent are unsure which they would choose. There were no differences in property preference by income level.

Research commissioned by DELWP suggests that the impact of 'pass through' costs of energy efficiency upgrades on the rental market as a whole would be minimal.

Given the small incremental cost for the relatively small number of rented premises that will be affected, it is not expected that the proposed minimum standards (excluding heating) will have any real effect on the rental market or cause a significant adverse effect on rental affordability.

Impacts on the Director of Housing

Data on the impact of rental minimum standards (excluding heating) on existing DoH housing stock is not known. Current DHHS/DoH business systems are designed to address current business needs, and hence are not designed to capture the data needed to assess the full scope of reform impacts such as in relation to rental minimum standards. Prior advice (in relation to the consideration of amendments to the RTA) suggested that most DoH properties would already meet the minimum standards that were being contemplated at that time. However, more significant minimum standards have been developed since that original consideration.[100]

For the purposes of this analysis, is it assumed that the capital cost impact on existing DoH housing stock would be similar to the private rental sector. This would imply additional capital costs to DoH over the ten years of the proposed Regulations (under the preferred option) of around $11.6 million (NPV). It is likely that, depending on the age and type of the housing stock, existing DoH properties may already meet some of the proposed rental minimum standards. Advice from DHHS is that the proposed cost impact of the rental minimum standards (excluding heating) on the private rental sector are an appropriate indicator of the overall cost impact of the rental minimum standards (excluding heating) on the DoH.

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[98] Note that rental providers have a right of entry to carry out a duty under the RTA or rental agreement (section 86(1)(c)). Therefore, there is no requirement for renters to be present while work is carried out at the rented premises to comply with rental minimum standards. However, some renters may be temporarily inconvenienced while work is required to upgrade the rented premises. This would be a one-off impact for each relevant standard. This is considered to of low impact and has not be quantified as part of this RIS.

[99] *Rental experiences of tenants, landlords, property managers, and parks residents in Victoria*, Final Report, 17 May 2016 accessed via engage.vic.gov.au/fairersaferhousing.

[100] During the Review, the Department consulted extensively with other departments and agencies to develop key rental minimum standards. The standards in the proposed Regulations are largely consistent with the minimum standards discussed at that time but include additional requirements developed as a result of additional stakeholder consultation on the regulations. These include the energy efficiency requirement for the heating standard, the mould and dampness standard, the structural soundness standard and the electrical safety standard.

5.2.7 Benefits of prescribing minimum standards

The primary benefit of prescribing minimum standards is to improve the amenity of premises for renters. There may also be health and safety benefits from ensuring renters have access to safe, secure and comfortable housing with adequate amenities including water, heating and cooking facilities. Renters will be able to enforce compliance with minimum standards by either terminating the rental agreement before taking possession or requesting an 'urgent repair' if they discover non-compliance after they move into the rented premises.

There have been no studies on how much renters would value this improved amenity, such as a willingness to pay for rented premises that meets these particular standards. However, consultation with stakeholders suggests that the proposed minimum standards are of importance to renters, particularly renters that do not have much choice about their rental options, and where there is currently unfair bargaining power in the ability of some renters. The Department considers that the proposed minimum standards reflect current community expectations of a habitable dwelling.

5.3 Energy efficiency for end of life appliances

5.3.1 The problem to be addressed

Energy consumption in Victorian homes is made up of heating (57.4 per cent), water heating (19.0 per cent), appliances (14.9 per cent), cooking (3.5 per cent), lighting (3.5 per cent) and cooling (1.8 per cent).[101] Victoria has recently experienced increases in wholesale electricity and gas prices.[102] As a result, Australian households have reduced their energy consumption by investing in energy efficient appliances, home upgrades, and installing rooftop solar panels.[103]

Renters, unlike owner-occupiers, do not have the same agency to make energy efficiency upgrades to replace inefficient appliances, fittings and fixtures with more efficient options. Renters must gain the consent (by requesting a modification) of the rental provider to replace appliances with more energy efficient options. However, rental providers may not be sufficiently financially incentivised to invest in any upgrades, as they will not directly benefit from increased thermal comfort or energy bill savings.

At the same time, renters and low-income Victorians are more likely to live in inefficient housing stock and to use inefficient appliances[104]. The choice of appliances, fittings and fixtures installed can have a significant impact on a household's energy costs. Inefficient appliances can lock renters into higher energy costs and can negatively impact on their thermal comfort and health. Currently the RTA provides that:

- if a renter requests an 'urgent repair' for a water appliance, fitting or fixture; and
- the appliance has reached its end of life and needs to be replaced, then rental provider must replace it with an appliance that it above the prescribed rating level.

The current Regulations provide that the prescribed rating for water appliances is 3-stars under the WELS scheme, as defined in the Water Efficiency Labelling and Standards Act 2005 of the Commonwealth.

The Amendment Act extends the requirements in the RTA to gas and electrical appliances, fittings and fixtures.

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[101] *Residential Baseline Study for Australia 2000 – 2030*, EnergyConsult (Aug 2015).
[102] AEMC (2017) *Residential Electricity Price Trends*, 18 December 2017.
[103] AEMO (2012) *National Electricity Forecasting Report*.
[104] ACOSS (2013) *Energy Efficiency and People on Low Incomes*.

The Regulations need to be made to prescribe:

- energy efficiency rating systems for different types of water, gas and electrical appliances, fittings or fixtures; and
- minimum ratings that apply to replacement appliances at their end of life which is triggered by the urgent repairs process.

5.3.2 Identification of feasible options

Proposed Regulation

The following minimum ratings are proposed:

- water appliances are to remain at 3-stars under the WELS scheme (this is the same as the current Regulations);
- heaters – will replicate the medium (2-star) efficiency rating standard in the rental minimum standard for Class 1 rental properties (refer to above discussion in sections 5.2.2 to 5.2.4); and
- dishwashers – 3-stars rating Energy Rating Label (ERL) under the Greenhouse and Energy Minimum Standards (Dishwashers) Determination 2015 (energy) /3-stars WELS (water) rating

Other options considered

In consultation with DELWP, the Department considered prescribing an energy efficiency rating system for a range of appliances, fixtures and fittings.

DELWP provided the Department with advice on options for prescribing energy efficiency rating systems for appliances that are commonly provided in rental homes and where there are energy efficiency ratings available.

- Cooking appliances, such as ovens and stove tops, were excluded as they do not have energy efficiency rating systems.
- Fridges, washing machines and clothes dryers were also excluded, as rental providers are not obliged to provide these appliances in their rental properties. It is also assumed that a low number of rental properties in Victoria (particularly private rentals) are rented as furnished with these types of appliances.[105]

The exception is dishwashers, which are commonly supplied in rental properties (particularly newer rental properties) and are highly unlikely to be supplied by renters themselves.

Dishwashers

DEWLP recommended a 3-star ERL (energy) and 3-star WELS (water) rating standard for end of life replacement dishwashers. Based on DEWLP's analysis, 86 per cent of dishwashers currently in the market would be compliant with the proposed energy efficiency rating standard. The most commonly available dishwasher range begins at a 4-star water rating, and therefore an option to increase the WELS rating to 4-stars was considered. However, this option was not recommended as it would eliminate a large proportion (34 per cent) of the dishwashers currently in the market. It was also considered appropriate to retain a consistent 3-star WELS rating across all water appliances.

Hot water systems

DELWP advised that there are existing gaps in the measurement of the energy efficiency of hot water systems. Based on the advice on DELWP, the Department is not proposing a rating system for the end of life replacement of hot water systems. Incentives are available to rental providers to

[105] Note that rooming houses often provide these types of appliance, however, these comprise a much smaller sector of the rental market.

upgrade inefficient hot water systems to more efficient hot water systems through the VEU program.

Toilets

Some stakeholders requested prescription of a 4-star WELS rating for toilets. Another suggestion was that the standard should incorporate a dual flush requirement.

The Department understands that the Plumbing Code of Australia (PCA) 2019 requires that an installed toilet (including a replacement toilet) must be minimum 3-star WELS rated. These requirements also effectively prohibit single flush toilets (i.e., the cistern or flushing valve used for the purpose of flushing a water closet pan must have a dual flush mechanism).

The current Regulations already require a 3-star toilet under the general 3-star WELS requirement for water appliances.

Newly built homes are required to comply with the 3-star WELS requirement mandated by the PCA. The Department did not consider that is a policy basis for prescribing a higher standard for replacement toilets in rented premises.

5.3.3 Assessing the costs and benefits of identified options

As the current Regulations already require replacement water appliances to be 3-stars under the WELS scheme, there will be no additional costs for rental providers for this requirement.

Dishwasher replacement has not been costed as it is predicted that any additional cost will be negligible. Two-star dishwashers currently only constitute around three per cent[106] of the dishwasher market, and are already limited as being replacements given they can often only be placed under counter tops. The price difference between 2-star and 3-star dishwashers is also negligible, with both costing around $400 at the low end of the market.

The costs and benefits for replacement of heaters that have reached their end of life with an energy efficient (2-star) heater in private Class 1 rental properties are provided below.

Table 14: Costs and benefits for the replacement of heaters in private Class 1 rental properties that have reached their end of life with a heater that meets the energy efficiency standard

Year (starting July)	Inefficient heater stock[107]	Heaters needing replacement[108]	Costs (NPV)[109]	Benefits (NPV)[110]	Net benefits (NPV)
2020	13,698	1,370	$1,469,927	$914,095	-$555,833
2021	12,739	1,274	$1,314,454	$1,696,349	$381,894
2022	5,121	512	$508,058	$1,947,048	$1,438,990
2023	3,418	342	$326,081	$2,074,939	$1,748,858
2024	2,150	215	$197,221	$2,117,778	$1,920,558
2025	1,191	119	$105,051	$2,101,653	$1,996,602

[106] Based on data and analysis provided by DELWP.

[107] The inefficient heater stock is the amount of heaters in private Class 1 rental properties that do not currently meet the proposed energy efficiency standard. It decreases over time as inefficient heaters are replaced either through this Regulation or through the heating minimum standard (to avoid double counting). An estimated 2 per cent of Class 1 private housing properties have a heater that does not meet the standard.

[108] It is assumed that ten per cent of the total heaters will need to be replaced each year, and each affected property only has one such heater. The data takes into account the interaction with the proposed minimum heating standard applying from 1 July 2022. Changing the assumptions to increase the number of heaters to be replaced will increase the net benefits from the Regulation.

[109] Assumed cost of purchasing a compliant heater will be $1,116 greater than purchasing a low efficiency heater ($1540 versus $425) based on data provided by DELWP.

[110] Assume benefits of $694 saved by renters per annum per replaced heater based on data provided by DELWP.

2026	453	45	$38,391	$2,044,694	$2,006,304
2027[111]	0	0	0	$1,966,052	$1,966,052
2028	0	0	0	$1,890,435	$1,890,435
2029	0	0	0	$1,817,725	$1,817,726
Total		**3,877**	**$3,959,185**	**$18,570,772**	**$14,611,587**

Impacts on the Director of Housing

DHHS has provided specific data on the cost of replacement end of life heaters in DoH Class 1 rental properties. The costs on the public housing sector differ from above due to higher installation costs and a higher proportion of heaters that do not meet the 2-star energy efficiency standard than the broader rental market. Assumptions around the number of heaters that need replacement and benefits remain the same. Detailed costings are provided below.

Table 15: Costs and benefits for the replacement of heaters in DoH Class 1 rental properties that have reached their end of life with a heater that meets the energy efficiency standard

Year (starting July)	Inefficient heater stock[112]	Heaters needing replacement	Costs (NPV)[113]	Benefits (NPV)	Net benefits (NPV)
2020	16,598	1,660	$3,192,000	$1,107,624	-$2,084,376
2021	14,939	1,494	$2,762,307	$2,023,543	-$738,764
2022	9,898	990	$1,759,881	$2,556,393	$796,513
2023	7,903	790	$1,351,160	$2,926,923	$1,575,764
2024	6,185	619	$1,016,788	$3,167,174	$2,150,387
2025	4,711	471	$744,582	$3,303,730	$2,559,148
2026	3,449	345	$524,244	$3,358,576	$2,834,332
2027	2,375	238	$347,079	$3,349,836	$3,002,758
2028	1,464	146	$205,755	$3,292,393	$3,086,639
2029	696	70	$94,098	$3,198,415	$3,104,317
Total		**6,822**	**$11,997,892**	**$28,284,611**	**$16,286,719**

[111] By 2027, all inefficient heaters are predicted to either be replaced, or will be replaced under the minimum standard requirements.
[112] The inefficient heater stock is estimated based on data provided by DHHS. It decreases over time as inefficient heaters are replaced either through this Regulation or through the heating minimum standard (to avoid double counting).
[113] Assume cost of purchase, installation and administration behind energy efficient heater is $2,000 greater than purchasing a low efficiency heater, based on data provided by DHHS.

6 Enhancing the functioning of the rental market by improving clarity and certainty of rights and responsibilities between rental providers and renters

A well-functioning rental market is improved where there is certainty on the rights and responsibilities between the parties.

It is proposed to define certain responsibilities in the Regulations (in addition to any already in the amended RTA following commencement of the Amendment Act) to provide additional protections for a diverse population of renters and minimise the need for dispute resolution in areas where disputes are common.

6.1 Compensation for sales inspections

6.1.1 The problem to be addressed

Section 86 of the RTA already provides the mechanism for a rental provider being granted a right of entry to a rented property for the purpose of conducting inspections of the premises for prospective buyers. Some VCAT cases have held that this right does not cover open sales inspections (as they open the home to the general public, not just to prospective purchasers).

The Amendment Act amends section 86 of the RTA to provide that the right of entry can only be exercised if the rental provider:

- gave the renter written notice of intention to sell the property at least 14 days before the property is first made available for inspection by prospective purchasers;
- made all reasonable efforts to agree with the renter on days and times for the property to be periodically available for inspection by prospective purchasers, whether by way of inspections open to the public or closed inspections for particular individuals. If the renter is a protected person under family violence or personal safety legislation, the renter can require that any inspections be by appointment only, rather than open to the public; and
- gave the renter at least 48 hours' notice before showing the property to prospective purchasers. Unless otherwise agreed with the renter, the rental provider can conduct up to two, 1 hour long inspections a week at times reasonably negotiated with the renter.

Where a property is for sale, renters are often required to make the premises available for inspections by potential purchasers (through 'open house' or by appointment). This usually involves some preparation of the premises and (often) requires the renter to leave the premises during the inspections. The review of the RTA, which resulted in changes to the process for seeking access to properties for sales inspections, gathered evidence that such inspections were often inconvenient and disruptive of renters' quiet enjoyment of the rented premises.

EY Sweeney rental market research commissioned by the Department as part of the Review identified that some rental providers agreed that some form of compensation to renters who occupy a property that is being sold was appropriate (47 per cent agreed, 53 per cent did not). Rental providers who have previously sold a rental property that was occupied were more in favour of mandatory compensation. Two in three property managers (62 per cent) believed that it should be mandatory that renters are compensated.

Under the amended RTA, the renter is entitled to compensation for sales inspections, with the amount of compensation to be prescribed in the proposed Regulations. If no compensation is prescribed this right to compensation under section 86(2B) of the amended RTA will be frustrated/inoperable.

The recent VCAT case of *Hargans v Ronchetti,*[114] is an example of a renter obtaining compensation under the current RTA – it was under sections 67 and 210 for breach of duty (renter's quiet enjoyment). Failure to prescribe an amount of compensation for sales inspections in the proposed Regulations would not prevent renters from making a similar application to VCAT. However, previous VCAT decisions are not binding, and any application would be considered by VCAT on a case by case basis. Further, prescribing an entitlement to compensation avoids the time and cost of renters applying to VCAT for every instance of sales compensation.

Compensation for a sales inspection recognises that while rental providers place great value in the ability to show the premises to prospective purchasers, sales inspections can significantly disrupt the renter's quiet enjoyment of their home. This disruption may be characterised by frequent intrusions, security concerns (particularly during inspections that are open to the general public) and pressure to keep the premises in a 'sale-worthy' heightened state of neatness and cleanliness during a sales campaign.

The Department's market research conducted during the Review found that only one in ten surveyed renters were offered compensation during the sale of the property. Of those who were not offered compensation and felt that the number of inspections was unreasonable, 83 per cent reported that they would have felt the number of inspections was reasonable if compensation (such as a reduction in rent) had been offered.

6.1.2 Identification of feasible options

Under the amended section 86 of the RTA, the renter is entitled to compensation (to be prescribed in the proposed Regulations) for each sales inspection. Regulations may be made to prescribe the amount of compensation payable.

The Amendment Act aims to strike a balance between enabling reasonable access for rental providers in order to be able to effectively sell their property, while not unreasonably disrupting the renter's quiet enjoyment, and compensating the renter for the disruption that does occur. The amendments to section 86 of the RTA provide a more specific process to allow access to properties for sales inspections, and for codifying the right to compensation for inspections during a sales campaign.

Proposed Regulation

It is proposed to prescribe the compensation at ½ days' rent under the rental agreement per sales inspection. This is consistent with prescribed compensation for sales inspections for specialist disability accommodation (SDA) residents in the Residential Tenancies (Specialist Disability Accommodation) Regulations 2019 regulation 6.

Renter advocate stakeholders have suggested that one day's rent as awarded by VCAT in *Hargans v Ronchetti,*[115] is an appropriate level of compensation. In that case, VCAT considered a claim for compensation for the rental provider's failure to provide quiet enjoyment of the property and general inconvenience caused by sales inspections. Compensation of one day's rent was on the basis that the renter had to undertake cleaning in preparation for the open for inspection and spend time afterwards putting away her belongings moved by the agent during the open for inspection (i.e., to compensate for additional inconvenience caused *beyond* a standard open for inspection). As such, the Department considers that ½ days' rent would reflect a more 'typical' measure of the inconvenience caused by an inspection.

[114] [2015] VCAT 1779 (5 November 2015).
[115] [2015] VCAT 1779 (5 November 2015).

Other options considered

The feasible alternatives to the proposed compensation amount are to vary the level of compensation, or the basis on which the compensation should be calculated. Stakeholders also suggested that an alternative would be to set a minimum amount of compensation, regardless of the amount of rent paid, so that renters who are paying lower rents (particularly in public or social housing where rent is income based) are still provided with a fair amount of compensation.

This RIS examines the impacts of setting the compensation at 1 days' rent (which is about 14.3 per cent of weekly rent), or at 10 per cent of weekly rent.

A further option—as a variant of the proposed compensation—is for compensation to be calculated at 1 days' rent, but with a minimum compensation amount of $50 per inspection. This means that if weekly rent is $350 or less, the compensation would be $50 as a guaranteed minimum amount. This reflects that the amount of rent may not always be the best indicator of relative inconvenience for sales inspections.

An alternative option would be to base the compensation on the actual length of inspection, as many inspections will be less than the 1 hour required in the amended RTA. However, the impost on the renter is only partly related to the duration of the inspection, with the bulk of the impost being created by there being an inspection at all (e.g., tidying the property and putting away personal items before each inspection and the psychological cost of knowing other people are in one's home). Further, setting a time-based formula would require additional effort to calculate the compensation, and could lead to disputes in relation to how long an inspection actually lasted. Therefore, a time-based compensation formula is considered not practical, and is not further assessed in this RIS. Setting the compensation on a per inspection basis, as was done in the VCAT decision, is considered the most practical method of determining compensation.

6.1.3 Costs and benefits of identified options

Prescribing compensation in the proposed Regulations for each inspection that takes place will increase costs for rental providers. This may particularly disadvantage rental providers in areas where properties may be more difficult to sell quickly (e.g., some rural areas).

It is difficult to estimate the precise cost impact of this proposed compensation arrangement (½ days' rent per inspection). An indicative cost in terms of the amount of compensation paid is around $5-7 million per year, or $45-55 million over the life of the proposed Regulations (NPV, using a real discount rate of 4 per cent). This cost is based on 124,000 residential properties sold each year (based on 2018 data from Land Use Victoria), 28.7 per cent of properties for sale having renters at the time of inspections, median weekly rent of $400 across Victoria (DHHS rental report 2019), and an assumed 1.5 inspections per week over an average duration of 4 weeks.[116]

The estimated costs are relatively sensitive to these assumptions. In addition, no assumption has been made about how the number of inspections may reduce in response to the need to pay compensation. Such a response would reduce the financial cost (transfers) of the proposal, but may have other unintended impacts on the sales market if the number of inspections (and hence opportunities for buyers to visit potential properties) is significantly affected. The Department believes this risk of this occurring is low, given the average cost per property is around $170, which is relatively immaterial when considering other costs associated with selling a house.

[116] Given the relatively low cost of sales inspection compensation (around $170) compared to the overall cost of selling a property, it is not thought that there will be a reduction in sales inspections as a result of the proposed Regulations.

For other compensation amounts identified, the total cost of the compensation is as shown:

Table 16: Options for compensation for sales inspections

Rate of compensation per sales inspection	Total compensation paid each year	NPV of compensation over ten years
1 days' rent	$12,201,600	$98,965,906
10% of weekly rent	$8,541,120	$69,276,134
½ days' rent	$6,100,800	$49,482,953
1 days' rent with a $50 minimum amount	$ 13,149,495	$ 106,654,181

However, the actual incremental cost due to the proposed Regulations may be less than this. Some rental providers may already provide voluntary compensation to renters for the inconvenience (usually through reduced rent). Also, under the base case, renters would still be able to claim compensation through VCAT—as such the proposed compensation reflects the likely outcome of those claims, without the need for individual renters to initiate VCAT claims. However, currently most renters do not seek compensation (either negotiated with the rental provider or by application to VCAT).

The reforms in the RTA aim to strike a balance between enabling reasonable access for rental providers in order to be able to effectively sell their property, while not unreasonably disrupting the renter's quiet enjoyment, and compensating the renter for the disruption that does occur. The amendment to the RTA to provide a more specific process to allow access to properties for sales inspections, and for codifying the right to compensation for inspections during a sales campaign, reflects this existing VCAT case law. Therefore, the Department believes this reform, and prescribing the compensation at ½ days' rent per sales inspection, will provide a fair basis for compensation without imposing significant additional regulatory burden for rental providers, in most cases.

It is also noted that any compensation amounts are not a true 'cost' of the proposal, but are considered a transfer between parties. That is, all compensation that is a 'cost' to rental providers is directly a benefit to the renter, creating no net financial cost overall.

These reforms (the changes in the Amendment Act combined with the prescribed compensation in the proposed Regulations) will recognise the disruptive effect that a sales campaign can have on a renter (through frequent inspections that are open to the public, and pressure to keep the property in a sale-worthy state), and will ensure that the renter is compensated appropriately and is not inconvenienced by more than two inspections per week (unless the renter agrees to more frequent inspections).

There may be unintended consequences of this proposed compensation. If rental providers perceive the process of negotiating inspections to be too difficult, selling agents may encourage rental providers with periodic tenancies to evict prior to selling, disadvantaging renters. In doing so, rental providers would need to balance foregone rent against any compensation saved. This risk may be ameliorated by other changes to the RTA that include a range of reforms to increase security of tenure.[117] This means that rental providers will only be able to terminate for a reason provided for in the RTA, by providing the renter with the required days' notice.[118]

[117] Reforms include abolition of the 'no specified reason' notice to vacate for periodic tenancies and restricting the 'end of fixed term' notices for fixed term rental agreements to the first term of the tenancy.

[118] Which would be 60 days' if the notice is given because the premises are to be sold (section 91ZZB) and 60 or 90 days' if the end of fixed term notice is used, depending on the length of the rental agreement (section 91ZZD).

6.2 Mandatory disclosures

6.2.1 The problems to be addressed

Under new section 30D inserted into the RTA on commencement of the Amendment Act, a rental provider must disclose to the renter, before entering into a rental agreement, certain information specified in the RTA,[119] as well as:

- if the rented premises are supplied with electricity from an embedded electricity network,[120] the prescribed details of the operator of the embedded electricity network; and
- any other prescribed information in relation to the rented premises.

The Amendment Act also inserts equivalent provisions requiring mandatory disclosure by:

- rooming house operators to residents before occupancy of a room commences (section 94I);
- caravan park owners and caravan owners to residents before entering into an agreement specifying the terms and conditions of the resident's use and enjoyment of the caravan park or caravan (section 145E); and
- Part 4A site owners to site tenants before entering into a site agreement (section 206JF).

If no new regulations were made, no other information would be required to be disclosed under these sections. Prospective renters could request information, however there would be no obligation to disclose it. For embedded electricity networks, renters could discover the information themselves by searching the register at the Essential Services Commission (ESC) website,[121] which includes customer contact details of the embedded network provider and the maximum prices that the network provider can charge customers. However, this can be time consuming, and a new renter may not be aware of there being an embedded network at the time of entering the rental agreement or how to find the relevant information.

Prescribing information in the proposed Regulations is necessary in order to ensure that a renter can be informed of the relevant details about the embedded electricity network, such as the trading name of the embedded network operator, contact information and relevant offers available, in the most efficient possible way. This information is relevant to prospective renters who may need to consider potential energy costs and choice of provider when considering their rental options.

The reform also ensures that information which can significantly impact upon a tenancy is disclosed prior to the beginning of the rental agreement. This reform is intended to improve a renter's ability to compare their rental options and make an informed decision to enter into an agreement. A related reform is the new prohibition on inducing a person to enter a rental agreement by engaging in misleading or deceptive conduct (new section 30E).

During the Review and subsequent stakeholder consultation in developing the proposed Regulations, stakeholders identified a large number of other matters for which they believed should be part of the mandatory disclosure requirements. The matters where there was considerable

[119] The disclosures required by the RTA include certain actions in preparation for sale of the rented premises, if a mortgagee is taking action for possession of the rented premises, and confirmation of the right of the rental provider to let the rented premises if they are not the owner.

[120] Embedded electricity networks are privately owned and managed electricity networks that often supply all premises within a specific area or building. Embedded networks generally buy electricity in bulk and then on-sell it to customers inside their network. Embedded networks are common in multi-tenanted buildings such as shopping centres or commercial buildings but are also common in new residential developments such as apartment buildings and in caravan parks.

[121] See www.escvic.microsoftcrmportals.com/rex-home

support for, and for which the Department considers there is a clear value to the renter of being informed about, are:

- if the rented premises or common property is known by the rental provider to have been the location of a homicide in the last five years;
- if the rented premises is known by the rental provider to:
    - have been used for the use, trafficking, cultivation or storage of a drug of dependence;
    - have previously been assessed to have friable or non-friable asbestos on the rented premises;
    - be affected by a building or planning application that has been lodged with the relevant authority;
- any notice, order, declaration, report or recommendation issued by a relevant building surveyor, public authority or government department that applies to the rented premises or common property at the time of disclosure;
- if there is a current domestic building work dispute under the *Domestic Building Contracts Act 1995* (Domestic Building Contracts Act) which applies to or affects the rented premises;
- if there is a current dispute under Part 10 of the *Owners Corporations Act 2006* (Owners Corporations Act) which applies to or affects the rented premises; and
- a copy of any Owners Corporations rules applicable to the rented premises.

The Department believes similar information is relevant for residents of rooming houses before they occupy a room.

In relation to mandatory disclosure by caravan park owners and Part 4A site owners, stakeholders identified that prior knowledge of the park's and site's liability to flooding would be of particular importance to residents and site tenants.

These matters are of particular relevance to a renter's decision to enter the rental agreement as they may significantly affect their security of tenure or enjoyment of the rented premises.

Although asbestos and flammable cladding have been identified publicly as serious health and safety risks, there are wider health and safety issues in a building which may arise. Evidence about a lack of pre-contractual disclosure before a tenancy is anecdotal, deriving from stakeholder submissions during public consultation. Stakeholders have cited cases of insecure tenure, reduced amenity and financial loss that have resulted from renters entering into rental agreements that they would not have if certain facts were disclosed.

6.2.2 Identification of feasible options

Proposed Regulation – Information on embedded networks

It is proposed to prescribe the details of the operator of the embedded electricity network as being the ABN and trading name of the embedded network operator, the phone number of the embedded network operator, and the electricity tariffs and all associated fees and charges that may apply to the customer in relation to the sale of electricity, or where that information can be accessed.

Proposed Regulation – Other mandatory disclosures

The Amendment Act provides for the prescribing of information that rental providers must disclose to renters before entering a rental agreement, and that rooming house operators must disclose to residents before occupancy of a room commences.

The proposed Regulations will also require that a rental provider must disclose the following information (under section 30D(d)) to a renter before entering into a rental agreement:

- if the rented premises or common property is known by the rental provider to have been the location of a homicide in the last five years;
- if the rented premises is known by the rental provider[122] to:
    - have been used for the use, trafficking or cultivation of a drug of dependence;
    - have been used for the storage of a drug of dependence;
    - have previously been assessed to have friable or non-friable asbestos on the rented premises;
    - be affected by a building or planning application that has been lodged with the relevant authority;
- any notice, order, declaration, report or recommendation issued by a relevant building surveyor, public authority or government department that applies to the rented premises or common property at the time of disclosure;

  Example
  Any building notices or orders, reports or recommendations issued by the Victorian Building Authority, local councils, relevant building surveyors, or municipal building surveyors, that relate to any building defects or safety concerns such as the presence of combustible cladding, water leaks or structural issues affecting the rented premises or common property.
- if there is a current domestic building work dispute under the Domestic Building Contracts Act which applies to or affects the rented premises;
- if there is a current dispute under Part 10 of the Owners Corporations Act which applies to or affects the rented premises; and
- a copy of any Owners Corporations rules applicable to the rented premises.

It is intended that equivalent information will be prescribed (under section 94I(d)) for disclosure by rooming house operators to residents before occupancy of a room commences.[123]

It is proposed to prescribe disclosure of the following information in relation to caravan parks and residential parks for the purposes of sections 145E(1)(e) and 206JF:

- if the caravan park/Part 4A park is liable to flooding, and
- if the caravan site/Part 4A site is liable to flooding.

Other options considered

The proposed information to be disclosed in relation to embedded networks is considered to be the minimum required for the renter to engage with the electricity supplier. During consultation on the proposed Regulations, stakeholders agreed with the proposed information, and no other alternatives were identified.

In relation to the broader disclosures proposed, the Department received feedback from renter advocate stakeholders on other types of information which prospective renters may like to be

[122] Note that the following three disclosures are premised on the basis that the rental provider knows about the relevant matter. If not known, there is no obligation on the rental provider to disclose anything.
[123] Note that the rooming houses, the standard is if a rooming house is known by the rooming house operator to 'have been used for the trafficking, cultivation or storage of a drug of dependence'.

provided with. Matters that were suggested for inclusion in the list of prescribed mandatary disclosures by stakeholders included:

Table 17: Other suggestions for mandatory disclosure prior to entering a rental agreement

The presence of and type of insulation in the home	'Material facts' as required for the *Sale of Land Act 1962*	Recent use of the premises as a brothel
History of use which increases the likelihood of chemical contamination in properties and detailed information on the testing	Information about remedial action (if any) if the supplied appliances have been the subject of a recall but not replaced	Violent activities, in relation to accepted cultural or religious prohibitions (sourced through the Multicultural Commission)
Proof of current safety checks for gas and electricity	Recent history of mould repairs within 5 years	Previous illegal use of the dwelling within 5 years
If the property is zoned in an area subject to water inundation or high-risk flooding	Information on the security provider employed at the dwelling	If the property is zoned in such a way that it is not allowed to be used for residential purposes
Building occupation certification	Listing under the *Heritage Act 2017*	Mortgagee dispute in progress
Any current disputes in relation to the home (e.g., council disputes)	VCAT orders in relation to the property	List of rooming house managers who may work at the property
Any existing applications for development or renovation of neighbouring properties	The presence and type of energy efficiency rating of certain appliances	Rooming house – if the operator is a fit and proper person to be a registered rooming house operator
Landlord insurer details	NBN status of the property	Energy efficiency of property

However, a smaller list of mandatory disclosures has been proposed in the Regulations because of the cumulative burden that managing a larger list of required disclosures would impose on rental providers, particularly institutional rental providers.

Reasons for not including particular examples in the list of prescribed information that must be disclosed before entering a rental agreement include:

- some are subject to other parts of the proposed Regulations – the will be obligations on rental providers to undertake safety-related activities and comply with rental minimum standards including a heating energy efficiency standard (for example, mould is included in the proposed minimum standards and insulation will be considered in future work on minimum energy efficiency standards);
- some are easily discoverable by the renter (e.g., the NBN status of the rented premises)—in many instances prospective renters would have the ability to ask for any of this information and if they do not get the satisfactory information, they have the option of renting somewhere else;
- some are already managed by other means (e.g., registration of rooming house operators); and
- other suggestions may require the rental provider to undertake significant investigations and effort to provide the information, and/or it is unclear how the information would be directly relevant to the renter.

The Department also recognises that while individual disclosure requirements may be a small impost, a large list of required disclosures may add up to become a more material burden. For this reason, the Department has preferred to keep the list of required discloses to what it understands are most important to renters. Future work in this area may consider expanding the list of disclosures where there is clear evidence of sufficiently widespread benefit.

6.2.3 Costs and benefits of proposed Regulations

Information on embedded networks

The proposed information is considered the minimum required for the renter to engage with the electricity supplier. Stakeholders agreed with the proposed information, and no alternatives were identified. This part of proposed mandatory disclosures is considered to be a very minor compliance burden, as the information would be known or readily available to the rental provider and would impose no material burden to include this information with other information provided to renters. It is expected that this requirement will save renters time in finding the information themselves.

The Australian Energy Market Commission (AEMC) understands that in Victoria there are approximately 117,000 residential customers (premises) connected to registered embedded networks.[124] With around 28.7 per cent of residential premises being rented[125] and an average turnover of around 30 per cent per year[126] this suggests there would be around 10,073 rental agreements each year[127] where the prescribed information about the embedded network provider would need to be given to the new renter.

The Department estimates that providing this information will add around 1-2 minutes time for a rental provider (incremental to the information that is already expected to be provided to a renter). This is an average cost per rental agreement of around $2.[128] For the 10,073 new rental agreements each year that involve an embedded network, this is a total incremental cost of $20,147 per annum. However, this is expected to be less than the cost to a renter from having to find the relevant information about the embedded network themselves and it is therefore considered that the benefits outweigh the costs. Having the information is beneficial to renters as it may be relevant to their rental decision, and will in all cases be required for them to arrange energy supply.

Other mandatory disclosures

An efficient market requires both parties to have relevant information in order to reach a fair bargain. The other mandatory disclosures included in the proposed Regulations are considered the minimum information that potential renters should know when considering whether to enter a rental agreement. Requiring the rental provider to disclose this information at the time of entering the rental agreement is considered to be the most efficient way for the renter to gain this information.

The nature of the information means it only applies to properties where these circumstances exist, and/or only where the rental provider is aware of them. For each individual premises, there is not expected to be a material compliance cost of the disclosure requirements—the information would be already known to the rental provider (information about the property that is not known to the rental provider in relation to asbestos, combustible cladding, drug use/trafficking/storage or the location of a homicide are not required to be disclosed). The information required to be provided is only the known existence of certain circumstances—the rental provider would not be required to make other investigations or produce new documents.

It is not known how many rental providers and rooming house operators would need to provide additional information because of the pre-contractual disclosure requirements in the proposed

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[124] AEMC, *The Regulatory Frameworks for Embedded Networks, Final Report*, published 20 June 2019.
[125] Based on 2016 Census data from Australian Bureau of Statistics.
[126] Based on DHHS Rental Report, June quarter 2019.
[127] The actual number could be higher, if properties supplied by an embedded network are more likely to be rental properties, however there is no data on this.
[128] Based on average weekly full-time ordinary time earnings of $1604.90 (ABS, February 2019), giving an hourly rate of $42.23; oncosts and overheads of 75 per cent (allowing that condition reports are usually completed by estate agent representatives).

Regulations. If the rental provider has breached any of the disclosure requirements, the renter may apply to VCAT under the general dispute provision.[129]

The only element expected to apply to a significant number of rental agreements is the requirement to give a renter any owners corporation rules applicable to the rented premises. In 2017 there were around 85,800 active owners corporations in Victoria registered in respect of over 772,200 lots.[130] However, the number of lots in an owners corporation can include areas such as parking spots and storage areas—the precise number of lots that are habitable is not known, but for the purposes of analysis it is assumed this could be around 500,000. Of these, around 143,500 would be rented, and around 43,050 would be subject to a new rental agreement each year.[131]

However, section 136 of the Owners Corporation Act already requires an owner of a property that is part of an owners corporation to give an occupier a copy of the rules at the commencement of the occupation. The requirement in the proposed Regulations would only change the timing of this obligation (for the rules to be provided to the renter before they enter the rental agreement). This means that there is no real additional burden on a rental provider to provide this information before entering the rental agreement, but the proposed Regulation will enable the renter to be fully informed about their use of the premises before they enter the rental agreement.

While the proposed disclosure requirements are not expected to impose a material compliance burden on rental providers, there may be an indirect cost by reducing the rent that is able to be charged on properties where certain information is disclosed—in particular disclosure of the premises as a location of homicide or drug use/trafficking/storage would likely deter some people from wanting to live there (reducing demand) or lowering the amount they would be willing to pay.

Evidence about a lack of pre-contractual disclosure is anecdotal, deriving from stakeholder submissions during public consultation. Stakeholders have cited cases of insecure tenure, reduced amenity and financial loss that have resulted from renters entering into rental agreements that they would not have if facts were disclosed. It is difficult to model this impact on rent, as there may still be a sufficient number of people who are indifferent to this information, or understand that previous drug use/trafficking/storage should not pose a risk if it has been adequately remediated. Therefore, the impact on rent may be small, but it may change which people ultimately become renters of the property. The mandatory disclosures will also assist renters who are looking for more secure forms of tenure, as they will know about any current plans that may affect how long they are able to rent the property.

However, overall, mandatory pre-contractual disclosure improves the efficiency and fairness of the rental market. Where rent is agreed in the absence of these disclosures, the renter may be paying more than the fair market price for that property. The disclosures promote more informed decision making and support consumer choice.

Any potential impact on rents of affected properties is unlikely to be reflected in the overall rental market, as the number of properties that are adversely affected by these requirements is expected to be very small compared to the total market. It is also therefore unlikely to have a material impact on competition.

Impacts on the Director of Housing

With around 75,000 public housing dwellings under the Director of Housing's management, the proposed items for disclosure relating to homicide and drug trafficking/storage would place a significant record keeping burden on the DoH.

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[129] See sections 452(3AA), (3AB), (3AC) and (3AD).
[130] Data from CAV.
[131] Based on 28.7 per cent of dwellings being rented (ABS 2016 Census) and average turnover of 30 per cent (DHHS data).

Caravan and residential parks

It is noted that regulation 25(2) of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2010 already requires the caravan park owner to give written notice if the caravan park is liable to flooding, to a person who proposes to be a resident, before they take up residency of the dwelling.

The Department considers that the prescribed information on the risk of flooding in caravan parks and residential parks would assist potential residents and site tenants when making a decision to enter an agreement, and the information should be readily available at all caravan and residential parks, meaning the additional burden on park operators will be small.

6.3 Mandatory disclosures—exit fees

6.3.1 The problem to be addressed

For Part 4A site agreements, the RTA requires that a site agreement must set out details of all rent, fees and other charges to be paid while the site tenant resides in the park and how these are calculated.[132] The site agreement must also set out any charges (such as exit fees) that apply when the site tenant leaves the park.

Exit fees, such as deferred management fees (DMFs) and administration fees, common in the retirement villages sector, are becoming increasingly used in the parks sector, particularly in residential parks purpose-built for retirement living. Exit fees are generally structured so that the amount that is payable increases over time, depending on how many years a site tenant has lived in the park. They may also be calculated as a percentage of the sale price of the dwelling, so the exact amount payable often cannot be confirmed until the dwelling is sold at the end of the site tenant's time in the park.

The Amendment Act inserts a new section into the RTA to require that a site owner must disclose prescribed information in relation to the Part 4A park or site. It is intended that the proposed Regulations will prescribe additional information about exit fees to help prospective site tenants better understand their future liability.

Feedback from stakeholders suggested there is a growing concern that many site tenants may not fully understand the actual amount to be paid in exit fees under different situations. Anecdotally, people are entering site agreements with DMFs without a clear appreciation of the actual costs involved of their exit from the park.

These factors can severely impact a site tenant's financial outcomes, sometimes leading to difficulties affording aged care. Market research undertaken by the Department indicated that 53 per cent of site tenants said they were aware they will be charged DMFs or exit fees if they vacate the park or sell their movable home, 28 per cent knew that they would not be charged exit fees and 19 per cent did not know if they will be charged. Of those that knew they will be charged exit fees, only 69 per cent were aware of how much those fees will be.

6.3.2 Identification of feasible options

The Amendment Act inserts a new section into the RTA to require that site owners who charge an exit fee provide prospective site tenants with additional information about exit fees to help prospective site tenants better understand their future liability. New section 206JF(1)(f) will provide that a site owner must disclose prescribed information in relation to the Part 4A park or site.

[132] See amended section 206S and new section 206SA.

Proposed Regulation

It is proposed that park operators who charge an exit fee will be required to provide prospective site renters with additional information about the exit fees to help prospective site renters better understand their future liability. It is proposed that the prescribed information will be:

- details of the site tenant's liabilities on permanent departure from the park, and
- details of the site tenant's liabilities, or estimated liabilities, if the site tenant permanently departed after 1, 2, 5 and 10 years' residence in the park.

These requirements are similar to the enhanced disclosure requirements that exist for exit fees in retirement villages introduced in 2015.

Other options considered

The Department did not identify any alternative options to addressing this problem. Under the base case, prospective site tenants would need to undertake their own calculations to estimate exit fees, or obtain additional financial advice. The proposed disclosure requirements are considered to be the most efficient means to allow site tenants to obtain this information.

An alternative to addressing the core problem of a lack of understanding of the potential costs of exit fees would be to ban these types of exit fees. Some stakeholders indicated that DMFs should not be allowed at all. This is considered a disproportionate response to the problem, as DMFs can provide flexibility and choice in renting options, and may lower the costs of entry. A ban on these types of exit fees was therefore not considered appropriate to the scale of the problem or the overarching objectives of the RTA.

6.3.3 Costs and benefits of proposed Regulation

New section 206JF(2) provides that disclosures must be in a form approved by the Director of CAV. The proposed form to be approved will include the disclosure of exit fees under the proposed Regulations as well as other information required to be disclosed under section 206JF(1) of the RTA. This form will be approved prior to the commencement of the proposed Regulations, and will be similar to the disclosure statement required to be given to strata title residents of retirement villages.

Therefore, there will be no material additional burden on the disclosure of the information about exit fees to potential site tenants. However, there may be additional costs to site owners in calculating the exit fees to be included in the disclosure statement.

The incremental cost of implementing this requirement is $8,700 in the first year only. This cost includes the cost to the Department ($5,000) to set out the exit fee disclosure elements in the approved discourse statement form and provide guidance on how to complete the form, around $2,000 for the Victorian Caravan Parks Association (VCPA) to develop an exit fee calculator that can be used by park operators, and around $1,700 for site owners (that charge exit fees) to become familiar with the disclosure requirements and how to use the VCPA calculator.[133] There are not expected to be ongoing costs with the requirements, as the use of the calculator would make the calculation of exit fees for inclusion in the disclosure statement very fast, and the disclosure statement would already need to be provided to prospective site tenants in relation to the other mandatory disclosures specified in the RTA.

[133] This total cost for the sector reflects that 48 per cent of the current 49 Part 4A parks in Victoria charge exit fees (based on a Department sample of parks) and allows for 2 staff at each of these parks to spend 30 minutes on understanding the new requirements and the fee calculator. Average weekly earnings for Victoria has been used as the basis for the hourly rate.

During previous consultations, stakeholders generally supported the proposal to ensure that the total cost or financial commitment of a Part 4A site agreement is clear to all prospective site tenants, including the development of a disclosure statement to support site tenants understand their future financial liability.

6.4 Urgent repairs and urgent site repairs

6.4.1 The problems to be addressed

Authorised amount for urgent repairs and urgent site repairs

The amended definition of 'urgent repairs' in the RTA provides that an urgent repair is any work necessary to repair or remedy:[134]

- a burst water service;
- a blocked or broken lavatory system;
- a serious roof leak;
- a gas leak;
- a dangerous electrical fault;
- flooding or serious flood damage;
- serious storm or fire damage;
- a failure or breakdown of any essential service or appliance provided for hot water, water, cooking, heating or laundering by a:
    - rental provider in rented premises;
    - rooming house operator in a rooming house;
    - caravan park owner or caravan owner in a caravan park or caravan;
    - specialist disability accommodation (SDA) provider in an SDA enrolled dwelling;[135]
- a failure or breakdown of the gas, electricity or water supply to rented premises, a rooming house, a caravan or an SDA enrolled dwelling;
- a failure or breakdown of any cooling appliance or cooling service provided by a rental provider, rooming house operator, caravan park owner or caravan owner;
- a failure to comply with any rental minimum standards;
- a failure or breakdown of any safety-related devices, including a smoke alarm or pool fence;
- an appliance, fitting or fixture provided by a rental provider, rooming house operator, caravan park owner, caravan owner or SDA provider that uses or supplies water and that is malfunctioning in a way that results or will result in a substantial amount of water being wasted;
- any fault or damage that makes rented premises, a rooming house, a room, a caravan or an SDA enrolled dwelling unsafe or insecure, including:
    - a pest infestation;

[134] See section 3 of the RTA.
[135] Specialist disability accommodation (SDA) is housing designed for people with extreme functional impairment or very high support needs. SDA is provided by providers registered with the National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission to provide to residents with SDA funding in their NDIS plans.

- the presence of mould or damp cause by or related to the building structure; or

- a serious fault in a lift or staircase.

There is also a power in the RTA to prescribed other types of repairs as 'urgent repairs'.

Urgent repairs are defined so that, if a rental provider or their agent fails to respond immediately after being notified by the renter, the renter can arrange for the repairs to be done themselves and seek reimbursement from the rental provider, or can apply to VCAT for an order requiring the rental provider to make the repairs.[136]

The urgent repair process is replicated in Parts 3 and 4 of the RTA for residents of rooming houses and residents of caravan parks.[137]

Delays in responding to repair requests can have significant health and amenity impacts for renters living in rental housing. They can also cause financial hardship for renters who have paid for an 'urgent repair' due to the rental provider's refusal or failure to respond to their request. Repairs complaints are currently the second biggest cause of renters contacting CAV (8,521 or 14 per cent of total complaints).

To manage the financial risk to rental providers, where a renter arranges for the repairs themselves, the rental provider is only liable to reimburse the renter the lesser of:

- the reasonable cost of the repairs, or

- if a greater amount is prescribed, the prescribed amount.

The prescribed amount is therefore a cap on the reimbursed amount of urgent repairs that a renter can arrange and pay for. Repairs above this amount would require an application to VCAT, which can delay the repairs from being done.

The current Regulations prescribe an amount of $1,800, a value which was inserted into the Regulations in 2011. That amount in 2019 is equivalent to $2,096 (adjusted for CPI and rounded to the nearest dollar).

It is appropriate that the maximum reimbursable amount reflect general increases in prices, so that renters remain in a position to arrange urgent repairs of an amount that does not represent a high financial exposure to the rental provider.

The average length of time taken to complete an 'urgent' repair was approximately two weeks (14.4 days). Delays may be caused by the rental provider's deliberate refusal to comply with the law, or genuine confusion about what constitutes a reasonable time frame for responding to a repair request. The Department's 2016 market research found that for renters who have requested repairs, around one in two (53 per cent) experienced problems in getting the work completed. Delays in responding to repair requests can have significant health and amenity impacts for renters living in rental housing.

The provisions for urgent repairs in the RTA deal with rented premises, rooming houses and caravan parks. The Amendment Act amends the RTA to allow a resident of a caravan park or site tenant of a Part 4A residential park to carry out 'urgent site repairs', if the resident or site tenant has taken reasonable steps to arrange for the caravan owner/site owner to immediately carry out the repairs, and the caravan park owner/site owner did not carry out those repairs.[138]

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[136] If the renter provides the rental provider with the written notice of the cost of the urgent repairs and the rental provider fails to respond within 7 days. See sections 72 and 73 of the RTA.
[137] Part 3: sections 129 and 130 and Part 4: sections 188 and 189.
[138] See new sections 188A and 206ZZAA.

The changes to the RTA are intended to provide for urgent repairs to the sites on which caravans and moveable dwellings are located, as the Review recognised that existing provisions only allowed for urgent repairs to the caravans themselves, not to parts of the site that was necessary for the use of the caravan. There was no previous provision for urgent repairs to Part 4A sites, including any structures and fixtures on the site owned by the site owner (usually the park operator).

Definition of urgent site repairs

The RTA does not define what amounts to urgent site repairs. The Amendment Act inserts of a new definition into the RTA to provide that 'urgent site repairs' means any work prescribed as urgent repairs to:

- a site or a Part 4A site; or
- in the case of a caravan park, any structure or fixture owned by a caravan park owner on a site; or
- in the case of a Part 4A park, any structure or fixture owned by a site owner on a site; or
- any damage of a prescribed class.

As such, the RTA does not define what amounts to 'urgent site repairs'. This is left to be prescribed in the proposed Regulations. If no types of repairs are prescribed to be urgent site repairs, the new sections in the RTA would be ineffective. Unless prescribed, the processes for undertaking urgent repairs to foundations of the site that may compromise stability, fixtures which supply gas, electricity or water to the site (as these are not fixtures 'owned' by the caravan park owner/site owner), or fences that provide security to residents/site tenants, would be inoperable.

The proposed list of urgent site repairs considers the elements of the site that would be of immediate impact to the health or safety of residents/site tenants of a caravan or moveable dwelling on the site, and mirror what would equivalently be considered an 'urgent repair'[139] for other tenure types under the RTA.

In the base case, where no types of urgent site repairs were prescribed for these purposes, the new urgent site repairs process under the RTA would be frustrated/inoperable.

- Currently, the Part 4 repairs provisions provide processes for 'urgent' and 'non-urgent' repairs to a caravan, which are the responsibility of the caravan owner. While residents owe a duty to keep their caravan site clean and tidy (and maintain it in a manner and condition that does not detract from the general standard of the park), the RTA is silent on responsibility for repairs to the underlying caravan site.
- The RTA is also currently silent on repairs for Part 4A sites. While it is appropriate that repairs to dwellings and other structures owned by the site tenant remain the responsibility of the site tenant, the park operator is the owner of the site itself.

Introduction of an urgent site repairs process in respect of Part 4 and 4A sites allocates appropriate liability for repairs based on who owns the site/structure and ensures that repairs are attended to when they are needed.

As with other urgent repairs, regulations are also needed to prescribe an authorised amount for urgent site repairs, to ensure low value site repairs can be done efficiently if the caravan park owner/site owner does not carry out the repairs immediately.

[139] See the definition of 'urgent repair' in section 3 of the RTA.

6.4.2 Identification of feasible options

Proposed Regulation – Authorised amount for urgent repairs and urgent site repairs

It is proposed to update the prescribed 'urgent repairs' authorised amount from $1,800 to $2,500. This will allow[140] renters to arrange for a greater amount of urgent repairs themselves, when the rental provider has failed to arrange the relevant repair within 7 days.

Revising the current amount (which applied since June 2011) up to its 2019 equivalent would be $2,096,[141] however, to ensure the authorised amount remains current during the ten-year life of the proposed Regulations (i.e., to 2030), a higher amount of $2,500 is proposed.[142] The higher amount would also incentivise rental providers to undertake repairs quicker, which is a key objective of the reforms to the repair provisions in the RTA.

Alternative feasible options are any other monetary amount. The intention is to provide a level up to which a renter has comfort that they will be reimbursed for any urgent repairs they pay for themselves (having already requested the rental provider to undertake the repairs). The proposed amount of $2,500 is considered a reasonable level, given the likely costs of most types of repairs (and inflation since the level was last set). It is proposed that the prescribed 'urgent site repairs' authorised amount will also be set at $2,500, consistent with the 'urgent repairs' amount.

Stakeholders may wish to provide reasons why a different amount should be considered.

Another alternative approach to setting the amount is to set the level as a formula which increases over time in line with CPI. This may add to the regulatory burden as a renter would need to look up or calculate the current value at the time the repairs are needed (rather than including a fixed amount in information given to renters at the start of the rental agreement).

Proposed Regulation – Definition of urgent site repairs

It is proposed to prescribe 'urgent site repairs' for the purposes of the RTA as any work necessary to repair or remedy:

- any fault or damage which makes the site or Part 4A site unsafe, unsecure or uninhabitable, including serious flood, storm, or fire damage to the site or Part 4A site, or structure or fixture on the site or Part 4A site owned by a caravan park owner or site owner;
- any failure or breakdown of gas supply, electricity supply, water supply or sewerage access to, under or affecting a site or Part 4A site;
- any fault or damage that impedes safe access to the site or Part 4A site; and
- subsidence of a site or Part 4A site.

Given the mechanisms in the RTA, the only feasible alternative options relate to what other types of repairs could be listed instead of, or in addition to, those proposed. The types of repairs were subject to extensive stakeholder consultation at the time of legislative amendments and again in the development of the proposed Regulations.

The Department received feedback from some stakeholders that 'urgent site repairs' should include repairs to common areas of parks because serious faults in common areas expose residents/site

[140] A renter may arrange for any value of urgent repairs to be undertaken provided they have given the rental provider written notice of cost of the repairs in accordance with the RTA and the rental provider has not arranged for the repairs to be done within 7 days, however, the rental provider is only liable to reimburse up to the prescribed amount.
[141] Adjusted for inflation of 2 per cent per annum, rounded to the nearest dollar.
[142] Assuming 2 per cent inflation every year (based on ABS 'maintenance and repair of dwelling' average inflation rate for Melbourne over the relevant 10 year life of the Regulations). The figure would reach $2500 around June 2028.

tenants to significant detriment or risks if not remedied promptly. Examples given were malfunctioning (leaking) gas heaters in the common room of a park and a broken light outside the amenity block, which lead to an elderly resident falling and breaking their hand when trying to use the toilet block at night. The Department notes that the definition of 'urgent site repairs' inserted by the Amendment Act requires a nexus with the 'site' and that repairs to common areas/facilities are therefore outside the scope of the proposed Regulations.

No other feasible alternatives were identified by stakeholders during consultation to date or by the Department.

6.4.3 Costs and benefits of the options

Authorised amount

Increasing the existing threshold for 'urgent repairs'[143] and new threshold for 'urgent site repairs'[144] to $2,500 is not expected to change the cost to renters or rental providers, but only the ability for repairs to be done in a more timely manner. It may also reduce the number of urgent repairs disputes escalating to VCAT because renters will be authorised to carry out repairs up to a higher prescribed amount. (The liability up to the threshold still needs to demonstrate that the costs are reasonable.) There is no data on the average cost of repairs.

However, it is expected that setting a higher prescribed amount for repairs that can be arranged by the renter (following reasonable attempts to ask the rental provider to tend to the repairs) will lead to urgent repairs/urgent site repairs being done more quickly. This is because the renter will be able to arrange a greater amount of repairs themselves and the possible liability of reimbursement will create a strong incentive for rental providers to tend to the repairs themselves immediately.

The average length of time taken to complete an 'urgent' repair is currently approximately two weeks (14.4 days).[145] Delays may be caused by the rental provider's deliberate refusal to comply with the law, or genuine confusion about what constitutes a reasonable time frame for responding to a repair request.[146] CAV's 2016 market research found that for renters who have requested repairs, around one in two (53 per cent) experienced problems in getting the work completed. There is no data on the total number of repairs. Delays in responding to repair requests can have significant health and amenity impacts for renters living in rental housing, for example access to water, or security of the premises.

Urgent site repairs

By prescribing 'urgent site repairs' in the proposed Regulations, residents/site tenants would have a recourse to a quick and efficient means to ensure urgent site repairs are done in a timely manner. This would avoid the need to go to VCAT in some situations (where the resident/site tenant was able to pay for the urgent site repairs in the first instance, and the cost was below the prescribed amount). For other urgent site repairs that do not meet these criteria, the resident/site tenant will still have recourse to VCAT, but by defining these types of repairs as 'urgent site repairs', VCAT would need to hear the matter within the legislated 2 business days of a matter being lodged with it.

Even where a caravan park owner/site owner is liable to reimburse a resident/site tenant where the resident/site tenant paid for urgent site repairs to be carried out, the process in the RTA gives them a prior opportunity to arrange for the urgent site repairs themselves. This means, if a caravan park

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[143] Applies to Part 2, Part 3 and Part 4 of the RTA.
[144] Applies to Part 4 and Part 4A of the RTA.
[145] *Rental experiences of tenants, landlords, property managers, and parks residents in Victoria*, Final Report, 17 May 2016 accessed via engage.vic.gov.au/fairersaferhousing
[146] If the rental provider does not 'immediately' carry out an urgent repair, the renter can arrange for the repairs themselves after giving the rental provider 14 days' written notice. The Amendment Act reduces this timeframe to 7 days (section 272).

owner/site owner is concerned that the costs paid by a resident/site tenant for the work may be higher than what they think they would otherwise have to pay for the work, they can arrange for the repairs to be done before the resident/site tenant does so.

Prescribing the types of repairs that give operational effect to the urgent site repairs section of the RTA may lead to a new type of VCAT dispute: where repairs are arranged to be carried out by a resident/site tenant and paid for by the resident/site tenant, and then the caravan park owner/site owner refuses to reimburse the resident/site tenant on the basis that either:

- the caravan park owner/site owner does not agree that the repairs were within the definition of 'urgent site repairs'; or
- the resident/site tenant did not take reasonable steps to arrange for the caravan park owner/site owner to carry out the repairs. However, this is considered to be in only a minority of cases.

For most residents/site tenants, they would likely be unwilling to make the initial payment for repairs unless they were genuinely convinced that the required site repairs were urgent, and where they were genuinely urgent, it is assumed that most caravan park owners/site owners would not wish to waste time and resources arguing at VCAT.

Therefore, overall, by prescribing certain types of repairs to be 'urgent site repairs' in the proposed Regulations, there would be expected to be a reduction in the overall number of matters being heard by VCAT in relation to repairs, and residents/site tenants would enjoy the ability in the RTA to have repairs required for their health and safety to be carried out in a timely manner. On this basis, the Department considers the benefits of the proposed Regulations clearly outweigh the costs, compared to the base case of not prescribing any urgent site repairs.

6.5 Modifications to rented premises

6.5.1 The problem to be addressed

The 2018 amendments to the RTA made significant changes to the ability for renters to make modifications to rental properties. As with the current arrangements, the amended RTA will require a renter to obtain the rental provider's consent before installing fixtures or making other modifications to the rented premises and, unless otherwise agreed by the parties, the renter must also restore the property to its original condition (allowing for fair wear and tear) or pay the reasonable costs of restoration, before the tenancy terminates.

The Amendment Act will amend section 64 to establish three types of modifications to premises under Part 2 of the RTA, with different requirements regarding the rental provider's consent:

- Amended s64(1) will allow renters to make certain types of prescribed modifications without having to seek the rental provider's prior consent. This ability to make certain modifications without consent will allow greater flexibility for renters to make their rented property a home.
- New s64(1B) will outline a range of other modifications for which the renter must seek the rental provider's prior written consent, but that the rental provider cannot unreasonably refuse. For this type of modification, the rental provider will be able to consider issues about the property that renters may not be aware of, when determining whether it is reasonable to refuse consent. If the renter thinks that the rental provider has unreasonably refused consent, the renter may apply to VCAT.
- For all other modifications (that is, modifications other than those outlined in s64(1) or s64(1B)), new s64(1A) will require the renter to obtain the prior consent of the rental provider, and the rental provider has full discretion to refuse consent.

A rental provider will not be able to unreasonably refuse consent to modifications under a range of different circumstances listed in the RTA, or any further circumstances prescribed in the proposed Regulations. The modifications listed in the RTA for this purpose are modifications that:

- do not penetrate or permanently modify surfaces, or fixtures, or the structure of the property;
- are required for health and safety purposes;
- are reasonable alterations within the meaning of section 55 of the *Equal Opportunity Act 2010*, and assessed and determined to be required modifications by an accredited occupational therapist or a prescribed practitioner;
- ensure access to telecommunications services;
- are reasonable security measures;
- are necessary to ensure the safety of a party to the existing rental agreement who has been or is being subjected to family violence by another party to that agreement (including a protected person under a family violence safety notice, family violence intervention order or recognised non-local domestic violence order), or is a protected person under a personal safety intervention order made against another party to that agreement; or
- are necessary to increase the thermal comfort of the premises, or reduce energy and water usage costs for the premises.

These amendments recognised that previous requirements for rental provider approval impacted on a renter's ability to make their rental property feel more homely and reflective of their personal tastes. As people are increasingly remaining in the rental market for longer periods, the RTA needed to provide renters with flexibility to make restorable modifications, particularly if such modifications are needed to address a disability. Otherwise renters with special needs may be left living in housing that is unsuitable for their needs or, alternatively, may be forced to look for other accommodation.

Modifications that cannot be unreasonably refused

Feedback from stakeholders during the Review and in the development of the proposed Regulations identified a range of types of modifications, for prescription in the proposed Regulations, for which a rental provider should not be able to unreasonably refuse consent. The areas of strongest concern, and for which the Department considers there is merit in prescribing, are:

- 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;
- replacement of halogen or compact fluorescent lamps;
- draughtproofing such as installing weather seals, caulking or gap filler around windows, doors, skirting and floorboards;
- installation of low flow shower heads;
- installation of non-permanent window film for insulation and reduced heat transfer;
- installation of a security system by a qualified person 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.

A rental provider may reasonably refuse consent in certain situations. A rental provider may also require modifications be completed by a suitably qualified person, and may require an additional restoration bond be paid.

It is not considered necessary for an exemption for rented premises that are a registered place under the Heritage Act as renters will need to seek the rental provider's consent for these types of modifications. Compliance with permit requirements under the Heritage Act will be a consideration in terms of the reasonableness of the rental provider's refusal.

Modifications that can be made without consent

The amendments will introduce a power to prescribe modifications that may be carried out by the renter without the consent of the rental provider. It is proposed to prescribe the following modifications as modifications for this purpose:

- in a rented premises that is not a registered place under the Heritage Act—
    - installation of picture hooks or screws for wall mounts, shelves or brackets on surfaces other than brick walls;
    - installation of wall anchoring devices on surfaces other than brick walls to secure items of furniture;
    - installation of LED light globes which do not require new light fittings; and
    - installation of blind/cord anchors.
- in all rented premises—
    - replacement of curtains where the originals are retained; and
    - installation of adhesive child safety locks on drawers and doors.

It is proposed that an exemption will apply for certain prescribed modifications that can be made without the rental provider's consent where the modification will involve penetration or permanently modify the property and the rented premises is a registered place under the Heritage Act. Rental providers should ensure that if the rented premises or any of its contents are registered under the Heritage Act, that information is included in the rental agreement.

These types of modifications do not penetrate the walls and/or can easily be restored to their original state. For these types of modifications, it is not foreseeable that a rental provider could ever reasonably refuse consent—therefore, by removing these types of modification from the requirement to obtain the rental provider's consent, this provides a more efficient process for these types of modifications to be made. The renter's duty to restore the property to its original condition at the end of the tenancy or pay the reasonable costs of restoration remains. By prescribing these modifications as not requiring consent in the proposed Regulations, both parties avoid the need to spend time and effort to obtain consent for such minor changes.

Prescribed practitioners

New section 64(1B)(c) provides that a rental provider must not unreasonably refuse consent to modifications that are:

- reasonable alterations within the meaning of section 55 of the *Equal Opportunity Act 2010*; and
- assessed and determined to be required modifications by an accredited occupational therapist or a prescribed practitioner.

The Department has received feedback that practitioners who should be prescribed in relation to disability related modifications include mental health workers, physiotherapists and rehabilitation counsellors.

Other feedback from stakeholders suggests that medical practitioners such as general practitioners, geriatricians and rehabilitation physicians may also play a role in recommending modifications and they should be prescribed for the purpose of assessing these types of modifications. Another suggestion was that a broader range of health professionals should be prescribed for the purposes of assessing and determining disability-related modifications. This approach would be consistent with DHHS' public housing operational guidelines which provide that a registered health practitioner under the Health Practitioner Regulation National Law may make recommendations about required modifications.

6.5.2 Identification of feasible options

Proposed Regulation

It is proposed to prescribe that a rental provider ***cannot unreasonably refuse consent*** for a renter to carry out (and pay for themselves) the following types of modifications:

- 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.

It is proposed that a 'prescribed practitioner' for the purpose of assessing and determining required modifications[147] means a registered health practitioner within the meaning of the Health Practitioner Regulation National Law. This is a very broad definition and will capture a range of health practitioners, consistent with DHHS' public housing operational guidelines which state that a treating health professional registered for any of the below professions is required to provide specific details regarding a client's medical condition or disability to demonstrate their need for special accommodation requirements. The professions include:

- Aboriginal and Torres Strait Islander health practice;
- Chinese medicine;
- chiropractic;
- dental;
- medical;
- medical radiation practice;
- nursing and midwifery;

[147] This would be prescribed for the purposes of assessing and determining required disability-related modifications for all tenure types required under the RTA (sections 64(1B)(c)(ii), 115(2)(b), 171B(3)(b) and 206ZMB(2)(b).

- occupational therapy;
- optometry;
- osteopathy;
- pharmacy;
- physiotherapy;
- podiatry; and
- psychology.

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—
    - installation of picture hooks or screws for wall mounts, shelves or brackets on surfaces other than brick walls;
    - installation of wall anchoring devices on surfaces other than brick walls to secure items of furniture;
    - installation of LED light globes which do not require new light fittings;
    - replacement of halogen or compact fluorescent lamps; and
    - installation of blinds or cord anchors.
- in all rented premises—
    - replacement of curtains where the originals are retained; and
    - installation of adhesive child safety locks on drawers and doors.

Other options considered

Given how the RTA operates in relation to modifications, the alternative options are limited to prescribing more or fewer types of modifications in each category.

Stakeholders were consulted on the proposed modifications to be included in the two groups:

1) modifications that cannot be unreasonably refused by the rental provider, or
2) modifications that can be made without the consent of the rental provider.

If no regulations were prescribed in relation to group (1), as the amended RTA already specifies a list of modifications that cannot be unreasonably refused, this provision would be able to operate without any regulations being made. However, in relation to group (2), regulations are required in order for the provision to operate.

Stakeholders suggested a range of modifications that could be prescribed for either group.

The Department does not consider that it is necessary to prescribe modifications in the proposed Regulations as modifications that cannot be unreasonably refused if the particular modifications are already authorised by the list of circumstances in the RTA (sections 64(1B)(a) to (g)). For example, installation of tactile ground surface indicators, non-slip coatings/treatments to external steps/walkways, temporary round corners on benches and grab rails in wet areas could be authorised under modifications required for health and safety (section 64(1B)(b)) and/or disability-related modifications (section 64(1B)(c)).

In relation to modifications that can be made without the rental provider's consent (section 64(1)), the Department considered it important to limit the list of prescribed modifications to changes that would be easily restorable at the end of the tenancy, taking into account the cost of restoration. For

example, painting the rented premises (depending on the colour and extent of the painting) could be very costly and difficult to restore at the end of the tenancy (for example, if the surface was natural wood or brick).

A number of stakeholders suggested that security-related modifications, particularly when requested by a renter who is experiencing or has experienced family or personal violence, should be prescribed modifications that a renter can make without the consent of the rental provider.[148] The Department considered that this would not be appropriate as these types of modifications may penetrate the building structure and/or infringe on the privacy of neighbours, particularly in Class 2 buildings and community housing. In these circumstances, retaining the required consent of the rental provider is appropriate. This is also consistent with recommendation 116 of the Royal Commission into Family Violence, which recommended that the Department consider amendments to the RTA to prevent a rental provider from unreasonably withholding consent to a request from a renter who is a victim of family violence for reasonable modifications to improve the security of the rental property.

Another consideration is any potential safety impacts of the proposed modifications. Installing self-adhesive (non-permanent) weather seals, screw-in (permanent) weather seals or draught excluders around windows and doors can improve the thermal comfort of the rented premises and reduce energy bills for renters. These types of modifications are also easy to install and remove by renters. However, there can be a significant associated safety risk with installing weather seals or draught excluders if the premises contains an open flued gas heater. Air sealing is not generally recommended for homes where open flued gas heating exists. This is a particular risk for renters, as they are less likely than an owner-occupier to know the type of gas heating at the premises. The amended RTA already provides that modifications necessary to increase thermal comfort[149] must not be unreasonably refused by the rental provider. Given the safety risks, the Department considers it appropriate that renters continue to seek the rental providers' consent for the installation of weather seals or draught excluders.

6.5.3 Costs and benefits of options

Existing requirements for rental provider approval to property modifications impact on a renter's ability to make their rental property feel more homely and reflective of their personal tastes. These requirements are also a barrier to ensuring that private rental conditions, particularly in older housing, are better suited to supporting people with different needs.

As people are increasingly remaining in the rental market for longer periods, there is a need to balance rental providers' property interests with renters' flexibility to make restorable modifications, particularly if such modifications are needed to address a disability.

The prescribed modifications which cannot be unreasonably refused in the proposed Regulations creates a presumption that certain categories of important modifications are reasonable, provided that the renter can afford to rectify any resulting damage to the property and that there are no other mitigating factors (i.e., imminent sale or devaluation of the property).

The Department considers these as reasonable types of modifications that would improve the use of the premises by the renter, and in most cases also improve the quality of the premises, which would benefit the rental provider, or otherwise not adversely affect the property in any material way. It is noted that a rental provider may still refuse consent where reasonable to do so, which may depend on the specific circumstances of the premises and the modification proposed.

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[148] Note that section 64(1B)(e) of the amended RTA already provides that a rental provider must not unreasonably refuse consent to modifications made by the renter that are reasonable security measures.
[149] Section 64(1B)(g)(i).

Providing an easier process for authorising modification may result in more modifications being undertaken, which in turn may increase the risk of damage to a property. However, under the RTA a rental provider may require modifications be completed by a suitably qualified person and may require an additional bond be paid.

Both categories of prescribed modifications may have negative impacts on the rental provider and renter. Expanding the list of modifications that cannot be unreasonably refused and providing for modifications that do not require consent, means that renters are more likely to make modifications to the property.

While the renter is required to restore the rented premises at the end of the tenancy or pay the rental provider the reasonable costs of restoration, there is an increased likelihood that the premises may be damaged and cannot be restored, or that the renter is unable or unwilling to compensate the rental provider for damage. When seeking written consent for modifications, renters are encouraged to negotiate with the rental provider about whether the modification can be left fitted to the property at the end of the tenancy.

From the renters' perspective, the rental provider may be more likely to request an additional amount of bond and/or that the modification be completed by a suitably qualified person which would increase the costs for the renter.

6.6 Condition reporting

6.6.1 The problem to be addressed

Inadequate regulation of property conditions, including lack of condition reporting, was a key theme to emerge from the Review. While completing a condition report to document a property's general condition at the beginning of a tenancy is best practice, only properties in relation to which a bond is lodged are currently legally required to complete a condition report.

The Department understands that condition reporting is currently a widespread practice for tenancies managed by an agent, which account for around 74 per cent of tenancies. The remaining 36 per cent of tenancies (e.g. with rental providers who manage their own rental property) often do not complete a report (e.g. because they do not require or lodge a bond, or because they do not comply with existing requirements).

The condition report is an important source of evidence for both rental providers and renters who, at some stage, may rely on it should a bond dispute or damages claim arise. Without a condition report it is difficult for both rental providers and renters to support their claims about the state of the property and this can lead to complications and disputes during the tenancy. Repairs issues are the biggest cause for disputes under the RTA, including claims on bonds by rental providers and applications for compensation for reduced amenity by renters. Over the past three years (2015-16 to 2017-18) there have been more than 9,000 disputes each year at VCAT brought by rental providers claiming bond for unpaid rent and loss or damage or both.[150] Of these, approximately 50 per cent related to damage.

The Amendment Act introduces a number of changes to condition reporting from 1 July 2020, applicable to all four tenure types, including:

- expanding the circumstances in which a condition report is required, making it compulsory to complete a report at the start and end of all residential tenancies (not just where a bond is taken), and setting out a process for condition reporting at the end of a tenancy that encourages both parties to complete the condition report together;

[150] See VCAT Annual Reports, available at: https://www.vcat.vic.gov.au/resources/corporate-reporting

- permitting electronic condition reporting – for manual reporting, rental providers will still be required to provide two signed copies as under the base case;
- longer timeframes for the renter to return the condition report (five ordinary days at the start of a tenancy, 10 ordinary days at the end of a tenancy);
- condition report as evidence of need for repair, at both the start (same as base case) and end of a tenancy (new); and
- a renter who is not provided with a condition report can complete a condition report and give it to the rental provider within five days of moving in.

Despite the importance of a complete condition report, the content of the current condition report is currently not prescribed, and the recommended report form commonly used (but not mandated) is limited in that it does not provide for the collection of crucial information should a dispute arise as to the condition of the property, such as whether any appliances have been recently serviced and are in good working order. As a result, there may be a number of cases going to VCAT that could be settled more efficiently without the need for a VCAT hearing.

The 2018 amendments therefore include prescribing a standard form condition report to record the standard of, and general state of repair of, rented premises, rooming houses, caravan park residences and Part 4A sites.

6.6.2 Identification of feasible options

Proposed Regulation

A standard form for a condition report must be prescribed to give effect to the parts of the RTA that require a condition report to be completed.

The proposed Regulations prescribe standard form condition reports for rental premises. The existing (non-mandatory) CAV condition report form for general tenancies is the basis of the standard report, and will also include:

- information about the how to fill in the condition report;
- a checklist reminding rental providers and renters to ensure compliance with requirements relating to cleanliness, repair, fitness for habitation and any other requirements at point of lease;
- an indication of telecommunications connections to the property (including internet connections) and whether they are working;
- the condition of all structures, fixtures, fittings and appliances in the rented premises'
- information about the recent service history for gas and electrical appliances, and safety devices such as the date of smoke alarm testing; and
- encourage photos of the property to be taken for the purposes of a condition report, but not mandate their inclusion in a report as there may be accessibility issues for certain demographics.

The proposed Regulations will also prescribe the standard form condition report for rooming houses, caravans park residencies and Part 4A sites. The condition reports will be tailored to reflect the different requirements of the different tenure types.

Other options considered

Given that the RTA requires that details of the condition report to be 'in the prescribed form', alternatives are limited to the design and scope of the information contained in the proposed form. These are discussed further in this RIS.

6.6.3 Costs and benefits of the feasible options

On or after 1 July 2020, a condition report in the prescribed form must be completed for all rented premises, rooming house residencies, caravan park residencies and Part 4A sites.

The requirement to prepare a condition report is imposed by the RTA. Currently all rental agreements where a bond is paid (87 per cent of the approximately 196,000 new rental agreements each year)[151] are required to have a condition report. Some agreements that do not involve a bond would also prepare a condition report as part of industry practice.

The proposed Regulations will specify the types of information to be included in the condition report. Compared to the general kind of information that is already commonly included in current condition reports, the proposed prescribed content adds a series of checklists and prompts to specify certain information. This is not expected to add significant time to complete a condition report.

Based on a desktop exercise of comparing a sample of condition reports against the proposed prescribed elements, it is estimated that the proposed Regulations will add around 1-2 minutes time for renters and rental providers, for about half new condition reports (about half already complete condition reports that are consistent with the proposed standard; half would need to spend the additional time compared to what they already do).[152]

This is an average cost per condition report of around $1.[153] For the approximately 196,000 new rental agreements each year, this is a total incremental cost of $196,000 per annum.

More comprehensive condition reporting promotes efficiency by setting out a comprehensive condition reporting framework that provides clear responsibilities for both renters and rental providers in respect of recording the condition of the property at the start and end of a rental agreement.

Improved condition reporting will also have small benefits in the form of reduced VCAT costs for rental providers ($182.70 per matter) and reduced agents fees ($120 per matter) because rental providers may no longer need to apply to VCAT to retain part or whole of the bond. This is because lack of condition reporting contributes to the number and complexity of residential tenancy disputes and complaints reported to CAV and escalated to VCAT. It is expected that more frequent and accurate condition reporting would assist the parties to resolve disputes about damage or the condition of the property before they reach VCAT.

The alternative option is to prescribe the current example report suggested by CAV. This is estimated to have a negligible cost (and corresponding negligible benefits) as it is considered to be a 'minimum content' condition report, with most condition reports already including more information. The Department does not consider this would provide adequate improvement to the current situation.

6.7 Prescribed professional cleaning terms in rental agreements and fixed term rooming house agreements

Currently renters are required to keep the property reasonably clean and avoid damage other than fair wear and tear. Renters are required to restore the property to its original condition (subject to fair wear and tear) at the end of the tenancy. In some circumstances, professional cleaning may be required to restore the rented premises to its original condition. However, depending on the condition of the property, professional cleaning will generally be unable to remedy damage.

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[151] This is a rounded interpolation of the rate of quarterly turnover measured by DHHS (of 8 per cent per quarter) times by the number of rental properties (based on 2016 ABS Census data of 614,291 premises) (i.e., 196,573 new rental agreements per year); and DHHS estimate of 'new lettings' of 48,934 in the June quarter 2019 converted to an annual amount (i.e., 195,736). (DHHS Rental Report June quarter 2019).

[152] The cost is a burden on rental providers (or usually their agents) who complete most of the information in a condition report. Renters generally only need to confirm the information is correct.

[153] Based on average weekly full-time ordinary time earnings of $1604.90 (ABS, February 2019), giving an hourly rate of $42.23; oncosts and overheads of 75 per cent (allowing that condition reports are usually completed by estate agent representatives).

Section 27C(1) of the RTA provides a professional cleaning term is a prohibited term in a rental agreement unless that term is included in the prescribed standard form rental agreement. For rooming houses, section 94AD(1)(d) of the RTA also provides that a professional cleaning term is a prohibited term, unless that term is included in the prescribed standard form fixed term rooming house agreement. The intent of the reforms is to prevent unscrupulous rental providers and rooming house operators from automatically requiring professional cleaning, regardless of the condition of the rented premises or room.

If a professional cleaning term is not prescribed and included in the relevant standard form agreement, there will likely be disputes about whether professional cleaning is required to rectify damage at the end of an agreement and responsibility for paying for the professional cleaning. It is anticipated that providing clarity about responsibility for professional cleaning would reduce the number of these types of disputes. Over the past three years (2015-16 to 2017-18) there have been more than 9,000 disputes each year at VCAT for rental providers claiming bond for unpaid rent and loss or damage or both. Of these, approximately 50 per cent related to damage.

The proposed Regulations include professional cleaning terms in the proposed standard form agreements. (Note that for rooming house agreements, this would only apply to the resident's room and not the common areas.)

Prescribing a professional cleaning term will introduce an explicit requirement that the rental provider or rooming house operator can only require the renter or resident to arrange, or pay for, professional cleaning if this is needed to restore the rented premises or room at the end of the agreement (subject to fair wear and tear).

This is considered a minor element of the proposed Regulations, necessary to give effect to the intention of the Act that renters will only be liable for professional cleaning costs if those arrangements are set out in the standard agreement.

The other benefit of prescribing a professional cleaning term in the regulations is that it sets out that professional cleaning is *only* necessary where required to restore the rented premises or the room to its condition at the start to the tenancy, taking into account fair wear and tear. This will prevent rental providers and rooming house operators from requiring renters and residents to arrange, or pay for, professional cleaning in circumstances where the condition of the room does not necessitate professional cleaning.

6.8 Liabilities for utilities

6.8.1 The problem to be addressed

During consultation as part of the Review, it was generally regarded by stakeholders that the RTA should be updated to reflect contemporary practice across the full range of property services that intersect with the tenancy relationship.

The Amendment Act amends the RTA to expand the range of fees and charges for which the rental provider is responsible. These include installation costs for utilities, rates and charges payable under any other legislation, energy and water use that is not separately metered, water and sewerage supply service charges. These types of costs are generally regarded as being costs of ownership of the property and for making the property available for rental, rather than costs of occupation.

The amendments to the RTA also provide for the rental provider to pay 'any other prescribed charges', such that the regulations may also prescribe the types of charges for which the rental provider is responsible.

Consultation with stakeholders on the development of the proposed Regulations identified a number of additional charges that could be prescribed for this purpose:

- pumping out and cleaning costs for sewerage tanks or septic tanks (except where damage is caused by the renter);
- telecommunications costs – costs and charges for initial phone, internet and National Broadband Network (NBN) installation;
- cartage charges for refill of fire safety water tanks; and
- cartage charges for drinking water that are not based on the amount of water supplied to the rented premises during the renter's occupation.

Under the base case, where such items are not prescribed, expenses would still apply if rental providers approved related works, however there may be dispute about who should pay for them to occur. If not prescribed, rental agreements may be silent or unclear about whether a rental provider can recover the costs of these works from renters. Renters generally regard these as unfair or hidden costs, because at the time of entering the rental agreement, a renter would not know what these costs would be or how often they would need to make payment. If a rental provider considers that they can recover these costs from a renter, they may do these activities more than is needed, unnecessarily adding to the costs for renters.

6.8.2 Identification of feasible options

Proposed Regulation

It is proposed to prescribe the following additional costs for which rental providers are responsible for paying under section 53(1)(h):

- charges relating to the pumping out and cleaning of sewage and septic tanks, except where this is required as a consequence of damage caused by the renter;
- costs and charges with respect to the initial installation of internet (including installing internet through the NBN) and telecommunication connections to the rented premises;
- cartage charges for refilling fire safety water tanks; and
- cartage charges for drinking water that are not based on the amount of water supplied to the rented premises during the renter's occupation.

It is proposed to prescribe the following utility charges for which a caravan park owner is liable under section 163(e):

- charges relating to the pumping out and cleaning of sewage and septic tanks servicing a caravan site, except where this is required as a consequence of damage caused by the resident.

It is proposed to prescribe the following utility charges for which a site owner is liable under section 206ZF(e):

- charges relating to the pumping out and cleaning of sewage and septic tanks servicing a Part 4A site, except where this is required as a consequence of damage caused by the site tenant.

These items were developed in consultation with stakeholders, to reflect the types of costs that are of a capital nature or more closely aligned with ownership of the property rather than ongoing occupancy.

In relation to the proposed telecommunication costs, the rental provider would only be liable for installation costs required to give the property capability of accessing the phone, internet or NBN service but would not include connection costs (e.g., for switching on a service or changing providers). The RTA provides that a request by a renter for a modification to 'ensure access to

telecommunications services' is a modification that cannot be unreasonably refused by the rental provider.[154] Modifications to rental premises are discussed above in section 6.5 (page 91).

Other options considered

The feasible alternatives to this proposal, other than not prescribing any further items for this provision, is to prescribe more or fewer items. No additional items have been identified by the Department or from stakeholders.

An alternative option would be to prescribe the above-listed items, except for telecommunications installations costs (phone line, internet and NBN). While home broadband supply is common, and many properties now or soon will only have the option of NBN as the available terrestrial broadband option, the prevalence of mobile technology and some households who may not want to use NBN services, suggests that this item could be omitted from the list of prescribed items. The alternative option for dealing with telecommunications installation costs (if not already extant at the property) is to use this as a renter-initiated modification. This is the status quo. It means that if a renter wanted a phone line or access to internet or NBN, which was not already installed at the property, the renter pays for the installation themselves. Consent of the rental provider would be required, however, the rental provider could not unreasonably refuse a request for this type of modification.

6.8.3 Costs and benefits of the options

The proposed Regulations relating to sewerage, septic and water tanks do not add to overall costs—these are utilities/services that will need to be connected to any rented premises, and the proposed Regulation merely determines that these costs cannot be passed through to renters as additional costs. Of course, all costs to rental providers are taken into account when setting rents. For prospective renters, this Regulation will mean they can more easily compare premises and rental amounts on the understanding that the rental provider is responsible for utility connections. Renters will not find themselves agreeing to pay a particular rent for a premises and later find out they must pay additional amounts for utility connections.

While the prescription of these charges means the legal incidence of these costs remains with the rental provider, as a competitive market, it is expected that the economic incidence of these costs would in practice be reflected in the rent that the rental provider expects to receive for the rented premises. Hence, it is likely that the renter would ultimately pay for (at least part of) these costs, but would do so through the rental amount, which is an agreed and known amount that can only be increased once every 12 months.[155] Overall, the actual burden of costs between rental provider and renter need not change as a result of this proposal, however in the future these costs will be recovered only through the rent charged for a property.

On the other hand, the proposed Regulations relating to installation of telecommunication services (phone, internet and NBN) will have a cost impact on rental providers, as these are services that currently need not be connected at the time a premises is rented (although many premises would have these services connected as a matter of course). It is noted that the proposed Regulation does not require these services to be connected, but if they are, the cost of connection cannot be passed onto the renter.

Ordinarily, including telecommunications services as items where connection costs cannot be recovered from renters would likely have minimal impact—existing premises currently without a connection could continue to have no connection, and those that do would have already paid for that cost. For newly constructed properties, the decision to connect to telecommunication services

[154] See section 64(1B)(d).

[155] Note other reforms in the Amendment Act targeted at rental bidding which require rental properties to be advertised at a fixed price (sections 30F and 30G) and to provide for annualised rent increases (amended section 44(4A)).

is likely to be made at the time of building completion, and the property would be offered either with or without such connections.

However, with the roll-out of the NBN and planned switching off of the existing network, there will likely be a large number of rental properties that are likely to require connection to the NBN. There are a number of uncertainties in estimating the number of rental properties that are likely to switch to an NBN connection after 1 July 2020:

- NBNCo expects that 60 per cent of premises will have transitioned to NBN by July 2020.[156]
- However, this figure may not be representative of Victorian rental properties. Given that properties will have up to 18 months to switch form the time NBN is available, it may be the case that rental premises are more likely to be towards the end of the transition period.
- It is not known how many properties may nevertheless choose to not connect to the NBN once the existing network is switched off, and whether this may be a more or less prevalent amount of rental properties.

A broad indicative figure is that the costs of connecting rental properties to the NBN after 1 July 2020 will be up to $110.5 million. This is based on a cost per connection of $300 (although some retailers are offering a discounted connection cost to some customers). This cost is an upper estimate, as it assumes all properties will connect to the NBN as some point before the final phase-out of the current network (planned for 18 months after then end of 2021).

As noted above, the proposed Regulation is unlikely to have a material impact on whether or not a property is connected to the NBN, but will affect who is responsible for paying for the cost of connection. It is therefore a subjective judgment as to whether the costs should be met from the renter (who will use the service), or the rental provider (who benefits from being able to offer a premises into the future that is connected).

The current situation matches the costs of telecommunications installation to the party with the initial desire for service. It does not satisfactorily account for the fact that once installed, the service will be available at the property for all future renters (or other occupants if the property is sold). A rental provider would benefit from there being a phone line, internet or NBN connection when offering the property to future prospective renters. The Department therefore considered it more appropriate for the rental provider to be responsible for the costs of phone line, internet and NBN installation, as a capital improvement to the property, who then has the ability to recover the costs over time through the rental amount (whether from the current renter or other future renters). This would then also treat telecommunication service connections consistently with other utilities.

6.9 Prohibited terms

6.9.1 The problem to be addressed

In addition to the costs of capital items discussed above, there is an ongoing risk that rental providers may attempt to pass through other costs of ownership to renters. The Amendment Act inserts a new section 27B into the RTA, which will prohibit a range of terms being included in a rental agreement, including a term that:

- requires the renter to take out any form of insurance;
- exempts the rental provider from liability for an act of the rental provider or their agent, or a person acting on behalf of the rental provider or their agent;

[156] See https://www.nbnco.com.au/corporate-information/about-nbn-co/updates/dashboard-july-2019

- provides that if the renter contravenes the rental agreement, the renter is liable to pay all or part of the remaining rent under the rental agreement, or increased rent, or a penalty, or liquidated damages;
- requires all or part of the rented premises to be professionally cleaned at the end of the tenancy, unless that term is contained in the standard form rental agreement;
- provides that if the renter does not contravene the rental agreement the rent is or may be reduced, or the renter is to be paid, or may be paid, a rebate or other benefit.

Some rental providers may seek to circumvent these prohibitions by including terms that provide for the renter to reimburse the rental provider for certain expenses in relation to insurance, cleaning or other costs that arise from the rental provider's liabilities. New section 27B therefore includes the ability to prescribe additional prohibited terms in the Regulations which must not be included in a rental agreement.

The Department considers it is inappropriate for such terms to be included in rental agreements, as they result in additional costs to renters, and/or act as penalties to renters.

The power to prescribe prohibited terms works in conjunction with new section 27 of the RTA, which provides that a term in a rental agreement may be found invalid if it excludes, restricts, modifies, or purports to have the effect of excluding, restricting or modifying a right under the RTA, or it is a prohibited term that must not be included in a rental agreement.

The Amendment Act also inserts equivalent provisions into the RTA providing for prohibited terms in relation to fixed term rooming house agreements (section 94AD), agreements providing for a resident's use and enjoyment of a caravan park (section 144AA) and Part 4A site agreements (section 206FA).

6.9.2 Identification of feasible options

New section 27B of the RTA includes the ability to prescribe additional prohibited terms in the Regulations which must not be included in a rental agreement.

Proposed Regulation

Following consultation with stakeholders, it is proposed to prescribe the following additional prohibited terms:

- a term which purports to unreasonably limit the renter's activities for the purpose of ensuring that:
    - an insurance policy of the rental provider is not invalidated or subjected to increased premiums; or
    - any benefits that may be paid under an insurance policy of the rental provider is not reduced;
- a term that requires the renter to indemnify the rental provider for any injury or damage arising from any conduct of the renter or visitor of the renter;
- a term which prevents the renter from making a claim for compensation if the rented premises are not available on the commencement date of the rental agreement;
- a term which requires initial rent to be paid by a payment method which requires additional costs (other than bank fees or account fees payable on the renter's bank account);
- a term which requires the renter to use the services of a third-party service provider nominated by the rental provider;

- a term which imposes fees for the safety-related maintenance of the rented premises where those activities are the responsibility of the rental provider; and
- a term which purports to make the renter liable for the rental provider's costs of filing an application at VCAT.

These prescribed items preserve the integrity of the RTA, ensuring that the rental provider remains responsible for the costs for which they are allocated, or for which they give rise to, and cannot seek to recover additional charges from renters.

Equivalent prohibited terms are proposed to be prescribed for the alternative tenure types under sections 94AD, 144AA and 206FA.

Other options considered

Renter advocate stakeholders suggested a range of terms for consideration which should be prohibited in the proposed Regulations. For example, the setting of other fees or charges under the RTA. The Department focused on terms which were particularly unfair or unreasonable, and which it was considered necessary to prescribe.

As any additional term that seeks to exclude, restrict or modify the protections of the RTA is automatically invalid,[157] it is not necessary to prescribe every suggested item. Renters would still be able to challenge the validity of any additional terms they consider unfair or inconsistent with the RTA by making an application to VCAT.

6.9.3 Costs and benefits of the proposed option

In the absence of the proposed prohibited terms, a rental provider could indirectly pass through costs associated with ownership of the premises, or other obligations or liabilities that would normally be considered the responsibility of the rental provider, to the renter. Often, the renter will not be in a position to affect the amount of costs or liabilities that they may subsequently be held responsible for (e.g., control over matters that give rise to insurance risks).

The proposed prohibited terms will only apply to newly entered rental agreements on or after 1 July 2020.

The proposed prohibited terms are assessed in this RIS as not imposing a material cost burden, but are considered to be a minimum set of matters to prevent rental providers from seeking to recover money from renters for activities that renters are not responsible for, or otherwise forcing renters to do certain things (e.g., use particular third-party service providers). The proportion of current rental agreements that include prohibited terms is unknown.

The Department is aware that many of the proposed prohibited terms exist and are used in the current renting sector but is unclear about their prevalence. It is anticipated that many of these terms may be found invalid by VCAT if challenged by the renter but that in practice it is likely that many of these terms are not challenged by renters.

[157] See sections 27 and 94AC of the amended RTA. Similarly, for Parts 4 and 4A the RTA provides that on application VCAT may declare invalid or vary the term of an agreement if satisfied it is harsh or unconscionable (see sections 144A and 206G).

7 Ensuring that the regulated elements of residential tenancies reflects current community expectations

The proposed Regulations also address a range of elements of the regulatory framework to ensure that it reflects contemporary community expectations on matters such as discrimination in rental applications, family and personal violence, and renters experiencing homelessness or at risk of homelessness.

7.1 Maximum amount of bond

7.1.1 The problem to be addressed

As a result of reforms introduced by the Amendment Act, from 1 July 2020 the RTA will prohibit rental providers requiring a bond of more than one month's rent, unless:

- the weekly rent is more than the prescribed amount;[158] or
- the rental provider applies to VCAT and is granted an exemption from the maximum bond cap.[159]

An amount of $760 rent per week is prescribed in the current Regulations for a rental agreement for a fixed term of more than five years ('long-term tenancies') if the standard form agreement (Form 2) is used.

The exemption for properties with weekly rent exceeding $350 was originally intended to apply to high value properties (at the time, the top 20 per cent of properties in Melbourne). When the RTA was introduced, $350 was approximately two times the Melbourne median weekly rent for Victoria.[160]

In the June quarter 2019, the median rent for Victoria was $400, and for Melbourne was $420, meaning that well over half of new tenancy agreements in Victoria had a weekly rent higher than $350 and this nominal value is no longer relevant to today's prices.

Analysis of the ABS survey of income and housing shows that 13.8 per cent of private renters in Victoria pay bonds that are higher than one month's rent.

7.1.2 Identification of feasible options

The RTA provides for the prescribing of a monetary amount above which the legislative limit on the amount of bond (of one month's rent) does not apply. In other words, if no amount is prescribed, all bonds would be limited to one month's rent (unless an exemption is granted by VCAT).

This maximum limit applies for the purpose of rental agreements and Part 4A site agreements.[161]

Proposed Regulation

It is proposed to prescribe a value of $900. Since the Wade report in 1995,[162] the prescribed amount has been set at twice the Melbourne median weekly rental amount. The Department believes the rationale for using this as the benchmark is still valid.

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[158] The RTA currently provides that the prohibition does not apply if weekly rent is above $350 or a higher prescribed amount, however from 1 July 2020 this 'default' threshold will no longer apply, with the exemption relying on an amount to be prescribed in the proposed Regulations.

[159] Note that the RTA provides that a rooming house operator cannot charge a resident a bond that exceeds 14 days' rent or in the case of a fixed term rooming house agreement, 28 days' rent.

[160] Report to the Minister for Housing, Hon Rob Knowles and the Minister for Fair Trading, Hon Jan Wade, The Residential Tenancies Legislation Review Committee (30 June 1995).

[161] Sections 31(3) and 206K(2).

The median weekly rental amount in Melbourne was $420 according to the June quarter 2019 DHHS rental report.[163] This would suggest a prescribed amount for limiting bond amounts of up to $840 per week. However, the Department proposes to set the prescribed amount at $900, recognising that the amount will apply for the next ten years (the life of the proposed Regulations), and hence $900 is a more reasonable estimate of a figure twice the median weekly rent over that period (noting the prescribed figure does not automatically adjust for inflation or changes in rents).

This amount will apply to both rental agreements for a fixed term of five years or less (see section 26(1A)(a) and rental agreements for a fixed term of more than five years (section 26(1A)(b)).

Other options considered

The alternative options are limited to prescribing different amounts at which the exemption will have effect. Various alternative threshold levels are examined in this RIS.

7.1.3 Costs and benefits of the feasible options

In the absence of further regulations, the current Regulations regulation 9 prescribes a higher amount of $760 per week for a rental agreement for a fixed term of more than five years (i.e., a long-term tenancy) in the standard form prescribed for the purposes of section 26(1A)(b)(ii). From 1 July 2020, the RTA will no longer provide a 'default' threshold of $350 for rental agreements for a fixed term of five years or less and for site agreements. The proposed Regulations will instead prescribe a maximum bond amount of $900, which will apply to all rental agreements (regardless of the length of the agreement) and site agreements.

There are around approximately 196,000 new rental agreements entered each year.[164] ABS *Survey of Income and Housing* shows that 13.8 per cent of private renters in Victoria pay bonds that are higher than one month's rent. The data does not indicate whether those that pay bonds of more than one month's rent are all at the higher rent levels or occur across all rent levels above the current threshold; currently the prohibition does not apply to weekly rents over $350 for rental agreements for a fixed term of five years of less, and $760 for rental agreements for a fixed term of more than five years, so it is assumed that most of renters that have paid bond of more than 1 month's rent have a weekly rent above the current median rent, with the proportion increasing in line with rent amount (column 4 in table 18).

This percentage of renters who will be asked for a higher bond is a modelled function of the rental amount, designed to fit the current known data. The necessary assumption to construct the model is that there is a positive relationship between the likelihood of a rental provider requiring bond of more than 1 month's rent and the weekly rent paid.[165]

Prescribing a new threshold will only affect new fixed term rental agreements entered from 1 July 2020. The following table sets out how many rental agreements are likely to be affected.

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[162] Report to the Minister for Housing, Hon Rob Knowles and the Minister for Fair Trading, Hon Jan Wade, The Residential Tenancies Legislation Review Committee (30 June 1995).

[163] DHHS Rental Report June quarter 2019 https://www.dhhs.vic.gov.au/publications/rental-report

[164] This is a rounded interpolation of the rate of quarterly turnover measured by DHHS (of 8 per cent per quarter) times by the number of rental properties (based on 2016 ABS Census data of 614,291 premises) (i.e., 196,573 new rental agreements per year); and DHHS estimate of 'new lettings' of 48,934 in the June quarter 2019 converted to an annual amount (i.e., 195,736). (DHHS Rental Report June quarter 2019).

[165] There is no data available on the exact extent of this relationship, and as such a reasonable relationship has been assumed. This means the resulting impact is sensitive to the assumption of the relationship in relative terms, but it is noted that the absolute size of the impact (the opportunity cost) is small.

Table 18: Impacts of setting threshold for bond limit, Victoria

Prescribed Threshold	New rental agreements above threshold		% above threshold affected by change	Number affected by change	Additional amounts likely paid in bond[166]	Opportunity cost of additional bond amounts[167]
$900	1.45%	2,842	20.6%	585	$1,053,814	$22,657
$800	2.2%	4,312	19.5%	841	$1,345,344	$28,925
$700	3.66%	7,174	17.2%	1,234	$1,727,403	$43,185
$600	6.77%	13,269	14.3%	1,897	$2,276,995	$56,925
$500	13.6%	26,656	12%	3,199	$3,198,720	$68,772
$350[168]	52.6%	103,096	8%	8,248	$5,773,376	$124,128

If the prescribed threshold were $500, there would be around 27,000 new rental agreements each year where the rental provider could require a bond of more than 1 month's rent. Of these, only around 12 per cent would have requested a higher bond anyway. The total additional bond likely to be required is around $3.2 million per year, which has an opportunity cost of around $69,000 per year (being a return on investment that could be achieved if the renter were allowed to use that money for something else).

Alternatively, if the threshold were set at $900 (the preferred option), there would be around 2,800 new rental agreements each year where the rental provider could require a bond of more than one month's rent. Of these, around 20.6 per cent would be likely to request a higher bond. Therefore, the threshold of $900 would likely see additional bond payments of around $1,053,814 per year, with an opportunity cost of around $23,000 per year.

Only the opportunity cost represents a real cost to renters. Payment of a higher bond is not a direct cost to renters, as it is returned at the end of the tenancy (subject to claims made against the bond). However, there is an opportunity cost to the renter of having their money held as bond for the duration of the tenancy.

Allowing a higher bond to be required to be paid is not a direct benefit to rental providers. The threshold only affects the amount of bond, which in turn may affect the risk to rental providers should claims for unpaid rent or damage exceed this bond amount (although there are other recourses available where bonds are inadequate to meet the costs of damage, etc).

7.2 The need for a separate fixed term agreement for rooming houses

The RTA also allows a rooming house resident and rooming house operator, if they choose to do so, to enter into a rental agreement in respect of the resident's room: in these circumstances, the Part 2 provisions apply to the occupation of the room by the resident and the Part 3 rooming house provisions apply in respect of the communal areas of the rooming house.

Many rooming house residents are being disadvantaged by entering into Part 2 fixed-term rental agreements that are not well suited to their needs. There are inherent differences between renting a room in a rooming house (and sharing common facilities with other residents you do not choose) and renting an entire property under a Part 2 rental agreement. Typically, residents of a rooming houses have residency rights under Part 3 of the RTA, which may or may not be documented in a written residency agreement.

[166] For modelling purposes, it is assumed that the additional bond requested is on average 2 weeks' rent.
[167] Based on an assumed 2.15 per cent investment interest rate.
[168] Included as a base case to compare against for benefits to renters.

The Registered Accommodation Association of Victoria has indicated that approximately 50 per cent of rooming house operators currently use Part 2 rental agreements, rather than relying on Part 3 of the RTA. Anecdotally, CAV is aware that many student accommodation providers use Part 2 rental agreements for their arrangements with students.

There are issues with the appropriateness of using Part 2 rental agreements in rooming houses. Residents who have signed a rental agreement often find it difficult to understand their rights and responsibilities, and there can be confusion between the parties about whether the Part 2 rental agreement applies just in relation to the resident/renter's room and whether the Part 3 rooming house provisions continue to apply in respect of the communal areas of the rooming house. For example, it is unclear which breach of duty notices and timeframes to remedy breach should apply where a breach of quiet enjoyment occurs in the common areas but affects the quiet enjoyment within the renter's room.

The Amendment Act introduces a new type of agreement— a fixed-term agreement for rooming houses into Part 3 of the RTA. From 1 July 2020, all rooming house operators will need to use the new fixed term standard form rooming house agreement for new agreements for a fixed term, specifying the terms and conditions of the resident's use and enjoyment of the rooming house. The standard form itself is not intended to introduce any new requirements or constraints, but merely reflects the rights and duties of the parties in relation to fixed term agreements provided for under Part 3 of the RTA.

The proposed Regulations will prescribe the standard form for Part 3 fixed term agreements for rooming houses, in accordance with the requirements provided for in the amended RTA.

7.3 Rental applications

Prior to the 2018 Amendment Act, the RTA did not explicitly regulate unlawful discrimination or the misuse of information provided by renter applicants in tenancy applications.

Many instances of rental providers and agents unlawfully discriminating against applicants and renters have been reported by the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) and were raised in submissions to the Review. However, rental applicants and renters who can demonstrate unlawful discrimination under the *Equal Opportunity Act 2010* (EO Act) currently have no remedies under the RTA. Multiple reports of discrimination may indicate that many rental providers and agents are unaware of their rights and obligations relating to unlawful discrimination under the EO Act.

Private rental providers and smaller commercial agencies are not bound by the Australian Privacy Principles in the *Privacy Act 1988*. There is therefore potential for personal information in a tenancy application, particularly concerning a renter's income source, to be misused by rental providers and agents. This perception also reflects a renters' lack of confidence that information disclosed will be used appropriately by rental providers and agents.

In 2012, VEOHRC published a report on its survey of 165 renters on their experience of discrimination in Victoria's private rental market:

- When respondents thought they were refused a property due to an EOA-protected attribute, the most common attributes were parental status (44 respondents), age (38 respondents), marital status (34 respondents), race (37 respondents) and disability (27 respondents).
- Several respondents believed they were refused because of their source of income: a parenting payment (32 respondents), the Disability Support Pension (31 respondents), Newstart (26 respondents) or 'other' (27 respondents).

- Many respondents indicated that they were not aware it was possible to make a complaint if they felt they had been unlawfully discriminated against, or that they didn't think it would make any difference if they did.
- The action items arising from the VEOHRC's report centred on educating agents, rental providers and renters about discrimination legislation.

More recently:

- Between 1 July 2016 to 30 June 2019, VEOHRC received 24 enquiries and 87 complaints related to private rental market discrimination – the majority of complaints related to disability (55 complaints).
- A 2018 study by the Consumer Policy Research Centre—*A consumer-centred approach to understanding the dynamics of Australia's private rental market*[169]—highlighted evidence of discrimination in private rental applications.
- There has been continued interest from the community and media about cases of discrimination in the rental market.[170]

The Amendment Act provides that a rental provider (or agent) must not contravene section 52 of the EO Act by refusing to let rented premises to a person on the basis of any attributes listed in section 6 of the EO Act.

Concern about unlawful discrimination persists among renters and is reiterated often by advocates. Even with the amendment to the RTA to prevent unlawful discrimination, potential renters may not be aware of this protection, or what they can do if they feel they have been discriminated against.

Therefore, the Amendment Act also provides that rental providers must include a prescribed information statement in a rental application form. The intention is that this will provide information to the potential renter (as well as educating rental providers and agents) about their rights.

The proposed information statement to be included in rental applications is:

Statement of Information for Rental Applicants

1. Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law.
2. In Victoria it is unlawful to discriminate against someone on the basis of certain personal attributes. This means that residential rental providers "rental providers" and real estate agents cannot refuse you accommodation or change the terms of your residential rental agreement (the agreement) on the basis of your personal characteristics such as:
    - age
    - disability (including physical, sensory and intellectual disability)
    - employment activity
    - expunged homosexual conviction
    - gender identity
    - industrial activity

[169] See https://cprc.org.au/projects/report-the-renters-journey/

[170] For example, the recent article 'African-Australians battle rental discrimination', *Sunday Age*, 22 September 2019, which reported growing concern about rental discrimination against African-Australian renters.

- marital status
- parental status or status as a carer
- pregnancy
- race
- religious belief or activity
- sex activity or sexual orientation
- sex or intersex status
- association with someone who has these personal characteristics

3. These personal characteristics are protected by law and extend to agreements under the **Residential Tenancies Act 1997** (the Act). It is against the law for a rental provider or their agent to treat you unfavourably or discriminate against you when you are applying for a rental property, occupying a rental property or leaving a rental property.
4. Discrimination on the basis of any of these personal attributes may contravene Victorian laws including the **Equal Opportunity Act 2010** (the Equal Opportunity Act), the Act, and a range of Commonwealth Acts including the Australian Human Rights Commission Act 1986, the Age Discrimination Act 2004, the Disability Discrimination Act 1992, the Racial Discrimination Act 1975 and the Sex Discrimination Act 1984.
5. In some limited circumstances, discrimination may not be unlawful, including accommodation for children, shared family accommodation, and student accommodation. For example, a community housing provider who is funded to provide youth housing may positively discriminate to provide accommodation for a person. For more information, contact the Victorian Equal Opportunity and Human Rights Commission (VEOHRC).
6. **Common scenarios and examples of unlawful discrimination in applying for a property**
    - Refusing or not accepting your application (e.g. because you have children, unless the premises is unsuitable for occupation by children due to its design or location).
    - Processing your application differently to other applicants (e.g. not giving your application to the rental provider because you have a disability).
    - Offering you the property on different terms (e.g. requiring more bond or requiring you to have a guarantor because of your age).
    - Refusing to provide accommodation because you have an assistance dog.
7. **Common scenarios and examples of unlawful discrimination when occupying or leaving a property**
    - Refusing to agree to you assigning your lease to someone else because of that person's personal characteristics.
    - Refusing to allow you to make reasonable alterations or modifications to the property to meet your needs if you have a disability.
    - Extending or renewing your agreement on less favourable terms than your original agreement.
    - Issuing you with a Notice to Vacate based on your personal characteristics.

    The examples listed and similar actions could contravene the Equal Opportunity Act, the Disability Discrimination Act 1992 of the Commonwealth or the Act.

    Getting help

8. Unlawful discrimination is also an offence under the Act. If a rental provider or a real estate agent has unlawfully discriminated against you and you have suffered loss as a result, you can apply to VCAT for an order for compensation under section 210AA of the Act. VCAT can be contacted online at https://www.vcat.vic.gov.au/ or by calling 1300 018 228.
9. If you would like advice about unlawful discrimination in relation to an application to rent or existing tenancy you can call Victoria Legal Aid on 1300 792 387.
10. If you feel you have been unlawfully discriminated against when applying to rent, or once you have occupied a property, you or someone on your behalf can make a complaint to VEOHRC at https://www.humanrightscommission.vic.gov.au/ or by calling 1300 292 153.

This information statement has been prepared in consultation with VEOHRC, Tenants Victoria, Justice Connect, Victorian Aboriginal and Legal Services, Victoria Legal Aid, Council for Homeless Persons, and the Office of the Commissioner for Residential Tenancies.

The words to be included are for information only, and choice of information does not affect the cost burden of including such information in an application form. The information statement must be provided as part of all applications for rented premises, rooming house residencies, caravan park residencies and Part 4A sites.

The proposed words to be included are expected to have a small, once-off incremental cost for rental providers or their agents of approximately $1,000 to $5,000 to update their business systems (depending on what systems they use to manage rental applications). The addition of the prescribed words on rental application forms could be made by the peak industry body on their standard forms they provide to members. Some, however, may use their own forms. Consultation with a small sample of estate agents suggests that any such costs would be minimal given that most forms are provided electronically (printed by applicants or printed on demand), and some agents provide applications online.

While the costs are negligible, the Department believes that inclusion of the statement in application forms would raise the prominence of the prohibition against unlawful discrimination with rental providers and agents, reducing the risk that such discrimination will occur (due to making rental providers and agents more aware of the prohibition itself, and creating a clearer expectation that the potential renter is also aware of it).

The alternative option is to not prescribe any information that must be included in rental applications. Instead, this information could be provided to potential renters through other means (e.g., CAV website and published information). The alternative (of providing separate advice to renters about their rights) is not preferred as it:

- will involve additional government resources to promote the information wider than under business as usual, and
- would be less effective in being brought to front-of-mind of both rental providers and potential renters when applications are being considered.

7.4 Rental provider must not request prescribed information from applicants

The Amendment Act also prohibits a rental provider from requiring a potential renter to disclose any prescribed information—the intention being to prevent rental providers from asking for information that is not relevant to the renter's ability to meet the financial obligations of the tenancy.

The prescribed information that a rental provider or agent cannot require applicants to disclose is proposed to be:

- 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 SDA provider;
- the rental applicant's rental bond history including whether the applicant has ever had a claim made on their bond;
- passport, if alternative proof of identification is provided;
- a statement from a credit or bank which have not been redacted; and
- 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.

These amendments also apply in respect of Part 3 rooming house agreements, Part 4 caravan park residencies and Part 4A site agreements in residential parks. It is proposed to prescribe equivalent information that cannot be requested in respect of Parts 3, 4 and 4A, with the following additional requirement for Part 3:

- the income of the applicant where the proposed rent has not yet been disclosed to the applicant by the rooming house operator, unless the rooming house operator is the DoH or a registered housing agency.

It is reasonable to request information that verifies an applicant's identity and their likely capacity to meet their legal obligations under a rental agreement (such as paying rent and/or not damaging the property).

However, during the Review, examples were given of rental providers and agents allegedly asking certain unnecessary questions in tenancy application forms, such as whether the applicant has previously taken action in a residential tenancies tribunal. Concerns were raised as to whether those questions are appropriate as they may have a chilling effect on renters asserting their legal rights. Other examples of questions that may be inappropriate for rental providers to ask is whether the applicant has ever had a claim made on their rental bond by a rental provider, or questions that request information about an applicant that is unnecessarily personal or intrusive.

The Department received a range of additional suggested prohibited questions from stakeholders as part of consultation on the proposed Regulations. The power to prescribe prohibited questions is a blunt instrument, which cannot distinguish between legitimate purposes (e.g., to verify identity) and secondary discriminatory purposes. Where there could be a legitimate reason for requesting the information or the suggested information related to an attribute protected by the EO Act (i.e. whether the renter is married or has children) it is not proposed to prohibit the relevant question in the Regulations.

7.5 Family and personal violence

The current RTA does not currently provide adequate or accessible protections for renters who are victims of family violence or personal violence. This can result in difficulties for victims resolving tenancy issues when they may want to continue in a tenancy without the perpetrator or if they choose to end the tenancy. There can also be unfair adverse financial or other matters that can make it difficult for victims to begin a new tenancy.

Evidence provided to the Royal Commission into Family Violence (the Royal Commission) highlighted areas in which amendments to the RTA could allow for more appropriate responses to instances of family violence in rental housing.

Evidence of family violence and personal violence

To improve access to the protections in the RTA, the Amendment Act provides that in determining an application to terminate a tenancy because of family or personal violence, VCAT must take into account the following:

- whether an application for a family violence safety notice, family violence intervention order, non-local domestic violence order (DVO) or personal safety intervention order has been made by or in respect of the specified person
- if an application for a family violence safety notice, family violence intervention order, non-local DVO or personal safety intervention order has been made by or in respect of the person—
    - whether there is a family violence safety notice, family violence intervention order, recognised non-local DVO or personal safety intervention order in effect; and
    - if there is a notice or an order in effect, whether a renter of the rented premises is excluded from the rented premises under the notice or order;
- any prescribed matters; and
- any other matter the Tribunal considers relevant.

Consistent with evidence received by the Royal Commission and to ensure the broadest access to the family and personal violence protections, there is a need to prescribe other evidence that VCAT must have regard to.

The Regulations may prescribe other matters that VCAT must take into account when determining an application to terminate a rental agreement because of family or personal violence. This is in addition to the matters listed in the amended RTA.

It is proposed to prescribe the following additional matters:

a) any letter, report, declaration or other documentary materials from:
    i. support workers;
    ii. health professionals;
    iii. religious entities and their employees;
    iv. crisis accommodation providers;
    v. the Department of Health and Human Services (Child Protection);
    vi. Victoria Police within the meaning of the *Victoria Police Act 2013*;
    vii. the Australian Federal Police within the meaning of the Australian Federal Police Act 1979 of the Commonwealth;
    viii. a police service of another State or Territory

ix. employees of educational institutions and schools;

x. family and friends of the renter;

xi. employer of the specified person;

xii. an Australian Legal Practitioner;

b) any bank statements of the specified person or the party who is alleged to have subjected the specified person to the family violence or personal violence;

c) any photographic or audio-visual evidence;

d) any electronic communication within the meaning of s 3(1) of the *Electronic Transactions (Victoria) Act 2000* (Vic);

e) any oral evidence about where the specified person has been staying or living;

f) the risk to personal safety of the specified person and any children occupying the premises; or

g) whether the party who is alleged to have subjected the specified person to family or personal violence has been arrested, charged or released on bail.

Equivalent regulations are proposed to be made to prescribe additional matters that must be considered by VCAT in respect of family and personal violence applications made in relation to Part 3 rooming house agreements, Part 4 caravan park residencies and Part 4A site agreements in residential parks.

Stakeholders may wish to comment on whether there are other matters that should also be considered for prescription in the proposed Regulations.

The proposed Regulations would broaden access to family and personal violence provisions under the RTA for all tenure types,[171] which may result in an overall increase in demand for dispute resolution at VCAT.

VCAT data on the number of applications made under the current family violence provisions of the RTA is summarised in the table below.[172] Currently, family violence applications make up only fraction of all applications made under the RTA each year to VCAT.

Table 19: VCAT applications made under the RTA

Year	Number of family violence applications made to VCAT	Total number of applications made under the RTA
2018-19	144	49,858
2017-18	108	50,604
2016-17	118	51,897
2015-16	111	53,409
2014-15	76	56,049

Even if demand for family violence applications increases, it will still be only a relatively small proportion of all applications made to VCAT under the RTA. VCAT's Residential Tenancies List is funded by CAV via the Residential Tenancies Fund and Victorian Property Fund.

[171] Sections 91W(3), 142(3), 206AH(3) and 207N(3).
[172] Applications data for the Residential Tenancies List supplied by VCAT.

The Department notes that family violence education and training for VCAT members has been delivered by the Judicial College of Victoria, as part of implementation of recommendation 120 of the Royal Commission. A family violence awareness program was held in December 2017 for VCAT members and staff,[173] with further planning underway for programs for 2018 and beyond. This analysis assumes those existing processes will continue.

Further restrictions on listing on residential tenancy databases

The Amendment Act requires that a listing on a residential tenancy database is restricted where the person has objected to the rental provider,[174] that person's agent or the database operator about the listing because the information relates to an act or a circumstance of family violence or personal violence experienced by the person. The amended RTA requires that prescribed documentary evidence be provided to accompany the objection. This part of the RTA cannot function as intended without that prescription. The aims of the database reforms will be frustrated if documentary evidence of family violence or personal violence is not prescribed in the proposed Regulations.

The RTA allows documentary evidence of family violence or personal violence that the renter, rooming house resident, caravan resident or site tenant can rely on to object to a tenancy database listing to be prescribed.

It is proposed that the prescribed documentary evidence will be:

1. a written statement by the person making the objection, declaring that the information relates to an act or a circumstance of family violence or personal violence experienced by the person; and
2. one of the following supporting documentary materials—
    a. a copy of an extract of a relevant family violence intervention order, family violence safety notice or recognised non-local domestic violence order or a personal safety intervention order that has been certified in accordance with Part 5 of the *Oaths and Affirmations Act 2018*; or
    b. any letter, report, declaration in relation to the alleged family or personal violence or other documentary materials from one of the following—
        i. a support worker;
        ii. a health professional;
        iii. a religious entity or their employee;
        iv. a crisis accommodation provider;
        v. the Department of Health and Human Services (Child Protection);
        vi. Victoria Police within the meaning of the *Victoria Police Act* 2013;
        vii. the Australian Federal Police within the meaning of the Australian Federal Policy Act 1979 of the Commonwealth;
        viii. a police service of another State or Territory;
        ix. an employee of an educational institution or school;
        x. family and friends of the resident;

[173] https://w.www.vic.gov.au/familyviolence/recommendations/recommendation-details.html?recommendation_id=137
[174] For the purposes of residential tenancy databases, 'rental provider' includes a rooming house operator, caravan park owner, caravan owner and site owner. 'Renter' includes resident and site tenant.

xi. an employer of the specified person; or

xii. an Australian Legal Practitioner.

It is intended that the declaration would set out how the personal information in the listing that the person objects to relates to an act or a circumstance of family violence or personal violence experienced by the person. As the rental provider or the database operator would be responsible for assessing whether the person had experienced family or personal violence, and whether that violence relates to the database listing, it is important that the documents prescribed could clearly substantiate the objection, while at the same time would not place overly burdensome evidentiary requirement on the victim.

7.6 Goods left behind at end of tenancy

Prior to the 2018 Amendment Act, the procedures that a rental provider[175] had to follow when dealing with goods of monetary value that were left behind at the end of a tenancy was as follows:

- goods that can be disposed of immediately – the rental provider may only dispose of goods of monetary value if the total estimated cost of the removal, storage and sale of all those goods is greater than the total monetary value of all of those goods combined. Rental providers can request that CAV inspect and make a formal assessment of which goods must be stored; and
- goods that cannot be disposed of – the rental provider must store all goods that cannot be disposed of for 28 days and must notify the former renter within seven days (by sending a prescribed notice to their forwarding address or, if it is not known, by publishing a prescribed notice in the newspaper). If the goods are not reclaimed by the former renter within 28 days, the rental provider may sell the goods by public auction.

The Amendment Act provides for a more simple, streamlined and modern process for storing goods left behind by a former renter. Under the new process, all goods of monetary value must be stored for 14 days, regardless of whether their value outweighs any removal, storage and sale costs.

Within the new process, the rental provider may remove and destroy or dispose of the goods if they are of no monetary value; or they are perishable foodstuffs; or they are dangerous. Notwithstanding this, the Regulations may prescribe certain goods of no monetary value that must not be removed or destroyed.

Consultation with stakeholders has identified a number of suggested items that should be prescribed as goods of no monetary value that must not be removed, destroyed or disposed of by the rental provider.

Proposed Regulation

Based on stakeholder consultation, the proposed Regulations will prescribe that the following goods of no monetary value must be stored:

- labelled containers or urns containing human remains (i.e. ashes);
- specialised medical devices, equipment and goods including prosthesis and prescription medication; and
- medals and trophies.

[175] For the purposes of goods left behind, 'rental provider' includes a rooming house operator, caravan park owner, caravan owner and site owner. 'Renter' includes resident and site tenant.

7.6.1 Costs and benefits of proposed Regulation

It is likely that these will have value to the former renter and should therefore remain available for collection. The proposed Regulation is expected to have only a very minor impact on rental providers.

It is not likely that prescribing the above three types of goods will have a notable impact on the rental market, as rental providers are already required under the RTA to store goods of monetary value for 14 days. They must also store personal documents. Therefore, rental providers also having to store additional prescribed goods as well as what is required under the RTA would only add negligible costs.

Impacts on the Director of Housing

The impact on the DHHS has, however, been costed as the requirement to store urns containing human remains, specialised medical equipment and medication, and medals and trophies (as required by the proposed Regulations) will have a proportionally larger impact on the DoH.

DHHS has the provided the following figures which represent the overall implementation costs for the DoH, for goods left behind reforms introduced by the Amendment Act.[176] Additional administration, workforce and business system costs for the DoH incurred as a result of the Regulations as a package are detailed in box 9.4.[177]

These implementation costs go beyond the storage costs which would be imposed on the DoH (as a result of the prescribed goods left behind requirement in the proposed Regulations) but have been included as it is difficult to separate out the costs caused solely by the proposed Regulations.

Table 20: Storage costs incurred by Director of Housing for Goods Left Behind

Year (starting July)	Low estimate	High estimate	Average estimate	NPV (of average estimate)
2020	370,071	462,521	416,269	400,259
2021	370,071	462,521	416,269	384,864
2022	370,071	462,521	416,269	370,062
2023	370,071	462,521	416,269	355,828
Total	**1,480,068**	**1,850,084**	**1,665,076**	**1,511,013**

7.7 Temporary crisis accommodation

7.7.1 The problem to be addressed

DHHS provides funding to accredited non-profit, non-government organisations to deliver crisis supported accommodation, known as 'temporary crisis accommodation' (TCA) in the RTA, to assist people experiencing homelessness or family violence, or who are at risk of homelessness or family violence.

TCA is a model of onsite support delivered from short term, non-permanent accommodation, typically provided for periods from a few days up to several months depending on the complexity and duration of client needs.

[176] DHHS advises that housing staff will be required to undertake the following tasks as a result of goods left behind reforms: (a) inspect and determine value of goods left behind, (b) record value of goods left behind, and (c) store goods (number of cases of goods stored expected to increase).

[177] See box 9.4 which sets out costs incurred by the DoH in implementing the proposed Regulations. These include workforce costs, embedding change costs, learning and development costs, and business system (IT) costs.

TCA services focus on stabilising people's immediate crisis situation and assisting them to transition to stable medium to long-term accommodation such as transitional housing, public housing or private rental.

To receive government funding, TCA services are required to demonstrate their compliance with DHHS standards and hold accreditation required by DHHS.

TCA is currently defined in the RTA as accommodation provided on a non-profit basis for a period of less than 14 days. The RTA exempts TCA from the requirements of the RTA.[178]

During the Review, VCAT raised concerns that the definition of TCA made it difficult to determine whether a person who ended up staying in TCA for longer than 14 days was intended to have residential tenancy rights, necessitating interpretation of the facts of individual cases to determine the appropriate outcome.

As a result, the Amendment Act inserts a substituted definition of TCA into the RTA:

> ***temporary crisis accommodation*** means accommodation provided —
>
> a) for a prescribed period; and
>
> b) on a non-permanent basis; and
>
> c) on a non-profit basis; and
>
> d) which is prescribed to be temporary crisis accommodation;

The proposed Regulations will need to prescribe a period under (a) and accommodation under (d) that is prescribed to be TCA.

7.7.2 Identification of feasible options

Prescribed period under (a)

Feasible options for prescribing the period of TCA under paragraph (a) include:

- 'less than 14 days', consistent with the definition in the current RTA (the base case); or
- a longer numerical period – suggestions from stakeholders have ranged from 6 weeks to 6 months.

To build greater flexibility into the definition of TCA, the proposed Regulations prescribe period of 'not more than 6 months'. This recognises that the duration of time people stay in crisis supported accommodation in Victoria can extend up to 6 months, depending on the complexity and duration of client's individual needs.

An alternative option supported by a number of stakeholders is that the Department legislate to remove the requirement for a 'prescribed period' from the definition of TCA. It is argued that removing the prescribed period for which the TCA is offered would more accurately reflect the nature of TCA as a funded support program offered for variable periods. An option to amend the definition of TCA is outside the scope of the proposed Regulations and is therefore not considered any further in this RIS.

Another alternative option supported by stakeholders was for a descriptive period, such as a 'crisis support period', with stay duration determined by therapeutic need. Other stakeholders raised concerns that if a descriptive period were adopted, this could lead to uncertainty about rights and increased disputes about access to protections under the RTA.

[178] Section 11 provides that the RTA does not apply to a rental agreement or room if the rented premises or room are provided as TCA.

The Department has received advice from the Office of the Chief Parliamentary Counsel that a descriptive period would not be appropriate due to the nature of the regulation – as it will exempt a class of persons from the protections of the RTA, the meaning needs be to be clear on the face of the proposed Regulations. A descriptive period is therefore not a feasible option and is not considered further.

DHHS' activity descriptor for funding and target purposes states that homelessness crisis supported accommodation is 'expected to be for a short duration of time, up to six weeks'.[179] DHHS advises that the activity descriptor is currently being reviewed and does not accurately reflect the length of time people stay in TCA.

A report commissioned by DHHS shows that the median stay for clients varies between 45 to 52 days across the three main TCA service providers in Victoria.[180] However, DHHS advises that many people stay in for a considerably longer period, with 30 per cent of people in TCA requiring more than 13 weeks of support and 12.5 per cent requiring more than 6 months of support.[181]

Some stakeholders have raised concerns that prescribing a longer period (such as 6 months) may distort the purpose for which TCA is provided – that is, to provide a temporary form of accommodation and program of support for people during a time of crisis. For family violence refuges, the intent is to manage safety and risk, and to provide accommodation to help victim-survivors start to recover.

While the Department considers that it is not appropriate that TCA cover longer term housing arrangements (particularly as this would mean that vulnerable people would not be entitled to residential tenancy rights under the RTA), it is also important that the definition be able to accommodate fluctuations in the average time for which people are remaining in such accommodation. People accessing TCA are supported through periods of homelessness or risk of homelessness to address and resolve the personal, social or health issues that may contribute to their homelessness, as well as to develop the life skills required to move onto affordable and safe longer-term housing. As such a longer period of 'not more than 6 months' has been proposed.

Prescribed accommodation under (d)

On the advice of DHHS, the Department considers that paragraph (d) of the definition of TCA should refer to:

> Accommodation provided by a DHHS accredited service agency for the purpose of delivering support services to a client who is:
>
> - experiencing homeless or at risk of experiencing homelessness, or
> - being subjected to family violence or at risk of being subjected to family violence.

The Department notes that it is also important that accommodation captured by the definition of TCA is clear, so that residents and community providers will be able to readily ascertain what is TCA. Stakeholders may wish to comment on whether the proposed definition accurately captures all TCA providers.

An alternative option that was raised by some stakeholders was to prescribe the addresses of all TCA facilities in Victoria. This option is not considered feasible because it would be inappropriate for the addresses of family violence refuges in Victoria to be publicly available.

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[179] DHHS Activity description 20081.
[180] Crisis supported accommodation data for 2017-18 for VincentCare Victoria, Launch Housing and the Salvation Army, reported in Nous Group, *Service design support for Crisis Supported Accommodation*, 3 December 2018, p. 18.
[181] 2018-19 financial year, DHHS administrative records.

Another option raised was that the definition of TCA should extend to all emergency accommodation provided for the purpose of crisis, regardless of whether that accommodation is funded by DHHS (for example motels and rooming houses, registered or unregistered). This would significantly broaden the definition of TCA. As the definition of TCA requires that accommodation be prescribed under paragraph (d), this proposal is outside the scope of the proposed Regulations and is not considered further in this RIS.

8 Other minor proposals

This chapter describes further elements of the proposed Regulations. As these are all considered to have a very minor impact, no detailed assessment has been undertaken.

There are several items in the proposed Regulations that either remake the current Regulations with no change or make only minor changes. These are listed below. These are considered to have no material impact and are therefore not considered in detail in this RIS.[182]

It is noted that the Department is undertaking a separate project to review all renting forms and notices as part of implementation of the RTA reforms. This includes re-designing the standard rental agreements, forms and notices that will be prescribed in the proposed Regulations to make them more user-centric, improve readability, and make them easier to complete. This is not considered to have a material impact and is not considered in the RIS.

8.1 The need for a standard form agreement

The RTA requires that if a fixed term rental agreement is in writing it must be in the prescribed standard form. Regulation 8 of current Regulations prescribes standard forms for fixed term tenancies of up to 5 years (Form 1) and more than 5 years (Form 2).

These forms will be updated from 1 July 2020 to:

- reflect the revised terminology in the amended RTA, such as use of 'residential rental provider' 'renter', and 'residential rental agreement'; and
- include terms that will be required under the amended RTA[183], such as a term requiring professional cleaning, a term requiring renter to pay cost of professional cleaning, and a term that sets out safety-related activities to be completed by the rental provider and the renter during the term of the agreement.

As a result of these changes to the standard form, the new standard form rental agreements will need to be prescribed in the proposed Regulations.

8.2 Other regulations, forms and notices

A number of minor amendments are needed to the Regulations to ensure the following reflect the updated terminology, section numbering and requirements of the amended RTA:

Table 21: Remake current regulations but update to reflect changes to terminology or reference other changes

Exemption from receipts for rent The RTR 2019 reg 10 which exempts the DoH and its agents from requirements of the RTA relating to receipts for rent will need to be updated to reflect the new terminology of 'residential rental agreement' and to clarify the operation of the current regulation.
Rent increases The RTA requires that notice be given of rent increases in the prescribed form and with the required notice minimum period. The Residential Tenancies Amendment Regulations 2019 (made on 12 June 2019) amended Form 3 to provide for rent increases every 12 months. These Regulations were exempted from the RIS process. The RTR 2019 reg 11 prescribes Form 3 as the notice of rent increase to a tenant of rented premises for

[182] Technically, by remaking the current Regulations into the proposed Regulations, it will extend the length of application of those elements from their current sunset date in March 2029 until early 2030. However, this is considered insignificant, both in time, and in noting that the current Regulations were exempted from having to prepare a RIS.
[183] Section 27C.

purposes of s44(1). Form 3 will need revision to update terminology, include the method of calculating rent increases required under the RTA, and reflect amendments to s44(3) and (4).

The RTR 2019 reg 16 prescribes Form 4 as the notice of rent increase to a resident of a rooming house for purposes of s101(1). Form 4 will need revision to update terminology and replace reference to 6 monthly rent increases with annual rent increases.

The RTR 2019 reg 20 prescribes Form 6 as the notice of rent increase or hiring charge increase to a resident of a caravan park for the purposes of ss 152(1) and 152(2). Form 6 will need revision to replace reference to 6 monthly rent increases with annual rent increases.

The RTR 2019 reg 26 prescribes Form 8 as the notice of rent increase for a site tenant of Part 4A park for the purposes of s206V(1). The title of the Form 8 will need amending to 'notice of rent increase by non-fixed amount', to replace reference to 6 monthly rent increases with annual rent increases and to distinguish it from the notice of rent increase by fixed amount (see new section 206SA).

A new form (similar to the existing Form 8) will be required to prescribe the notice of rent increase by fixed amount for Part 4A sites.

Form of notice to vacate

A notice to vacate is not valid unless, inter alia, it is in the prescribed form.

The RTR 2019 reg 28(1) prescribes Form 9 as the notice to vacate to a tenant of rented premises for the purposes of s319(a). Form 9 will need revision to reflect the updated terminology, changes to section numbering and reforms to terminations.

The RTR 2019 reg 29(1) prescribes Form 11 as the notice to vacate to residents of a rooming house for the purposes of s319(a). Form 11 will need revision to reflect the updated terminology, changes to section numbering and reforms to terminations.

The RTR 2019 reg 30 prescribes Form 13 as the notice to vacate to a resident of a caravan park for the purposes of s319(a). Form 11 will need revision to reflect the changes to section numbering and reforms to terminations.

The RTR 2019 reg 31 prescribes Form 14 as the notice to vacate to a site tenant for the purposes of s319(a). Form 14 will need revision to reflect the changes to section numbering and reforms to terminations.

Prescribed premises and prescribed residential rental agreements

RTA does not apply to:

- prescribed rented premises or premises of a prescribed class (14(1)), or
- a prescribed residential rental agreement or an agreement of a prescribed class (14(2)).

Residential Tenancies Regulations 2019 (RTR 2019) reg 6 provides that for the purposes of section 14(2) of the RTA, a tenancy agreement is a prescribed agreement if—

(a) the landlord is the DoH; and

(b) the tenancy agreement arises because the tenant was directly affected by the bushfires that occurred in Victoria in January and February 2009.

Changes to reflect new terminology of 'residential rental provider', 'renter' and 'residential rental agreement' are required.

Caravan park owner to notify prospective resident of rights

The RTR 2019 reg 19 prescribes Form 5 as the notice to prospective caravan park residents for the purposes of section 145.

Changes to reflect the terminology of 'resident' in relation to a caravan park are required.

Offence not to display notice about affiliation of premises with school or institution

Current RTR 2019 reg 45(1) prescribes Form 23 as the notice of affiliation that must be displayed prominently by the owner or operator of a residential premises for the purposes of section 505B.

Current reg 45(2) prescribes the manner of endorsement of the notice of affiliation by a school or institution.

Changes to reflect new terminology 'residential rental agreement' are required.

Payment of substitute bond The current RTR 2019 reg 42 sets out prescribed information to be included in bond substitution forms and receipts for the purposes of section 410B(2)(a) and (4(c). This regulation will need to be revised, taking into account the updated terminology and the RTBA's new electronic systems and processes.
Receipt for bond Section 407(1) of the RTA requires the RTBA to issue a receipt for bonds lodged with it. The RTA requires the receipt to include the prescribed information. Regulation 41 of the current RTR 2019 prescribes information such as tenure type, bond amount, and names and addresses of tenant and landlord. Changes to reflect new terminology of 'residential rental provider', 'renter' and 'rooming house operator' are required.

The following regulations were made in March 2019 as part of the current Regulations. No change is required to give effect to the reforms in the Amendment Act. As these were considered earlier in 2019, they have not been reconsidered for this RIS.

Table 22: Remake current regulations with no change

Educational institutions RTA does not apply to a residential rental agreement or room if the rented premises are formally affiliated with a school or institution through a written agreement to provide student accommodation. The RTR 2019 reg 7 prescribes criteria (listed in schedule 2 of those regulations) as the formal affiliation criteria for the purposes of s21(3) of the RTA. No change is proposed.
Site agreement consideration period The RTR 2019 reg 25 prescribes Form 7 as the form of notice of the cooling off period for a site tenant, for the purposes of section 206I(2) No change is proposed.
What happens to personal documents? Under the RTA, the sheriff has powers to remove caravans from caravan sites and store the caravan and goods in a safe place. Personal documents may be destroyed after 90 days unless claimed. To facilitate claims, the sheriff must publish a notice in a newspaper circulating generally throughout Victoria of the sheriff's intention to dispose of the personal documents at the end of the 90-day period. The notice must be in the prescribed form. The current RTR 2019 reg 35 prescribes Form 18 as the notice of disposal of personal documents in a caravan for the purposes of section 361. No change is proposed.

8.3 Other minor regulations

8.3.1 Means of payment

The Amendment Act will introduce a requirement that a rental provider or their agent must permit the renter to pay rent by the following methods:

- Centrepay; and
- any prescribed payment method.

This reform will apply to all four tenure types: rented premises, rooming houses, caravan parks and Part 4A residential parks.[184] Renter advocate stakeholders have requested that the Regulations

[184] Sections 42(5), 99A(3)(b), 150A(3)(b) and 206TA(3)(b).

prescribe 'electronic funds transfer' as an additional payment method. This is to be included in the proposed Regulations and is not further examined in this RIS.

8.3.2 Manager may give person notice to leave—serious acts of violence

A manager of managed premises may give a resident or a resident's visitor a notice to leave the managed premises immediately if the manager has reasonable grounds to believe that a serious act of violence by the resident or visitor has occurred on the managed premises, or the safety of any person on the managed premises is in danger from the resident or visitor. The notice to leave must be in the prescribed form.

The current Regulations (reg 36) prescribe Form 19 as the notice to leave. The RTA reform package includes:

- providing an additional ground for giving the notice – the manager may also give the notice if the resident caused, counselled or permitted the resident's visitor to commit the serious act of violence or act that endangered the safety of any person; and
- updating the prescribed notice to include further practical information for a suspended resident.

Form 19 will require amending to include the additional ground, reflect the updated terminology and changes to section numbering in the RTA.

Providing improved information on the notice to leave will clarify rights and responsibilities for operators of managed premises and suspended residents.

8.3.3 Other matters included in the proposed Regulations

The Residential Tenancies Regulations 2019 (the current Regulations) were made in March 2019 with commencement on 3 April 2019, replacing a suite of previous regulations. These Regulations are largely technical in nature, prescribing various standard forms required under the RTA, as well as:

- that a tenancy agreement is a prescribed agreement to which the RTA does not apply if the landlord is the DoH and the tenancy agreement arises because the tenant was directly affected by the Victorian bushfires in January or February 2009;
- criteria to be considered by a school or institution before entering into a written affiliation agreement to provide student accommodation;
- exempting the DoH and its agents from requirements of the RTA relating to receipts for rent;
- standard form tenancy agreements;
- the rating system for replacement water appliances for rented premises and caravan parks;
- the authorised and reimbursement amounts for the cost of urgent repairs for rented premises, rooming houses and caravan parks;
- an amount of rent payable for the purposes of determining the amount of bond payable under a standard form tenancy agreement for a fixed term of more than 5 years;
- information that must be included on the bond lodgement form, receipt for bond, bond substitution form and receipt for substituted bond;
- information that must be included on the notice of assignment or transfer of a landlord's, or tenant's, rights and duties under a tenancy agreement;

- the prescribed notice period for a notice to vacate for the end of a fixed term tenancy agreement of more than 5 years; and
- to prescribe infringement offences and infringement penalties.[185]

Without any further action, the current Regulations will continue until March 2029. However, the proposed Regulations will revoke the current Regulations, and incorporate relevant parts that are to continue in the proposed Regulations.

[185] Infringement offences and infringement penalties are not included in the proposed Regulations. The Department intendeds to make a separate set of Residential Tenancies (Infringement) Regulations in time for commencement on 1 July 2020.

9 Summary of preferred option

9.1 Overview of impacts

The Department assessed the proposed Regulations on whether the benefits were likely to outweigh the costs. Costs and benefits were quantified in some cases, but in others quantification was not possible or practical, and judgment has been used to conclude that the benefits outweigh the costs.

The following table summarises the significant impacts of the proposed Regulations.

Table 23: Summary of signficant impacts of the proposed Regulations

Proposed Regulation	Costs	Benefits	Impact on the rental market
Safety-related obligations—see 5.1.2 (page 38) • Rental providers would be responsible for ensuring electrical and gas safety checks are conducted every two years, ensuring smoke alarms and carbon monoxide alarms are in working condition and testing and replacing batteries, ensuring pool fences are maintained in good repair, and ensuring a water tank in bushfire-prone areas is maintained in good repair and cleaned as required. • Renters must give notice to the rental provider if smoke or carbon monoxide alarms or pool fences are not in working order. • A rental provider must keep records of electrical and gas safety checks. • Renters and rooming house residents would be under a duty not to remove, deactivate or interfere with the operation	• $235 million (NPV over ten years) for private rental providers. • $29.8 million (NPV over ten years) for the DoH.	• $201 million (NPV over ten years) in avoided deaths and injury, and avoided property damage. • There may be other benefits through reduced insurance costs. • These benefits are shared between the public and private sector.	• The additional costs, if fully passed through in the form of higher rents (assuming rental premises currently meet none of the proposed requirements), would increase rents by an average of $300 per annum (or less than $6 per week) over the life of the proposed Regulations. • It is unlikely that the full amount would be passed through, as these costs would already be reflected in market rents for premises that already undertake these safety-related checks. That said, there may be some rental properties that operate at near-cost (particularly likely to be properties at the lower end of market rents) where pass through of costs to renters is inevitable. • A significant proportion of these costs for private rental providers could be offset through negative gearing.

of prescribed safety devices.			
Energy efficient heating—see 5.2.2 (page 50) • A requirement for a fixed heater in the main living area for all Class 1 and 2 rental properties, and prescribing a medium minimum energy efficiency standard (2 star rating) for heaters in Class 1 rental properties. • The phase out of LPG fuelled gas heaters in the main living area of all Class 1 rental properties from 1 July 2023. • The heating standard would be phased in over three years from 1 July 2020.	• Over the ten years of the proposed Regulations, this would require rental providers to purchase and install heaters that meet the prescribed medium (2-star) energy efficiency rating in around 73,329 Class 1 rented premises and install heaters (no minimum rating) in 33,720 Class 2 rented premises. • This is a total cost to rental providers of around $109 million (NPV over ten years) to install heaters for rental properties that currently have no heater or (for	• Renters would avoid the need to purchase their own heaters (saving approximately $80 per portable heater), where no heater would otherwise be provided (total saving of $9.3 million over ten years (NPV). • Renters would benefit from lower energy costs: of $312.3 million cumulative savings over ten years (NPV). • Total savings of $321.4 million over ten years. • Improved comfort and health benefits - where the new medium (2-star) energy efficiency heating	• Even if the cost to rental providers is passed on to renters (through rents being slightly higher than otherwise—on average only expected around $2 per week), the savings in the form of lower energy bills and avoided costs means that renters should be financially better off under this proposal. Hence, there should be no material change on the rental market.

	Class 1 buildings from 1 July 2020 for new rental agreements) heating that does not meet the proposed rating. • 9,752 public rental properties would be affected by the heating standards, resulting in a total cost of $23.8 million (NPV over ten years).	has an adequate heating capacity for the main living area, this could provide significant winter health benefits compared to rented premises that have no heating, or plug-in electric heating that is not adequate for the space. • These benefits are shared across the public and private sector.	
Other rental minimum standards —see 5.2.5 (page 62) Minimum standards are proposed in relation to provision of working locks, vermin-proof bins, working toilet in appropriate area, a bathroom with supply of hot and cold water to a washbasin and shower or bath, a kitchen with dedicated cooking area and oven and stove and working sink with hot and cold water, structurally sound and weatherproof premises, free from mould and damp caused by the building structure, electrical switchboards that meet prescribed standards,	$143 million (NPV over ten years). This figure includes both private and public housing costs, based on DHHS advice that the impact on both sectors would be similar.	Improved amenity and positive health impacts—not quantified	• This is a cost that will be borne by rental providers in the first instance. However, it is expected that at least some of any additional cost will be passed through to renters through higher rents for the rented premises affected. • Spread over all rental premises, the total incremental cost of the minimum standards is around $165 per rented premises (over ten years). However, the costs will be focused on those properties that do not currently meet the proposed rental minimum standards, which is a much smaller number of premises.

window coverings for privacy, natural and artificial light in all habitable rooms and either natural or artificial light in other internal rooms and hallways.			• It is unknown how many of the proposed standards an individual rented premises may not already meet. If a single rented premises needed to be upgraded to meet all the proposed minimum standards (likely to be a very small number of premises), the additional cost could be around $8,700. However, if this was reflected in increased rents (and recovered over ten years), it would amount to a higher rent of around $17 per week for the small number of rented premises affected. • EY Sweeney research found that 9 per cent of rental providers would increase rent and 4 per cent would sell the property as a result of introduction of minimum standards. • Given the small incremental cost for the relatively small number of rented premises that will be affected, it is not expected that the proposed minimum standards will have any real effect on the rental market, or cause a significant adverse effect on rental affordability.
Energy efficiency standards for end of life appliances – see 5.3 (page 70) The following minimum ratings will apply to replacement of appliances at their end of life, triggered by the 'urgent repairs' process: • water appliances are to remain at 3-stars under the WELS scheme (this is the same as the current Regulations); • heaters – will replicate the medium	• $3.9 million to replace 3,877 heaters over ten years (NPV) in the private sector. • $11.9 million to replace 6,822 heaters over ten years (NPV) in	• $18.5 million in savings for private renters from reduced energy costs over ten years (NPV). • $28.2 million in savings for public renters from reduced energy	• This cost will be borne by rental providers but spread over the life of the regulations and triggered by an 'urgent repair' request, when an existing heater breaks down. It is expected to have significant cost savings for renters in the form reduced energy bills. • Cost of replacement water appliances and dishwashers not quantified (no cost impact).

(2-star) efficiency rating standard for Class 1 rental properties (see above); and • dishwashers – 3-stars rating under the Greenhouse and Energy Minimum Standards (Dishwashers) Determination 2015 (energy) /3-stars WELS (water) rating.	the public sector.	costs over ten years (NPV).	
Compensation for sales inspections—see 6.1.2 (page 75) Compensation (paid by rental providers to renters) for each time a property is to be made available for a sales inspection, is proposed to be ½ days' rent payable under the rental agreement.	$6.1 million per year paid in compensation to renters to offset the inconvenience of sales inspections. This is a transfer between rental provider and renter. Therefore, prescribing compensation is expected to reduce the cost (for both parties) of applying to VCAT to resolve a dispute over sales inspections impacts.		No impact on the rental market expected. While rental providers might seek to factor in potential compensation payments into rent amounts, the amount is considered very small relative to other costs of selling a property.
Mandatory disclosure prior to rental agreement— see 6.2.2 (page 79) Rental providers must disclose to an intended renter (if known): • whether the premises or common property has been the location of a homicide in the past five years; • whether the premises has been used for the use, trafficking or cultivation of a drug of dependence; • whether the premises has been used for the storage of a drug of dependence; • whether the premises has previously been assessed to have friable or non-friable	Not quantified. Expected to be a small compliance burden. However, disclosure of some information may reduce the market rent able to be obtained for some rental properties and rooming houses.	Renters and residents are better informed about a prospective rental property/ rooming house, and can make more informed decisions about rental values, expected enjoyment of the premises.	No material impact on the rental market expected. The disclosure of certain information may affect the rent on an individual premises, however with only a small number likely to be so affected, this is not expected to affect broader market outcomes.

asbestos on the rented premises; • if the premises is affected by a building or planning application that has been lodged with the relevant authority. Rental providers must disclose to an intended renter: • any notice, order, declaration, report or recommendation issued by a relevant building surveyor, public authority or government department that applies to the rented premises or common property at the time of disclosure; **Example** Any building notices or orders, reports or recommendations issued by the Victorian Building Authority, local councils, relevant building surveyors, or municipal building surveyors, that relate to any building defects or safety concerns such as the presence of combustible cladding, water leaks or structural issues affecting the rented premises or common property. • if there is a current domestic building work dispute under the *Domestic Building Contracts Act 1995* which applies to or affects the rented premises; • if there a current dispute under Part 10 of the *Owners Corporations Act 2006* (Owners Corporations Act) which applies to or affects the rented premises; • a copy of any Owners Corporations rules			

applicable to the rented premises. Equivalent information will be prescribed (under section 94I(d)) for disclosure by rooming house operators to residents before occupancy of a room commences.[186] For caravan and residential parks, disclosure must also be made if: • the caravan park/Part 4A park is liable to flooding; and • the caravan site/Part 4A site is liable to flooding.			
Mandatory disclosure – embedded electricity network information – see 6.2.2 (page 79) It is proposed to require a rental provider provide to an intended renter the following details of the operator of an embedded electricity network (if present): • the ABN and trading name of the embedded network operator; • the phone number of the embedded network operator; and • the electricity tariffs and all associated fees and charges that may apply to the customer in relation to the sale of electricity, or where that information can	$20,147 per year.	Not quantified, but the cost to renters of discovering the information on their own is expected to be more than the cost of the rental provider providing the information.	No material on the rental market expected.

[186] Note that the rooming houses, the standard is if a rooming house is known by the rooming house operator to 'have been used for the trafficking, cultivation or storage of a drug of dependence'.

be accessed			
Mandatory disclosure – Part 4A site exit fees–see 6.3.2 (page 84) It is proposed that park operators who charge an exit fee will be required to provide prospective site tenants with additional information about the exit fees to help prospective site tenants better understand their future liability. The proposed information is: • details of the site tenant's liabilities on permanent departure from the park; and • details of the site tenant's liabilities, or estimated liabilities, if the site tenant permanently departed after 1, 2, 5 and 10 years' residence in the park.	A once-off cost of around $8,700 to establish the new requirement.	Site tenants have a clearer understanding of all financial obligations associated with site agreements.	No material impact on the rental market expected.
Maximum bond amount – rented premises and Part 4A sites—see 7.1.2 (page 106) 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)	There is no cost imposed by this proposed Regulation.	Renters would not have to pay $4.7 million in bonds each year, which would result in opportunity cost savings of around $101,000 per annum.	No material impact on the rental market expected. Under the base case, no bonds can exceed 1 month's rent (unless exemption is granted from VCAT). Under the proposed Regulations, higher bonds will only be possible for around 1.5 per cent of new rental agreements each year (and typically the vast majority of these do not seek a higher bond in any case).
Condition report – all tenure types—see 6.6.2 (page 98) The proposed Regulations prescribe standard form condition reports for rental premises. The existing (non-mandatory) CAV condition	Around $196,000 per year in additional compliance burden.	Expected to reduce the number of disputes over property damage and the condition of a property during and at the end	No material impact on the rental market expected.

report form for general tenancies is the basis of the standard report, and will also include: • information about the how to fill in the condition report; • a checklist reminding rental providers and renters to ensure compliance with requirements relating to cleanliness, repair, fitness for habitation and any other requirements at point of lease; • an indication of telecommunications connections to the property (including internet connections) and whether they are working; • the condition of all structures, fixtures, fittings and appliances in the rented premises; and • information about the recent service history for gas and electrical appliances, and safety devices such as the date of smoke alarm testing. The prescribed condition report encourages photos of the property to be taken for the purposes of a condition report, but not mandate their inclusion in a report as there may be accessibility issues for certain demographics. The proposed Regulations will also prescribe the standard form condition report for rooming houses, caravans park residencies and Part 4A sites. The condition reports will be		of tenancies.	

tailored to reflect the different requirements of the different tenure types.			

The other proposed elements of the Regulations are expected to have only a minor impact, if any, on costs, for the reasons described in this RIS.

9.1.1 Impact on competition

This section considers whether the proposed Regulations are likely to lead to a material decline in competition in any market.

Any regulatory proposal needs to be scrutinised carefully to assess whether it is having an adverse impact on the ability of firms or individuals to enter and participate in the market. Victoria is party to the Competition Principles Agreement, which requires that any new primary or subordinate legislation should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction, as a whole, outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

This is the 'competition test' to be applied to making Regulations. It is noted that the competition assessment does not preclude any option being preferred, but requires that any decrease in competition should ensure that the benefits outweigh the costs and that the desired outcomes can only be achieved by affecting competition.

In some cases, regulation can affect competition by preventing or limiting the ability of businesses and individuals to enter and compete within particular markets. The primary cost of a restriction on competition is that it reduces the ability or incentives for businesses to act in ways that benefit consumers, that can result in lower innovation and productivity, reduced choice of products and/or higher prices.

The types of regulations that may be regarded as affecting competition either directly or indirectly are set out in the following table.

Table 24: Types of regulation that may affect competition[187]

Category of restriction	Examples
Barriers to entry or exit	Governs the entry and exit of firms or individuals into or out of markets. Creates or protects a single buyer or seller. Limits the number of firms that can carry out a particular activity. Restricts who can own or operate a business. Gives existing firms access to information that is not available to new market participants.
Conduct Restrictions	Controls prices or production levels. Restricts certain activities, for example, advertising. Imposes requirements on product quality. Restricts the quality, quantity or location of goods and services available. Restricts access to inputs used in the production process, for example, infrastructure and employment standards; restricts the price of or type of inputs used in the production process. Limits consumer access to particular goods or services. Restricts advertising and promotional activities.
Increase in business costs	Imposes specific levies and/or imposts on a particular industry. Imposes high administrative or compliance costs.

[187] Based on *Assessment against the Competition Test*, guidelines published by NSW Department of Finance, Services and Innovation, 2017, with additional examples from *Legislation Impact Assessment Guidelines* published by Tasmanian Department of Treasury and Finance December 2016.

Category of restriction	Examples
Advantage for some firms over others	Imposes requirements on certain firms, but not on competing firms. Sheltering some activities from the pressures of competition. Advantages government businesses over the private sector. Gives one firm access to infrastructure, but not others.

Some regulatory arrangements may impose more than one restriction, and some restrictions may fall into more than one category.

Do the proposed Regulations restrict competition?

The proposed Regulations will have a material impact on competition, as they directly affect what rental providers can offer into the rental market (through minimum rental standards), and the terms of the rental agreements (such as responsibilities for utilities, safety-related activities and prohibited terms). The proposed Regulations will control the standard of a rental property that can be rented, and the obligations on a rental provider during the rental period, and other compliance burdens that ultimately increase the cost to rental providers of renting out the premises to a renter. This limits choice for renters, who might otherwise accept a different premises and/or rental agreement terms as a trade-off for lower rent.

Overall, the proposed Regulations will control the standard of a rental property and the obligations on a rental provider during the rental period, and will impose a number of new compliance burdens. This will incrementally increase the cost to rental providers of renting out the premises to a renter. Over time, these additional regulatory costs may be factored into the rent that the rental provider seeks to charge. The extent of recovery (reflected in rents increasing more than otherwise) will in turn depend on the level of competition in the rental market.[188]

The rental market is a somewhat unique market, in that it is overwhelmingly small businesses or individual property owners that operate with very little to no market concentration unlike other markets. Rental providers have effectively no market power. Further, the rental market as a whole also competes with alternatives (i.e., at any time renters may choose to become owner-occupiers, or people that might otherwise move to Victoria may be influenced by housing costs). In practical terms, this means that any changes in the rental market may have feedbacks on both the demand for and supply of rental properties, which maintains competition pressure on the market.

While there are many factors that influence the residential rental market (e.g., interest rates, taxation treatment, population growth, property supply) it is unlikely that any incremental regulatory cost increases arising from the proposed Regulations will influence the structure of the rental market or cause rental providers to withdraw from the market.[189]

Previous research into the nexus between tenancy law and investment in the private rental market suggests that overall investment in the private rental sector is not necessarily affected by tenancy legislation because the vast majority of investors do not consider renters' rights as something that impacts on their investment, because in the main, the scope and extent of legislation is such that rental providers' economic interests are not affected.[190]

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[188] Both competition in the market as a whole, and competition in particular segments (e.g., specific types of premises in a geographic location).

[189] Note that based on historical Census data, the RIS is assuming 3 per cent growth in the private rental sector.

[190] See Motivations of investors in the private rental market by Tim Seelig, Terry Burke and Alan Morris (May 2006): https://www.ahuri.edu.au/__data/assets/pdf_file/0018/2781/AHURI_Positioning_Paper_No87_Motivations_of_private_investors.pdf and Understanding what motivates households to become and remain investors in the private rental market by Tim Seelig, Alice Thompson, Terry Burke, Simon Pinnegar, Sean McNelis and Alan Morris:

EY Sweeney research[191] commissioned by the Department as part of the Review found that, as a result of introduction of minimum standards, 9 per cent of rental providers would increase rent, 4 per cent would sell the property and 4 per cent would not acquire future rental properties.

Research commissioned by DELWP suggests that the impact of 'pass through' costs of energy efficiency upgrades on the rental market as a whole would be minimal.

While the impacts of the proposed Regulations are significant in total, the Department expects that in most cases, the impact on individual properties will be relatively small (i.e., economic theory suggests that rental providers and renters will share a proportion of the costs). Given the small incremental cost for the relatively small number of rented premises that will be affected, it is not expected that the proposed minimum standards will have any real effect on the rental market, or cause a significant adverse effect on rental affordability.

The extent of pass-through of costs may vary throughout market cycles. When rental vacancies are low, rental providers may be able to increase rents more easily. That said, vacancies are currently low but increase in rents has also been lower than average—suggesting limits on the overall willingness or ability of renters to pay higher rents.

On the other hand, there may be other unintended consequences, such as a rental provider not seeking to increase rent, but cutting back in other areas (that are not subject to the regulations) that may diminish the quality of the dwelling being offered for rent.

While these risks exist, the Department believes the overall risk is low. The proposed Regulations have been designed specifically to minimise the cost burden to avoid the need for rents to increase significantly. Furthermore, the rental market will have time to adjust to the changes in the proposed Regulations given that proposed transitional arrangements.

The impacts also increase the cost of entry into the market for new rental premises, which need to comply with all the proposed new requirements. The impacts on new rental premises are the same as existing premises, and therefore provide no substantive material disadvantage to market entry, although the transitional arrangements for some of the proposed Regulations (which will not apply to existing rental premises until a new rental agreement is entered into) may provide a short-term disadvantage to new rental premises. However, from the point of view of a renter making a choice between rental premises, there would be no competition disadvantages between new or existing premises.

Are the restrictions on competition justified?

Even in cases where the costs are passed through to renters in the form of higher rent, the Department believes the benefits to renters outweighs the potential for additional costs and are in line with current community expectations.

The Department recognises that while these trade-offs justify the proposed Regulations, there may be some segments of the rental market that are disproportionately affected; for example, in some regions or in segments where rental vacancies are low. In addition, some properties may incur higher costs, especially in cases where a property is mostly non-compliant with the proposed requirements. It is reasonable to assume that these cases may apply to lower rent properties. In numerical terms, a rental property that (for example) would not comply with the proposed safety-related activities, heating and other minimum standards, could face additional costs of compliance equivalent to around $25 per week in additional rent.

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https://www.ahuri.edu.au/__data/assets/pdf_file/0024/1995/AHURI_Final_Report_No130_Understanding-what-motivates-households-to-become-and-remain-investors-in-the-private-rental-market.pdf.

[191] *Rental experiences of tenants, landlords, property managers, and parks residents in Victoria*, Final Report, 17 May 2016 accessed via engage.vic.gov.au/fairersaferhousing.

The Productivity Commission's 2019 report on vulnerable renters found that two-thirds of private renters spend more than 30 per cent of their income on rent – the commonly used benchmark for identifying 'rental stress'.[192] For this cohort of low-income households, an additional $25 per week in rent may be a significant impost and would directly affect rental affordability. This would be particularly exacerbated where a low-income renter has limited alternative choices as to rental accommodation, such as in some regions.

On the other hand, there may be other unintended consequences, such as a rental provider not seeking to increase rent but cutting back in other areas (that are not subject to the regulations) that may diminish the quality of the dwelling being offered for rent.

The Department also notes that the social housing sector, which comprises public housing and community housing (and together make up approximately 10 per cent of the Victorian rental market) operates on an income-based model. As such, the DoH and community housing providers would be unable to pass on compliance costs of $25 per week through the form of increased rent. The combined effect of rental minimum standards and safety-related maintenance obligations may end up driving up the cost of entry to the market for the social housing sector.

While these risks exist, the Department believes the overall risk is low. The proposed Regulations have been designed specifically to minimise the cost burden to avoid the need for rents to increase significantly. Furthermore, the rental market will have time to adjust to the changes in the proposed Regulations given that proposed transitional arrangements.

For the parts of the proposed Regulations that are expected to have a material impact on competition, the Department considers that regulations are the only practical way to achieve the desired objectives. As noted in this RIS, many rental providers would already meet the proposed requirements on a voluntary basis (although likely reflected in the rent able to be demanded). The Regulations are necessary to ensure that those rental providers that would not otherwise meet these requirements through market incentives, does so, and that there is a minimum set of standards, rights and responsibilities that apply to all renters. Where feasible, this RIS identified alternative means of achieving the objectives, with the proposed Regulations found to be the preferred approach.

9.1.2 Impact on small business

In most cases, rental providers are not considered 'businesses', however some may be considered businesses where managing rental properties is predominantly a business activity. Providers of rooming houses, caravan parks and Part 4A residential parks would likely be described as businesses.

Businesses (that own and manage multiple rental properties) may be more sophisticated in terms of complying with administrative burden of the proposed Regulations compared with a (non-business) rental provider that owns and/or manages a single property. For example, in records management (in relation to mandatory disclosures), understanding the regulatory changes and transitioning to the new forms and notices.

The proposed Regulations will apply to all rental properties that are subject to the RTA. However, the proposed Regulations do not impose requirements that appear to have a disproportionate impact on smaller businesses (compared to how they impact on a larger business).

[192] Productivity Commission, *Vulnerable Private Renters: Evidence and Options* (Research Paper), 7 September 2019, https://www.pc.gov.au/research/completed/renters

9.2 What other options were considered?

For the significant elements of the proposed Regulations, alternative options were identified and considered by the Department. This RIS sets out what alternatives were identified, whether they were considered feasible and able to meet the intended objectives, and why they were not preferred.

For a number of the proposed regulations that list prescribed activities to which sections of the RTA will apply, alternative options were limited to whether fewer or more matters should be included in the matters that are prescribed. Previous consultation on these reforms saw stakeholders nominate a wide range of matters that could be prescribed. For individual items, the decision was a choice between whether a matter was prescribed, or not. A range of factors were considered in reaching the proposed lists of prescribed matters, including minimising the overall cost to rental providers associated with the cumulative impact of the regulations. See Chapter 4 (page 33) and assessment of each regulation in this RIS for further discussion of these factors.

For some elements, the proposed Regulations are the only way to achieve the intended RTA reforms, with consideration limited to whether or not to make the proposed regulation.

Substantive alternatives were considered in relation to the following elements of the proposed Regulations:

Table 25: Alternative options for proposed Regulations quantified in the RIS

Regulation	Alternative options assessed	Reasons why alternatives not preferred
Minimum standard – heating • A requirement for a fixed heater in the main living area for all Class 1 and 2 rental properties, and prescribing a medium minimum energy efficiency standard (2-star rating) for heaters in Class 1 rental properties. • The phase out of LPG fuelled gas heaters in the main living area of all Class 1 rental properties from 1 July 2023. • The heating standard would be phased in over three years from 1 July 2020.	• A higher (3.5-star energy rating for non-ducted RCAC; 4-star rating for gas space heaters) and lower (no prescribed rating) efficiency standard was also assessed for Class 1 rental properties. • Phasing out of LPG heaters was assessed as an optional inclusion on each of the standards.	• Based on the assessment of costs and benefits in the above table, the 'medium' (2-star) energy efficiency option is the preferred option. • The objective of this option is that all rental properties in Victoria will have access to functioning heating servicing the main living area of their home. • The option is designed to ensure that heaters installed in the main living area of Class 1 premises meet a 'basic' or minimum energy performance standard, and do not lock renters into high running costs, contributing to energy affordability issues.
Compensation for sales inspections Compensation (paid by rental providers to renters) for each	Compensation amounts of 1 day's rent, 10% of weekly rent, and 1 days' rent with a $50 minimum amount were also	• The proposed amount is considered reasonable given the likely extent of inconvenience caused by sales (in particular open

time a property is to be made available for a sales inspection, is proposed to be ½ days' rent under the rental agreement.	assessed.	sales) inspections. • The proposed amount is consistent with the prescribed compensation for sales inspections in the Residential Tenancies (Specialist Disability Accommodation) Regulations 2019.
Maximum bond criterion 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.	A range of different prescribed amounts were assessed (from $500 to $900).	• Since the Wade report in 1995,[193] the prescribed amount has been set at twice the Melbourne median weekly rental amount. • The Department believes the rationale for using this as the benchmark is still valid. A prescribed amount of $900 would achieve this outcome over the life of the Regulations.

There are also other options available that are not formally considered in this RIS. These may relate to matters such as *how* the proposed Regulations are implemented (e.g., how often smoke alarms should be checked and timing of requirements). Stakeholders may wish to comment on whether the design of any of the proposed Regulations could be improved (i.e. to reduce costs without affecting the achievement of objectives).

9.3 Assumptions and uncertainties

The estimates of the direct costs of the proposed Regulations depend on a number of data sources and other modelling assumptions.

As with any analysis, the estimate of costs in this RIS is based on a number of assumptions to provide a valid indication of costs or to simplify the analysis. This is because it is not practical to collect new data on every property and assess how the proposed Regulations will affect them. There are also likely behavioural changes in response to the proposed Regulations that are not reflected in currently available data.

Noting that the cost estimates can be affected by the choice of assumptions (particularly where there is little current data and judgment has been used to form some of these assumptions), Appendix D (page 168) presents an analysis of what the costs would look like if key assumptions were varied, for the most significant (in terms of total cost) elements of the proposed Regulations.

There are also uncertainties around the extent to which the more significant reform elements will affect the rental market, in terms of the level of rent and the availability of properties. As noted

[193] Report to the Minister for Housing, Hon Rob Knowles and the Minister for Fair Trading, Hon Jan Wade, The Residential Tenancies Legislation Review Committee (30 June 1995).

above, while the proposed Regulations may have particular impact for individual properties, and may have a noticeable impact for particular groups of renters, it is not expected that the proposed Regulations in total will have a material impact on general rent levels.

However, it is noted that there is limited evidence available on the extent of pass-through of costs from rental providers to renters. The ability to pass through costs depends on the type of rental provider (private, public housing or community housing) and level of competition in the sector, which can vary for some types of premises or in certain locations. Against this, the ability to pass through costs to renters also depends on the capacity and willingness of renters to pay higher rents;[194] where renters are unable to pay higher rent, rental providers may have to absorb costs if increasing rents means that a property may be vacant. There is some evidence of some properties being offered as 'no frills' to low-income renters. However, there is no reliable and relevant data on how rental providers in this segment may seek to change their property/rent offering in relation to the proposed reforms.

This RIS recognises that there may be a small number of rental providers that may withdraw their property from the rental market—for example if the changes required to be made to meet the proposed requirements is too expensive or not physically possible. However, the actual consequences of this are complex and not well understood. Withdrawing a property from the rental market may result in an additional property available for owner-occupiers, thereby reducing demand for rental properties. Alternatively, the property could be sold to a different rental provider who is willing to make the changes required to be able to continue the property being rented. There is no clear data on how the proposed Regulations may influence these decisions, however, the Department expects the incidence of these to be only a very small proportion of all rental properties.

9.4 Implementation of the rental reforms – cost impacts on DHHS

The proposed Regulations will apply to rental premises provided by the Government through the DoH. As such, part of the costs identified in this RIS will fall on the DoH, as the largest rental provider in the state (approximately managing 75,000 dwellings).

Specific capital costs that will be incurred by the DoH are provided, where applicable, under each relevant section of the RIS. These were:

- mandatory safety-related activities
- rental minimum standards (including heating)
- replacement end of life appliances, and
- goods left behind.

The other elements of the proposed Regulations are also likely to have a cost impact on the DoH. While the direct compliance costs of these is expected to be small, the nature of the DoH as a rental provider means there is likely to be additional work involved in preparing for implementation of the proposed Regulations.

DHHS has estimated that additional costs are likely to be incurred for:

- developing/revising operational guidelines to take account of all changes;
- on-boarding and training of staff to be able to implement all changes, including through the use of practice advisers and road shows to embed changes in operational practices;

[194] Note that community housing providers and the DoH are unable to pass through costs to renters as rent in the social housing sector is based on the renter's income.

- legal advice and reviews on how the changes will specifically affect DoH renters;
- updating business systems (IT) to ensure all processes managed through the centralised system comply with the new requirements. This will include changes to both content and processes within the business system; and
- providing resources to work with DoH renters to understand the proposed changes.

DHHS has assessed the likely additional resources needed to implement the RTA reform package across DoH properties. However, for the purposes of this RIS, it is not practical to attribute these costs to individual regulations, as:

- some of the costs relate to the overall reforms in the legislation as well as the specific content that will be prescribed in the Regulations; and
- some of the costs will need to be incurred regardless of individual regulation (e.g., staff training will need to be provided to cover all proposed Regulations, but will be largely unchanged if individual regulations are made or not).

A summary of the implementation costs associated with the impact of the proposed Regulations on the DoH is provided for in the table below. These costs are based on advice from DHHS.

Table 26: Additional costs for the Director of Housing

Category	Detail	Cost[195]	Total cost (NPV)
Workforce costs	Additional housing services officer staff	922,044 (annual); 9,220,440 (total)	7,462,380
	Additional housing customer service officer staff	735,000 (annual); 7,350,000 (total)	5,961,508
Operational guidelines	Staff member to develop guidelines	127,265 (once off)	122,370
Embedding change	Additional practice advisor for one year	111,853 (once off)	107,551
	Roadshow (travel costs)	5,000 (once off)	4,808
	Legal advice and reviews	25,000 (once off)	24,038
Learning and development	On-boarding and training staff	230,012 (once off)	221,165
	Training development and delivery	200,000 (once off)	192,307
Business system (IT) costs	NTV (updated language, fields, etc.)	1,496,884 (once off)	1,439,312
	Gas and electrical safety checks (new fields)	137,509 (once off)	132,220
	Rental min standards (new fields)	137,509 (once off)	132,220
	Modifications (new fields)	493,781 (once off)	474,789
	Prescribed safety device (new field)	90,634 (once off)	87,148
	Liability for utilities/prescribed charges (new fields)	559,384 (once off)	537,869
	Rent increase form (updated language, fields, etc.)	559,384 (once off)	537,869
	Condition report (updated	434,564 (once off)	417,850

[195] DHHS provided a 'low' and 'high' cost for business system costs. For consistency these two costs have been averaged out and provided in the table.

	language, fields, etc.)		
	Information that must be disclosed before new agreement	434, 564 (once off)	417,850
	Safety-related activities (update the system to manage process)	637,509 (once off)	612,989
	Rental agreement (updated language, fields, etc.)	317,969 (once off)	305,739
	Goods left behind (updated language, new fields, etc.)[196]	597,507 (once off)	574,526
	Replacement appliances (updated language, new fields, etc.)	137,509 (once off)	132,220
Total		**22,549,261**	**19,898,733**

9.5 Next steps

In addition to the extensive consultation that was undertaken as part of the RTA Review, the Department conducted additional consultation with community sector, industry participants and other areas of government in the preparation of the proposed Regulations and this RIS. Further details are contained in Appendix A (page 153).

The release of the proposed Regulations provides a further opportunity for any interested party to provide comment before the proposed Regulations are made.

Public consultation on the proposed Regulations opens on Tuesday 12 November 2019 and will close on Wednesday 18 December 2019 at 5pm.

You can view the proposed Regulations on engage.vic.gov.au/rentingregulations and submit your feedback in writing.

While all submissions are treated as public documents, anonymous written submissions are also accepted.

Stakeholders are invited to comment on any part of the proposed Regulations.

[196] Note that these costs are for the entirety of legislative changes to the Goods Left Behind process, not just as a result of the Regulations. It is difficult to separate out the different costs to upgrade the system.

9.5.1 Key questions for stakeholders

- **Do you agree that the proposed Regulations will achieve their stated objectives?**
- **Where the proposed Regulations articulate rights and responsibilities between renters and rental providers, are these allocated reasonably between the parties?**
- **The assessment of costs and benefits has relied on various data sources, combined with necessary assumptions to estimate likely impacts where data is not readily available.**
    - **Are these assumptions reasonable?**
    - **Is there other data available that could assist in understanding the impacts?**
- **Are there likely to be any unintended consequences of the proposed Regulations that are not recognised in the RIS?**
    - **What evidence is there of these?**
- **For proposed Regulations that prescribe lists of matters to which parts of the RTA will apply, are there other matters that could also be included in the prescribed lists?**
    - **If so, what is the evidence of the costs and benefits of these additional items?**
- **The proposed Regulations include transitional arrangements and phasing for the heating, window coverings and electrical safety minimum standards.**
    - **Do these timelines provide adequate time for rental providers to adjust?**

9.5.2 Additional stakeholder consultation questions

To assist stakeholders in commenting on individual elements of the proposed Regulations, stakeholder questions included throughout the relevant chapters of the RIS are summarised below:

Safety-related activities

- In relation to the proposed safety-related activities for rental providers and renters, stakeholders may wish to comment on whether there are further matters that could be considered.
- The costs and benefits associated with maintaining swimming pool fences and water tanks in bushfire prone areas have not been modelled. Neither have the costs associated with safety-related maintenance for carbon monoxide alarms for the private rental sector. Stakeholders may wish to provide evidence of the costs and benefits of the safety-related activities not identified in this RIS.

Rental minimum standards

The RIS proposes 13 separate rental minimum standards plus an additional heating standard, which includes an energy efficiency requirement for Class 1 rental properties.

- Stakeholders may wish to comment on whether a smaller subset of these proposed rental standards would be better.
- Stakeholders may wish to provide evidence of the costs and benefits of any additional standards not identified in this RIS.

Dollar amounts

- The proposed Regulations prescribe a dollar amount for compensation for sales inspections, the authorised amount for urgent repairs and urgent site repairs, and the threshold for the legislative limit on bonds. Stakeholders may wish to provide reasons why a different amount should be preferred.

Family violence

- The Regulations prescribe other matters that VCAT must take into account when determining an application to terminate a rental agreement because of family or personal violence. Stakeholders may wish to comment on whether there are other matters that should also be considered for prescription in the proposed Regulations.

Definition of temporary crisis accommodation (TCA)

Stakeholders may wish to comment on:

- whether ‘less than 6 months’ is an appropriate prescribed period, and
- whether all TCA providers would be captured by the proposed definition of ‘prescribed accommodation’.

10 Implementation and Evaluation

10.1 Implementation strategy

Understanding how the preferred option will work in practice is a key part of regulatory design. A well-considered implementation plan increases the likelihood that the preferred option will deliver its expected outcomes in practice.

The proposed changes to obligations and rights from the status quo are significant and complex and will affect all people who are renters or rental providers, rooming house operators or rooming house residents, caravan park owners, or caravan park residents, and site owners or site tenants. However, the changes are occurring within a regulatory framework that is already well established, where people can draw on a range of published guidance (e.g., material on CAV website) and legal advice, and the mechanism to enforce rights and achieve compliance are largely in place.

10.1.1 Phased approach to implementation

The Department has considered the proposed timing of the regulatory changes. The proposed Regulations are intended to commence on 1 July 2020, to coincide with the default commencement of the Amendment Act. The Department believes there is adequate time to communicate the relevant changes (in accordance with the communications plan outlined below) and for people to gain an understanding of the changes before this time.

The Amendment Act contains transitional arrangements[197] to ensure that renters and rental providers who entered into a rental agreement prior to 1 July 2020 are not disadvantaged by the changes, and existing arrangements under the RTA will continue to apply until the agreement ends and a new agreement is entered into on or after 1 July 2020. Refer to section 4.2 (page 34) for more information on the transitional arrangements.

In particular, the transitional arrangements provide that the following reforms, which are being implemented in the proposed Regulations, do not apply to fixed term tenancy agreements and periodic tenancy agreements entered into before 1 July 2020:

- prohibited terms;
- professional cleaning obligations;
- safety-related activities for renters and rental providers;
- prescribed information in rental application forms;
- information that must not be requested from prospective renters;
- mandatory disclosure before entering a tenancy; and
- rental minimum standards.

These changes will only occur after a new rental agreement is entered into on or after 1 July 2020.

For other changes that are more significant, the Department has given consideration to an appropriate implementation timeline as part of development of the proposed Regulations. In particular, it will be important to allow reasonable time for people (rental providers, property managers, estate agents and industry) to take necessary actions to ensure they will comply. Given the costs associated with upgrading rented premises to meet the relevant rental minimum standards, the Department is planning phasing of heating, window coverings and electrical safety minimum standards as discussed earlier in sections 5.2.2 (page 50) and 5.2.5 (page 62).

[197] Section 368 of the *Residential Tenancies Amendment Act 2018*, which inserts new Division 5 of Schedule 1 into the RTA.

Stakeholders may wish to comment on whether this is sufficient time allowed to achieve compliance.

10.1.2 Communicating the changes

The Department will work with stakeholders on the new reforms to ensure rental providers, renters and property managers have a clear understanding of the operation of the new reforms. Key stakeholders that will be important to the communication and understanding of the reforms include the Real Estate Institute of Victoria (REIV), Tenants Victoria, Registered Accommodation Association of Victoria (RAAV), Community Housing Industry Association (CHIA) and Victorian Caravan Parks Association (VCPA).

The Department plans to undertake an extensive communication campaign in the lead-up to, and after, the implementation of the proposed Regulations. The information campaign will be broadly aimed at renters and rental providers but will also target specific groups such as disadvantaged renters and groups from culturally and linguistically diverse (CALD) backgrounds. The Department will work closely with stakeholders representing renters and rental providers in development and delivery of the communications campaign.

The Department has created a site on the CAV website[198] which is designed to educate stakeholders and the public about changes to rental laws. Over time, up to the commencement date (1 July 2020), the Department will put information on the site including Plain English fact sheets and Detailed Reference Guides on the new reforms. The Department will also work on updates for the current CAV website, including updating existing forms and notices. As the website reflects current law, it will be updated on 1 July 2020 to reflect the new law.

The Department is updating CAV's communication material. The Department is examining how renters seek information when they encounter a problem in order to better target its information provision. The Department is revising CAV's key information tools such as the prescribed rental agreement, which provides information about rights and responsibilities, and the 'Red Book'[199] — a guide to renters' rights and responsibilities provided to renters at the beginning of their rental agreement.

Changes to the law made in the proposed Regulations will flow through to all information provision by CAV: the website, guides, presentations and fact sheets, guidance provided by the call centre, and information provided through the Department's regional staff. The Department is also working in partnership with organisations funded through CAV's Funded Services program to ensure that they are informed of the changes, and to deliver training and education to their members.

10.1.3 Compliance and enforcement

All compliance activity will be undertaken in accordance with CAV's *Regulatory Approach and Compliance Policy,*[200] which is a risk-based and outcome-focussed approach. Risks are assessed according to risks of non-compliance and consumer harm. The Department will review these risks prior to the commencement of the Amendment Act and the proposed Regulations.

The Amendment Act includes a range of reforms to strengthen enforcement, including increasing existing criminal penalties for non-compliance and introducing a civil penalty regime for certain offences. The Department is reviewing the all existing infringement penalties and all new offences introduced by the Amendment Act, which may be made infringeable. A separate set of Residential

[198] https://www.consumer.vic.gov.au/rentinglawchanges
[199] *Renting a Home: a guide to for tenants*, available at: https://www.consumer.vic.gov.au/resources-and-tools/forms-and-publications
[200] Available at https://www.consumer.vic.gov.au/about-us/regulatory-approach-and-compliance-policy

Tenancies (Infringements) Regulations prescribing infringement offences and infringement penalties is proposed to be made for commencement on 1 July 2020.

The Department will also be reviewing enforcement provisions from a compliance perspective. CAV has inspectors to assist in the enforcement of consumer laws within Victoria. CAV inspectors play an important role in ensuring that compliance with the RTA, including conducting non-urgent repairs and rent assessments. All inspectors appointed by the Director, CAV will automatically cover the RTA as it is a 'Consumer Act' under Schedule 1 of the *Australian Consumer Law and Fair Trading Act 2012*, which provides for inspector powers and applies them to all Consumer Laws. All amendments to the RTA by the Amendment Act will automatically be covered by these inspector powers and existing delegations.

Table 27: Overview of implementation elements

Element	Implementation items
Website	• Website updates on upcoming changes to rental laws prior to 1 July 2020 start date • Revise current version of CAV website to reflect the current law on 1 July 2020 • Revise Plain English fact sheets and Detailed Reference Guides
Stakeholder communication	• Inform and work closely with stakeholders, representing renters and rental providers, using an extensive communication plan to educate them on the rental reforms (including the new regulations) • Communications campaign in the lead-up to, and after, implementation • Target disadvantaged renters and groups, as well as renters and rental providers generally

Reference to the Regulations in guidelines and other materials	• Preparation of guidelines issued by the Director
	• Ensure changes in law made in the Regulations will flow through to all information provision by CAV
	• Re-designed forms and notices (including residential rental agreement) for:
	  ○ website
	  ○ presentations
	  ○ fact sheets
	  ○ call centre information
	  ○ staff
	• Update the 'Red Book' to reflect renters' new rights and responsibilities

Compliance and enforcement	• All RTA inspectors appointed by the Director, CAV are automatically covered by the inspection powers in the *Australian Consumer Law and Fair Trading 2012*. These inspector powers and delegations will continue to apply to the amendments to the RTA introduced by the Amendment Act • Revise the risks of non-compliance in accordance with CAV's *Regulatory Approach and Consumer Policy* • Review rental risks • Review existing infringement offences and penalties to reflect increased criminal penalties and new offences introduced by the Amendment Act
Education and training	• Develop and deliver training on rental reforms to CAV operational staff (i.e., inspectors, call centre, etc.)

	• Work with stakeholders to ensure training is provided to workers in the rental section on the new reforms

10.2 Evaluating the proposed Regulations

The Victorian Government requires that all RISs include an evaluation strategy for the preferred option. Consistent with the Government's commitment to better regulation and a culture of continuous improvement, agencies must evaluate all regulations. Evaluation involves more than just measuring the actual effects of a regulation — it involves improving knowledge about the problem to improve regulatory effectiveness over time.

The proposed Regulations will automatically sunset in 2030, at which point a further RIS will be undertaken. To consider whether the Regulations should continue or be changed, the RIS will measure the performance of the proposed Regulations over the next ten years and will involve public consultation.

However, as the proposed Regulations are expected to have a high impact, a mid-term evaluation of the operation and impacts of the Regulations will be undertaken within three to five years after the commencement of the Regulations. This review, to be undertaken by the Department, will consider whether:

- the rental market continues to operate effectively in Victoria;
- the rental market is considered fair;
- the rental reforms were successfully implemented; and
- the rental reforms are effective.

Evaluation for the proposed Regulations will occur in conjunction with the evaluation of the implementation of the Amendment Act, as the two are intimately linked. Thus, in this section the discussion is of evaluating the rental reforms in total rather than just the proposed Regulations.

The main objective of the rental reforms was set out on in the Fairer, Safer Housing Review – 'to ensure access to fairer, safer housing for Victorian renters'. This also aligns with CAV's Strategic Plan objective of 'a fair and safe rental market for Victorians'.

The evaluation will consider baseline data and key performance indicators, such as reporting statistics, enforcement data and internal CAV statistics regarding activities taken to implement the Amendment Act and the proposed Regulations. The Department will also monitor the number and type of applications made to VCAT about residential tenancies to identify any changes, noting that for most of reforms, the most common regulatory response will be a renter or rental provider making an application to VCAT to resolve an issue.

The Department currently evaluates the effectiveness of residential tenancies legislation through sector data collection, complaints monitoring and regular stakeholder consultation, both formal and informal. These will feed into the future evaluation. Ongoing consultation with stakeholders will also take place.

In addition, to ensure that effective outcomes are achieved the operation of the rental market will be monitored, including, if any, impacts on rental volumes and prices. This will draw on existing published sources of rental market data.

To identify whether changes to these indicators are due to the reforms, the evaluation will also monitor changes in key macroeconomic drivers of Victoria's rental market (including GDP, interest rates, employment and wages, population growth, etc) and will compare indicators in Victoria to equivalent figures from other Australian jurisdictions, where available.

The Department has already conducted two surveys in 2019 that will provide a baseline for measuring outcomes after the implementation of the rental reforms:

- a survey of renter and rental provider perceptions of the fairness of rental laws, and on their knowledge of their rights and responsibilities; and
- a survey of what issues renters have had in rental properties and where renters source information to assist them in resolving rental problems.

By measuring changes in renter and rental provider experiences relating to fairness, knowledge, problems and problem-solving the Department will be able to measure the success of the reforms.

The Department has a Compliance Operating Group that determines CAV's compliance priorities and strategies. This group will consider the enforcement priorities and monitoring strategies for the RTA and the proposed Regulations during 2019-20 in time for the commencement of the Amendment Act and proposed Regulations. This work will include setting the areas that will be monitored for compliance purposes.

Appendix A: Consultation undertaken to inform the proposed Regulations

May 2019

Introductory meetings held with the following stakeholders to outline consultation process:

- Community Housing Industry Association
- Council to Homeless Persons
- Office of the Commissioner for Residential Tenancies
- Housing for the Aged Action Group
- Justice Connect Homeless Law
- Real Estate Institute of Victoria
- Registered Accommodation Association of Victoria
- Tenants Victoria
- Victoria Legal Aid
- Victorian Aboriginal Legal Service
- Victorian Caravan Parks Association
- Victorian Council of Social Service

19 June 2019: Residential Tenancies Regulations Stakeholder Workshop

This workshop drew together participants from a range of groups with residential tenancies expertise, including renter advocates, and representatives of rental providers in the private rental market, rooming houses, and caravan and residential parks. It was held as part of Department's commitment to consult early and provided key stakeholders with an opportunity to directly contribute to policy work informing the drafting of the proposed Regulations.

Table 28: Attendees at Stakeholder Workshop

Organisation
Community Housing Industry Association
Council to Homeless Persons
Housing for the Aged Action Group
Justice Connect Homeless Law
Office of the Commissioner for Residential Tenancies
Real Estate Institute of Victoria
Registered Accommodation Association of Victoria
Tenants Victoria
Victoria Legal Aid
Victorian Aboriginal Legal Service
Victorian Caravan Parks Association
Victorian Council of Social Service
Department Premier and Cabinet
Energy Safe Victoria
Department of Environment, Land, Water and Planning
Department of Health and Human Services

Discussion papers on the following topics were distributed to participants prior to the workshop:

- Information that cannot be requested from a rental applicant
- Compensation for sales inspections
- Rental minimum standards
- Modifications to premises
- Mandatory disclosure before a tenancy
- Prescribed safety devices and safety-related activities
- Urgent site repairs in parks
- Goods left behind of no monetary value that must be stored

Following the workshop participants were invited to make a written submission by 12 July 2019. Submissions were received from the following organisations:

- Council to Homeless Persons
- Housing for the Aged Action Group
- Justice Connect Homeless Law
- Office of the Commissioner for Residential Tenancies
- Registered Accommodation Association of Victoria
- Real Estate Institute of Victoria
- Tenants Victoria
- Victorian Council of Social Service
- Victorian Caravan Parks Association
- Victoria Legal Aid

2 July 2019: Consultation with energy policy advocates regarding minimum standards

Following interest from energy policy advocates regarding rental minimum standards, a consultation session was jointly hosted by the Department and the Department of Environment, Land, Water and Planning (DELWP) with members of the 1 Million Homes alliance. Prior to the meeting the minimum standards discussion paper from the regulations workshop was distributed. Meeting attendees were also invited to provide a written response by 12 July 2019.

The meeting was attended by the following organisations:

- Brotherhood of St Laurence
- Consumer Action
- Consumer Policy Research Centre
- Energy Efficiency Council
- Environment Victoria
- Uniting
- Victorian Council of Social Service
- Yarra Energy Foundation

Invited but unable to attend:

- Moreland Energy Foundation
- Northern Alliance for Greenhouse Action
- Renew

Written submissions were received from:

- Consumer Policy Research Centre
- Renew

July 2019: Exit fees in parks

Stakeholders with expertise in the area of caravan and residential parks were invited to provide written feedback on a statement regarding exit fees in parks. Housing for the Aged Action Group, Office of the Commissioner for Residential Tenancies, Tenants Victoria and Victorian Caravan Parks Association were all consulted on and provided written submissions in July 2019.

2 August 2019: Residential Tenancies forms consultation

A two-hour workshop was held for key stakeholders to provide feedback on drafts of the following prescribed forms:

- Rental agreement
- Notice to vacate
- Notice of intention to vacate
- Condition report

The meeting was attended by the following organisations:

- Office of the Commissioner for Residential Tenancies
- Community Housing Industry Association
- Council to Homeless Persons
- Housing for the Aged Action Group
- Justice Connect Homeless Law
- Real Estate Institute of Victoria
- Tenants Victoria
- Victoria Legal Aid
- Victorian Aboriginal Legal Service
- Victorian Council of Social Service

To assist with preparation for the meeting, stakeholders received draft forms on 22 July. They were then invited to provide a written submission after the workshop. Submissions were received from:

- Office of the Commissioner for Residential Tenancies
- Tenants Victoria
- Real Estate Institute of Victoria

Domestic Violence Victoria and Family Safety Victoria were also provided with an opportunity to review the abovementioned forms.

12 September 2019: Consultation on the definition of 'temporary crisis accommodation'

A 1.5 hour workshop was held for key stakeholders to provide feedback on prescribing a definition of temporary crisis accommodation in the proposed Regulations.

The workshop was attended by the following organisations:

- Department of Health and Human Services
- Department of Premier and Cabinet
- Council to Homeless Persons
- Domestic Violence Victoria
- Justice Connect
- Office of the Commissioner for Residential Tenancies
- Tenants Victoria
- Victorian Council of Social Service

Written submissions were received from:

- Tenants Victoria
- Justice Connect
- Council to Homeless Persons
- Domestic Violence Victoria
- Victorian Council of Social Services
- Commissioner for Residential Tenancies
- Department of Health and Human Services

Intergovernmental consultation

Throughout 2019, the following government departments and agencies have been consulted as part of developing the proposed Regulations:

- Department of Health and Human Services (DHHS)
- DELWP – Building Policy, Energy Demand Efficiency Policy, Energy Sector Reform, Gas Heater Safety and Water Policy
- Department of Justice and Community Safety – Civil Justice Policy and Human Rights Unit
- Department of Premier and Cabinet
- Energy Safe Victoria
- Heritage Victoria
- Metropolitan Fire Brigade
- Victorian Building Authority
- Victorian Civil and Administrative Tribunal (VCAT)
- Victorian Equal Opportunity and Human Rights Commission
- Yarra Valley Water

Other stakeholder activity

- User testing of Residential Tenancies forms with participants from a range of demographics including low income families, newly arrived migrants and rooming house residents.
- Consultation on stakeholder materials such as Plain English fact sheets and Detailed Reference Guides to the reforms.
- Monthly email newsletter sent to key stakeholders from March 2019.
- Single point of contact provided for stakeholders to give more clarity around liaising with Consumer Affairs Victoria.
- Sign posting and information on 'what's next' in terms of consultation steps provided to stakeholders to assist with planning.
- A dedicated web page - Renting laws are changing – set up to clarify the process of consultation and implementation https://www.consumer.vic.gov.au/rentinglawchanges.

Appendix B: Assumptions on the distribution of average tenure length and rental agreement renewal

All modelling in this RIS assumes that rental providers and renters will comply with the proposed Regulations and Amendment Act as soon as they come into effect.

There is limited data on the complete distribution of average tenure length and renewal of rental agreements. There is partial data available in the form of:

- Number of rented premises is estimated at 614,291 in 2016 (ABS 2016 Census).
- RTBA bonds data indicates that the *median* duration of bonds is 18 months.[201] However, this is not a measure of *average* tenure. This is because bond duration is likely to over-represent properties that have two (or more) rental agreements entered within a 12-month period, as they would get counted more than once in a yearly period. A 2017 survey by comparison website finder.com.au reported that Victorians stayed in the same rental for 4.5 years on average.[202]
- DHHS Rental Report (June quarter 2019) reports a quarterly turnover rate of rental properties of 7.8 per cent for Metropolitan Melbourne and 8.3 per cent for regional areas. This is based on the rate of return of bonds in a quarter. This equates to an annualised turnover rate of 32 per cent of rental properties.
- The same report notes new lettings in the June quarter 2019 of 48,934. This translates to just under 32 per cent of the number of rented dwellings reported in the 2016 Census, however it would also include new properties entering the rental market. This suggests that the rate that existing rental properties are renewing rental agreements is less than 32 per cent, however a turnover rate of 30 per cent has been assumed.
- An increase in rental properties is separately modelled at 3 per cent growth per annum. This is based on comparing the 2011 and 2016 Census figures for the number of Victorian rental properties.[203]

However, rates of turnover and new lettings do not indicate how many rental properties are the same rental properties that are repeatedly re-rented each period. Therefore, while the above data is useful for estimating how many rental agreements may be entered each year, it does not indicate how soon all rental properties will enter a new rental agreement after 1 July 2020. This is important for the proposed reforms that will only apply to properties that enter a new agreement on or after 1 July 2020. Refer to section 4.2 which sets out which reforms the transitional arrangements apply to.

Therefore, for the purpose of estimating the costs of several proposed measures, a distribution of expected existing tenure has been modelled. This is an assumed distribution (i.e. a smooth and well-behaved distribution function) that attempts to best fit the above data.

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[201] Based on the median duration of bonds closed from March 2018 to March 2019.

[202] https://www.realestate.com.au/news/victorian-renters-stay-in-the-same-home-longer-than-the-national-average/

[203] Note that new properties entering the rental market will include both new builds and existing residential buildings (owner-occupied) that become rental properties. It is noted that due to building and electrical safety legislation, newly constructed buildings (Class 1 and Class 2) will likely comply with the proposed rental minimum standards and the proposed heating standard (including the medium energy efficiency requirement for Class 1 properties). However, the impact of this has not been incorporated into the modelling.

It has been assumed that all rental providers will comply with the proposed Regulations and make changes required under these proposed measures when they are required to make them and not any earlier.

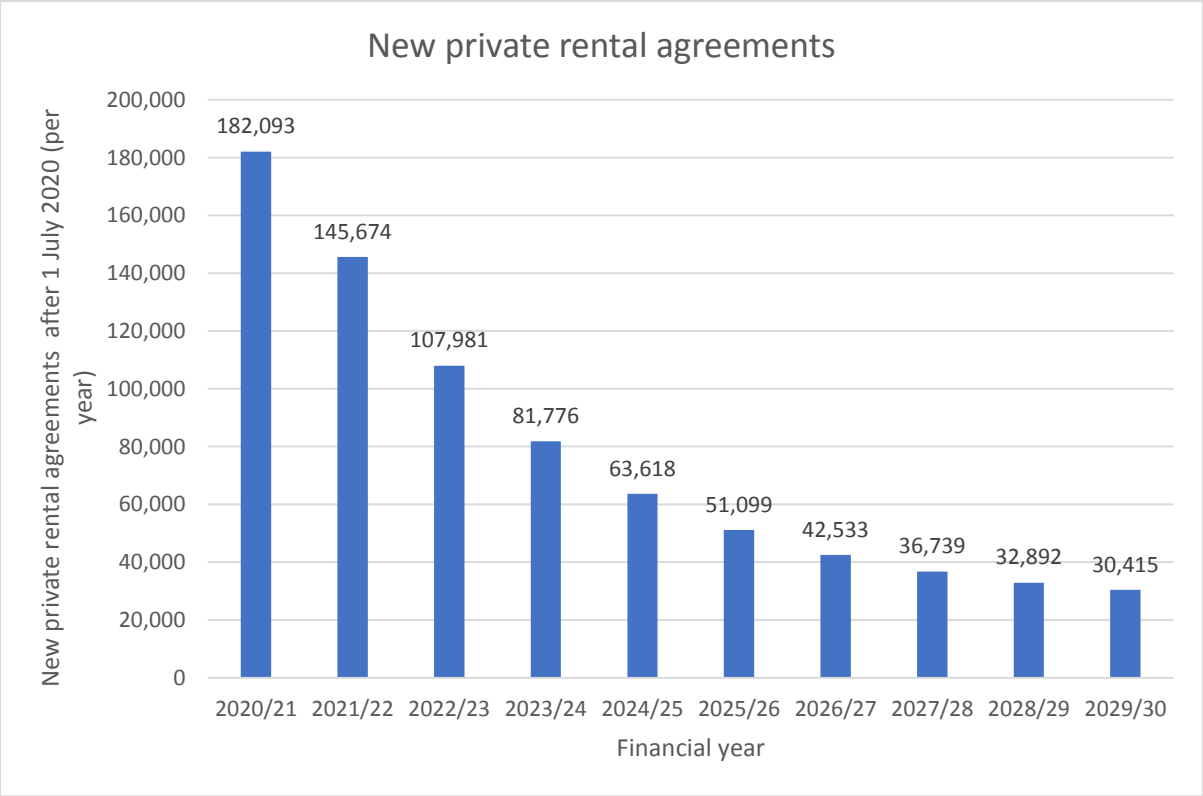
Figure 2 below shows the proportion of *existing* private rental properties that will enter a new rental agreement *for the first time* in each year and the new rental properties that will go onto the market.

The number of rental properties in figure 2 is based on the rental number of properties in 2016 (539,291)[204] assuming:

- 30 per cent turnover each year, and
- 3 per cent growth in new private rental properties (compounding) each year.[205]

This results in 182,093 properties entering a new rental agreement in 2020/21. In the next year, 30 per cent of the existing properties that did not enter a new agreement (424,884) plus the increase in rental properties (18,206) enter a new agreement, resulting in 145,674 properties becoming subject to the standards.

Figure 2: Number of new private rental agreements after 1 July 2020



[204] This is the 2016 census figure of 614,291 minus 75,000 public housing properties. Public housing properties are modelled separately below.

[205] The model applies the 3 per cent growth rate from the previous financial year to the start of each subsequent financial year. For example, the growth in private rental housing in 2019/20 is counted in the number of new rental agreements formed in 2020/21. As a result, there may be a slight under-count in the 10-year model (the life of the proposed Regulations), as new agreements in 2029/30 do not account for the growth in rental housing in that financial year (as this would be counted in 2030/31, if the model continued past 10 years). The Department considers that this minor discrepancy would not impact the options modelled or decision-making approach in this RIS, as proportionally the costs and benefits would remain the same.

For proposed minimum standards that will have a delayed commencement (heating, window coverings and electrical safety), the proportion of existing rented premises that become subject to the standard would cause the above function to shift to the right.

Director of Housing model

A similar model has been replicated for the DoH and is provided below (figure 3).

Based on historical data, it is assumed that there is no increase in public housing stock and it remains stable around 75,000 properties over the life of the proposed Regulations. The turnover rate of new rental agreements in public housing assumed to be 7.7 per cent (based on data provided by DHHS).

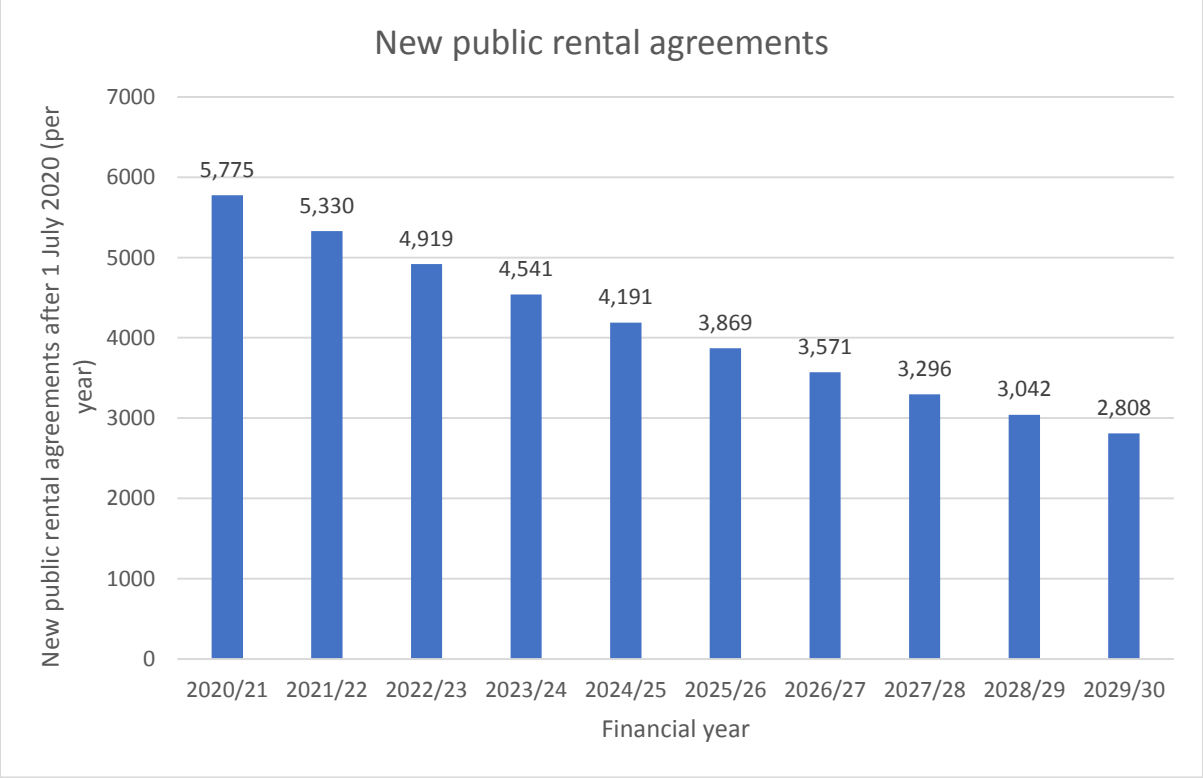
Sensitivity testing assuming a 3 per cent growth in public housing stock, consistent with the private rental sector, is included for DoH costs for safety-related maintenance and heating in Appendix D.

It should be noted that by the end date of the proposed Regulations there will still be a significant proportion of public housing that has not yet entered a new rental agreement. However, DHHS may decide to conduct safety-related checks consistently on all DoH properties rather than wait for them to transition to a new rental agreement.

It is anticipated that the combination of the proposed heating minimum standard and end of life replacement process for will result in most heaters in Class 1 DoH properties being replaced during the life of the Regulations. This model has been used to estimate the cost impact of safety-related activities on the DoH, where the cost impact differed between public and private sector.

Elsewhere in the RIS the two models have been combined where the cost and benefit assumptions were applicable to both the private and public rental sectors, such as for rental minimum standards (excluding heating).

Figure 3: Number of new public rental agreements after 1 July 2020



Appendix C: Cost of rental minimum standards on private and public sector (other than heating)

Year (beginning 1 July each year)			2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	NPV
Properties that enter new agreement for the first time after commencement			187,868	151,005	112,901	86,317	67,810	54,968	46,103	40,035	35,934	33,223	
To begin from July 2020													
Toilets	% not meeting standard	0.25%	470	378	282	216	170	137	115	100	90	83	
	Cost to meet standard	$150	$70,451	$56,627	$42,338	$32,369	$25,429	$20,613	$17,289	$15,013	$13,475	$12,459	$264,586
Bathroom facilities – efficient show head	% not meeting standard	43%	80,783	64,932	48,547	37,116	29,158	23,636	19,824	17,215	15,452	14,286	
	Cost to meet standard	$200	$16,156,651	$12,986,409	$9,709,491	$7,423,281	$5,831,637	$4,727,228	$3,964,893	$3,442,995	$3,090,366	$2,857,171	$60,678,445
Bathroom facilities – shower/ bath	% not meeting standard	0.1%	188	151	113	86	68	55	46	40	36	33	
	Cost to meet standard	$5,000	$939,340	$755,024	$564,505	$431,586	$339,049	$274,839	$230,517	$200,174	$179,672	$166,115	$3,527,817
Water supply elements	% not meeting standard	0.45%	845	680	508	388	305	247	207	180	162	150	
	Cost to meet standard	$350	$295,892	$237,832	$177,819	$135,950	$106,800	$86,574	$72,613	$63,055	$56,597	$52,326	$1,111,262
Kitchen facilities	% not meeting standard	0.5%	939	755	565	432	339	275	231	200	180	166	
	Cost to meet standard	$300	$281,802	$226,507	$169,352	$129,476	$101,715	$82,452	$69,155	$60,052	$53,902	$49,834	$1,058,345
Lighting	% not meeting standard	0.5%	939	755	565	432	339	275	231	200	180	166	
	Cost to meet standard	$1,000	$939,340	$755,024	$564,505	$431,586	$339,049	$274,839	$230,517	$200,174	$179,672	$166,115	$3,527,817
Mould and dampness	% not meeting standard	5%	9,393	16,944	22,589	26,905	30,295	33,043	35,349	37,350	39,147	40,808	
	Cost to meet standard	$100	$939,340	$1,694,364	$2,258,869	$2,690,455	$3,029,504	$3,304,343	$3,534,860	$3,735,034	$3,914,706	$4,080,821	$22,801,819
To begin from July 2021													
Window coverings	% not meeting standard	5%		9,393	7,550	5,645	4,316	3,390	2,748	2,305	2,002	1,797	
	Cost to meet standard	$600		$5,636,041	$4,530,143	$3,387,032	$2,589,517	$2,034,292	$1,649,033	$1,383,102	$1,201,045	$1,078,035	$19,705,359
To begin from July 2022													
Electrical safety	% not meeting standard	5%			9,393	7,550	5,645	4,316	3,390	2,748	2,305	2,002	
	Cost to meet standard	$1000			$9,393,402	$7,550,238	$5,645,053	$4,315,861	$3,390,487	$2,748,388	$2,305,170	$2,001,741	$30,411,982

TOTAL													**$143,087,433**

* while all other minimum standards have been costed on the basis of a once-off cost to the rental provider to make the premises meet the standard, for mould prevention/removal, this is expected to involve ongoing costs to the rental provider. Hence the cost to meet the standard is an annual cost, and the number of premises that will need to take action accumulates each year.

Assumptions:

- The number of properties that become subject to the rental minimum standards is based on the analysis in Appendix B (the number of private and public rental properties are added together). For the minimum standards relating to window covering and electrical safety, the 'Year 1' is from 1 July 2021 and 2022 respectively.
- The percentage of properties that become subject to the standard that do not meet the standard (and therefore will need to take some action in order to meet the standard) is based on research undertaken by EY's Real Estate Advisory Services (EY Sweeney Survey – Existing conditions) commissioned by the Department as part of the analysis on legislative reforms, which estimated the percentage where the relevant appliance was 'not in good working order'. This was converted into an assumed non-compliance rate based on CAV operational knowledge of the rate at which items 'not in good working order' were generally found to be not functioning. No such estimate was available for mould; an assumed rate of 5% has been used as a conservative estimate based on anecdotal evidence of cases of mould. The proportion of premises that will need to take action to meet the standard in relation to electrical safety was supplemented by advice from ESV.
- The cost of reaching compliance was based on EY's Real Estate Advisory Services team research on market quotes to support the estimated costs of meeting the minimum standards for rental providers. For cost to meet standard, EY market quotes were checked against a sample of online prices; unless all prices in the sample were materially different (higher) from the EY estimate, the EY estimate has been retained. The costs are one-off costs to bring the existing stock of housing up to a standard. It is assumed that new rental properties entering the rental market would meet these minimum standards (due to building regulations).
    - Cost of compliance with the Toilets and Window coverings standards based on EY Sweeney Survey – Existing conditions, CAV operational knowledge and EY Real Estate Advisory Services – Market Quote.
    - Cost of compliance with Bathroom facilities standard (efficient showerheads) was based on additional advice from Yarra Valley Water.
    - Cost of compliance with Bathroom facilities standard (shower/bath) - No known data. Unlikely this would be significant (and would be addressed via urgent repairs for existing premises). A nominal rate has been assumed to allow examination of costs. Sample of market costs for purchase and installation of washbasin and shower (June 2019).
    - Cost of compliance with Water supply elements and Kitchen standard- EY Sweeney Survey – Existing conditions, and CAV operational knowledge, and higher cost based on current price sample (June 2019)
    - Cost of compliance with Lighting standard - Rented premises that cannot comply with the requirement to provide natural light into habitable rooms (if any) would likely change what they offer as habitable rooms. Cost based on sample of market costs for installation of electrical lighting.
    - Cost of compliance with Mould and dampness standard was not available; for modelling purposes the cost (which is an annual ongoing cost once a property becomes subject to the standard) is based on annual cleaning and mould prevention treatment for those properties were the building structure may create a risk of mould.
    - Cost of compliance with Electrical safety standard is based on additional advice from ESV.

Preferred heating minimum standard detailed costs and benefits

Preferred heating minimum standard costs (private sector)

Year (beginning 1 July each year)			2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	NPV
Total properties that enter a new agreement for the first time after commencement[206]			182,093	145,674	107,981	81,776	63,618	51,099	42,533	36,739	32,892	30,415	
Class 1 properties that enter a new agreement for the first time after commencement (72.8 per cent of new agreements)			132,564	106,051	78,610	59,533	46,314	37,200	30,964	26,746	23,946	22,142	
Class 2 properties that enter a new agreement for the first time after commencement (28.2 per cent of new agreements)			49,529	39,623	29,371	22,243	17,304	13,899	11,569	9,993	8,947	8,273	
To begin from July 2020 -- Class 1 and 2 buildings must have installed a heater in the main living area (replacement heater must be energy efficient heater in Class 1 buildings)													
Class 2 properties	% have no heating	16%[207]	7,925	6,340	4,699	3,559	2,769	2,224	1,851	1,599	1,431	1,324	
	Cost to meet standard	$424[208]	$3,360,068	$2,688,054	$1,992,520	$1,508,973	$1,173,916	$942,905	$784,833	$677,926	$606,947	$561,234	$12,384,722
Class 1 properties	% have no heating	9%[209]	11,931	9,545	7,075	5,358	4,168	3,348	2,787	2,407	2,155	1,993	
	Cost to meet standard	$1540[210]	$18,373,333	$14,698,666	$10,895,386	$8,251,280	$6,419,141	$5,155,941	$4,291,577	$3,706,995	$3,318,874	$3,068,909	$67,721,430
To begin from July 2022 -- Class 1 buildings with non-energy efficient heaters must replace with energy efficient heater													
Class 1 properties	% heaters not meeting standard	2%[211]			6,344[212]	1,191	926	744	619	535	479	443	

[206] The heating minimum standard only comes into effect when a new rental agreement is formed after 1 July 2020. The number of new Class 1 and Class 2 agreements are separately provided as the standards that apply to each differs. The proportion of rental properties that fall into each category is based on data provided by DELWP. It should be noted that a proportion of new agreements will come from new rental housing stock that will already meet the heating minimum standard. Therefore, this model may represent a slight overestimate in cost.

[207] 16% is the proportion of Class 2 properties that do not have heating based on data provided by DELWP. This proportion is multiplied against the new Class 2 agreements beginning each year to get a count of how many properties will have to purchase a new heater.

[208] Cost to meet standard is estimated at $424 for a low-cost heater, while the compliant medium efficiency heater is estimated at $1540 for RCAC or $2257 for gas space heater (unit and install costs). For the purposes of the cost benefit analysis, it is assumed rental providers will choose to install a RCAC at $1540 as it is cheaper. In Class 2 properties the heater does not have to be compliant with any energy efficiency standard.

[209] 9% is the proportion of Class 1 properties that do not have heating based on data provided by DELWP. This proportion is multiplied against the new Class 1 agreements beginning each year to get a count of how many properties will have to purchase a new heater.

[210] Cost to meet standard is $1540 based on data provided by DELWP for the lowest cost of a heater compliant with the energy efficiency standard. Rental providers may purchase a more expensive compliant heater, but this would not be considered a cost imposed by these Regulations.

[211] 2% is the proportion of Class 1 properties that have heating that does not meet the standard.

[212] This number is substantially higher than subsequent years as it accounts for all Class 1 properties that entered a new rental agreement from 2020 to 2022. Subsequent years only count the new agreements that year.

	Cost to meet standard	$1,540			$9,770,530	$1,833,618	$1,426,476	$1,145,765	$953,684	$823,777	$737,528	$681,980	$14,636,868
To begin from July 2023 – Class 1 buildings must replace LGP fuelled heater with energy efficient heater													
Class 1 properties	% LPG	2%[213]				7,535[214]	926	744	619	535	479	443	
	Cost to meet standard	$1,540				$11,604,148	$1,426,476	$1,145,765	$953,684	$823,777	$737,528	$681,980	$ 14,302,793
TOTAL													**$ 109,045,812**

[213] 2% is the proportion of Class 1 properties that have LPG heating.

[214] This number is substantially higher than subsequent years as it accounts for all Class 1 properties that entered a new rental agreement from 2020 to 2023. Subsequent years only count the new agreements that year.

Preferred heating minimum standard costs (public sector)

Year (beginning 1 July each year)			2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	NPV
Public housing properties that enter a new agreement for the first time after commencement[215]			5,775	5,330	4,920	4,541	4,191	3,869	3,571	3,296	3,042	2,808	
Class 1 properties that enter a new agreement for the first time after commencement (72.8 per cent)			4,204	3,880	3,582	3,306	3,051	2,816	2,600	2,399	2,215	2,044	
To begin from July 2020 -- Class 1 and 2 buildings must have installed a heater in the main living area (replacement heater must be energy efficient heater in Class 1 buildings)													
Class 1 properties	% have no heating	0%[216]	0	0	0	0	0	0	0	0	0	0	
	Cost to meet standard	$3,000[217]	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
To begin from July 2022 -- Class 1 buildings with non-energy efficient heaters must replace with energy efficient heater													
Class 1 properties	% heaters not meeting standard	30.4%[218]			3,547[219]	1,005	928	856	790	729	673	621	
	Cost to meet standard	$3,000			$10,639,717	$3,014,972	$2,782,819	$2,568,542	$2,370,764	$2,188,216	$2,019,723	$1,864,204	$22,432,026
To begin from July 2023 – Class 1 buildings must replace LGP fuelled heater with energy efficient heater													
Class 1 properties	% LPG	2%[220]				299[221]	61	56	52	48	44	41	
	Cost to meet standard	$3,000				$898,335	$183,080	$168,983	$155,971	$143,962	$132,877	$122,645	$1,451,857
TOTAL													**$23,883,883**

[215] The heating minimum standard only comes into effect when a new rental agreement is formed after 1 July 2020.
[216] Based on advice from DHHS, all public housing properties are assumed to have heating. This means there is also no associated cost for Class 2 properties.
[217] Cost to meet standard is $3000 per heater based on data provided by DHHS. This cost is higher than in the private sector primarily due to higher administrative costs.
[218] 30.4% is the proportion of Class 1 public housing properties that have heating that does not meet the standard. This proportion is multiplied against the new Class 1 agreements beginning each year to get a count of how many properties will have to purchase a new heater.
[219] This number is substantially higher than subsequent years as it accounts for all Class 1 properties that entered a new rental agreement from 2020 to 2022. Subsequent years only count the new agreements that year.
[220] 2% is the proportion of Class 1 public housing properties that have LPG heating.
[221] This number is substantially higher than subsequent years as it accounts for all Class 1 properties that entered a new rental agreement from 2020 to 2023. Subsequent years only count the new agreements that year.

Preferred heating minimum standard benefits (shared across private and public rental properties)

Year (beginning 1 July each year)			2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	NPV
Properties that enter a new agreement for the first time after commencement[222]			187,868	151,005	112,901	86,317	67,810	54,968	46,103	40,035	35,934	33,223	
Renters do not have to buy their own (cheap, portable) heaters													
To begin from July 2020 -- Class 1 and 2 buildings must have installed a heater in the main living area (replacement heater must be energy efficient heater in Class 1 buildings)													
Class 1 properties	Have no heaters[223]		11,931	9,545	7,075	5,358	4,168	3,348	2,787	2,407	2,155	1,993	
	Savings from compliance	$160[224]	$1,908,918	$1,527,134	$1,131,988	$857,276	$666,924	$535,682	$445,878	$385,142	$344,818	$318,848	$7,035,993
Class 2 properties	% have no heaters		7,925	6,340	4,699	3,559	2,769	2,224	1,851	1,599	1,431	1,324	
	Savings from compliance	$80[225]	$633,975	$507,180	$375,947	$284,712	$221,494	$177,907	$148,082	$127,911	$114,518	$105,893	$2,336,740
Renters in class 1 properties save on electricity costs													
To begin from July 2020 -- Class 1 and 2 buildings must have installed a heater in the main living area (replacement heater must be energy efficient heater in Class 1 buildings													
Class 1 properties	Have no heaters		11,931	9,545	7,075	5,358	4,168	3,348	2,787	2,407	2,155	1,993	
	Annual savings (cumulative)	$694[226]	$8,279,930	$14,903,875	$19,813,873	$23,532,307	$26,425,089	$28,748,610	$30,682,607	$32,353,162	$33,848,810	$35,231,812	$19,845,0331
To begin from July 2022 -- Class 1 buildings with non-energy efficient heaters must replace with energy efficient heater													
Class 1 properties	Heaters not meeting standard				9,891	2,196	1,854	1,600	1,410	1,264	1,152	1,064	
	Annual savings (cumulative)	$694			$6,864,404	$8,388,186	$9,674,786	$10,785,313	$117,635,27	$126,40,969	$13,440,564	$14,179,151	$66,946,479
To begin from July 2023 – Class 1 buildings must replace LGP fuelled heater with energy efficient heater													

[222] The heating minimum standard only comes into effect when a new rental agreement is formed after 1 July 2020. Public and private rental housing has not been separated in this table as it is assumed that while their costs differ, the benefits received by renters will be the same across both sectors. It should be noted that a proportion of new agreements will come from new rental housing stock that will already meet the heating minimum standard. Therefore, this model may represent a slight overestimate in cost.

[223] Percentages are not provided in this table as the numbers affected have been taken from the above costs tables. E.g. the number of private properties affected have been added to the number or public properties affected to the get total numbers affected in each column.

[224] Estimated at two times a cheap portable heater ($80 each). This cost is only once off.

[225] Estimated cost of one cheap portable heater ($80). This cost is only once off.

[226] Estimated benefits each year in reductions in energy costs from upgrading a heater that does not meet the energy efficiency standard with one that does. Note that savings are cumulative, so where a renter saves $694 in 2020, they will also save the same amount every year until 2029. Savings estimate was provided by DELWP.

Class 1 properties	LPG					7,835	987	800	671	583	523	484	
	Annual savings (cumulative)	$879[227]				$6,886,618	$7,754,464	$8,457,954	$9,047,997	$9,560,372	$10,020,270	$10,445,465	$46,902,854
TOTAL													**$321,672,397**

[227] Savings on transitioning from an LPG fuel heater to a heater that meets the standard is estimated to save more each year for renters based on data provided by DELWP.

Appendix D: Sensitivity of costs to modelling assumptions

As with any analysis, the estimate of costs in this RIS is based on a number of assumptions to provide a valid indication of costs or to simplify the analysis. This is because it is not practical to collect new data on every rental property, and assess how the proposed Regulations will affect them. There are also likely behavioural changes in response to the proposed Regulations that are not reflected in currently available data.

Noting that the cost estimates can be affected by the choice of assumptions (particularly where there is little current data and judgment has been used to form some of these assumptions), this appendix presents an analysis of what the costs would look like if key assumptions were varied, for the most significant (in terms of total cost) elements of the proposed Regulations.

Safety-related activities for rental providers

The estimated costs of the safety-related activities depend on two key assumptions:

a) the rate at which existing properties will become subject to the requirements (based on when a new rental agreement is entered into—see Appendix B); and

b) the cost of undertaking the required safety-related maintenance.

Costs were examined for sensitivity if:

a) the rate of properties becoming subject to the requirements was 5 percentage points higher or lower each year (e.g. turnover rates of 35 per cent and 25 per cent respectively); and

b) cost of safety-related maintenance was 15 per cent higher or lower than assumed.

Table 29: Safety-related activities for rental providers – sensitivity of costs to assumptions (costs are NPV over 10 years, using a 4 per cent real discount rate)

		Cost of safety-related activities for private rental providers		
		Cost of safety-related maintenance is 15% lower than base assumption	Base assumption	Cost of safety-related maintenance is 15% higher than base assumption
Rate of rental properties subject to requirement	Rental properties become subject to the requirements 5% later	$191.8 million	$220.6 million	$253.7 million
	Base assumption	$204.6 million	$235.3 million	$270.6 million
	Rental properties become subject to the requirements 5% earlier	$214.6 million	$246.8 million	$283.8 million

Rental minimum standards—heating

The estimated costs of the proposed heating standard depend most critically on two key assumptions:

a) the rate at which existing rental properties will become subject to the heating standard (based on when a new rental agreement is entered into—see Appendix B); and

b) the cost of the new heater (which would need to meet an energy efficiency standard in the case of Class 1 rental properties).

Costs were examined for sensitivity if:

a) the rate of rental properties becoming subject to the heating standard 5 percentage points higher or lower each year (e.g. turnover rates of 35 per cent and 25 per cent respectively); and

b) cost of purchasing a new heater to meet the heating standard was 15 per cent higher or lower than assumed.

Table 30: Preferred heating standard – sensitivity of costs to assumptions (costs are NPV over 10 years, using a 4 per cent real discount rate)

		Cost of compliance with preferred heating standard		
		Cost of heaters is 15% lower than base assumption	Base assumption	Cost of heaters is 15% higher than base assumption
Rate of rental properties subject to standard	Rental properties become subject to the standard 5% later	$91.7 million	$105.5 million	$121.3 million
	Base assumption	$94.7 million	$109 million	$125.3 million
	Rental properties become subject to the standard 5% earlier	$96.7 million	$111.2 million	$127.8 million

Other minimum rental standards

The estimated costs of the other minimum rental standards depend most critically on two key assumptions:

a) the rate at which existing rental properties will become subject to the rental minimum standards (based on when a new rental agreement is entered into—see Appendix B); and

b) the cost to the rental provider of making the property compliant with the rental minimum standards.

Costs were examined for sensitivity if:

a) the rate of rental properties becoming subject to the rental minimum standards (excluding heating) was 5 percentage points higher or lower each year (e.g. turnover rates of 35 per cent and 25 per cent respectively); and

b) cost of achieving the compliance with rental minimum standards (excluding heating) was 50 per cent higher or lower than assumed. This broader sensitivity on costs for this item reflects the greater uncertainty around the of costs of compliance compared with the base assumptions.

Table 31: Other minimum rental standards – sensitivity of costs to assumptions (costs are NPV over 10 years, using a 4 per cent real discount rate)

		Cost of compliance with rental minimum standards (excluding heating)		
		Cost of compliance is 50% lower than base assumption	Base assumption	Cost of compliance is 50% higher than base assumption
Rate of rental properties subject to standard	Rental properties become subject to the standard 5% earlier	$91.6 million	$137.4 million	$206.1 million
	Base assumption	$95.3 million	$143 million	$214.5 million
	Rental properties become subject to the standard 5% earlier	$97.9 million	$146.9 million	$220.3 million

Compensation for sales inspections

The estimated impact of the proposed compensation for sales inspections (which is only a transfer between parties, not a net cost to the community) is based on a number of modelling assumptions including: the proportion of properties for sale during a sale period that are rental properties, and the number of sales inspections before a sale is achieved.

Table 32: Compensation for sales inspections – sensitivity of costs to assumptions (costs are NPV over 10 years, using a 4 per cent real discount rate)

		Total compensation per number of inspections	
		Base assumption (average of 6 inspections per sale)	Up to 10 inspections per sale
Proportion of rental properties affected	Base assumption (around 35,600 of rental properties affected per year)	$49.5 million	$82.5 million
	A lower number of rental properties affected (30,000)	$41.7 million	$69.5 million
	A higher number of rental properties affected (40,000)	$55.6 million	$92.7 million

Impact on Director of Housing – 3 per cent growth

In this RIS is has been assumed that public rental housing stock will remain stable at 75,000 units throughout the life of the proposed Regulations. This assumption was based on historical growth data on public housing. In this section, key tables will be recreated under the assumption that public housing will grow at 3 per cent per annum alongside the private rental sector to see the impact this will have on costs.

The main areas where this growth will impact on cost is on the heating minimum standard and safety-related obligations. Therefore, these two tables have been created under this new assumption. It should be noted that if the growth in public housing stock were due to new buildings, then certain costs imposed by these Regulations, particularly regarding minimum standards, would unlikely cause any additional cost burden.

Table 33: Preferred heating minimum standard (public housing with 3 per cent growth)[228][229]

Year (beginning 1 July each year)			2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	NPV
Public housing properties that enter a new agreement for the first time after commencement			5,775	7,580	7,237	6,928	6,650	6,401	6,179	5,982	5,809	5,658	
Class 1 properties that enter a new agreement for the first time after commencement (72.8 per cent)			4,204	5,518	5,269	5,044	4,841	4,660	4,498	4,355	4,229	4,119	
To begin from July 2020 -- Class 1 and 2 buildings must have installed a heater in the main living area (replacement heater must be energy efficient heater in Class 1 buildings)													
Class 1 properties	% have no heating	0%	0	0	0	0	0	0	0	0	0	0	
	Cost to meet standard	$3,000	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
To begin from July 2022 -- Class 1 buildings with non-energy efficient heaters must replace with energy efficient heater													
Class 1 properties	% heaters not meeting standard	30.4%			4,557	1,533	1,472	1,417	1,368	1,324	1,286	1,252	
	Cost to meet standard	$3,000			$13,672,245	$4,599,804	$4,415,196	$4,249,890	$4,102,553	$3,971,958	$3,856,977	$3,756,576	$34,341,770
To begin from July 2023 – Class 1 buildings must replace LGP fuelled heater with energy efficient heater													
Class 1 properties	% LPG	2%				401	97	93	90	87	85	82	
	Cost to meet standard	$3,000				$1,202,108	$290,473	$279,598	$269,905	$261,313	$253,749	$247,143	$2,228,571
TOTAL													**$36,570,342**

[228] This table uses the same core assumptions as the table in replicates in Appendix C.

[229] The model applies the 3 per cent growth rate from the previous financial year to the start of each subsequent financial year. For example, the growth in private rental housing in 2019/20 is counted in the number of new rental agreements formed in 2020/21. As a result, there may be a slight under-count in the 10-year model (the life of the proposed Regulations), as new agreements in 2029/30 do not account for the growth in rental housing in that financial year (as this would be counted in 2030/31, if the model continued past 10 years). The Department considers that this minor discrepancy would not impact the options modelled or decision-making approach in this RIS, as proportionally the costs and benefits would remain the same.

Table 34: Impact of safety-related obligations on the DoH (3 per cent growth)[230]

Year (beginning 1 July)	Number of premises subject to obligations	Electrical installation testing	Gas installation testing	Smoke alarm testing	Carbon monoxide alarm testing	TOTAL (NPV)
2020	5,775	0	$199,904	$305,853	$143,931	$649,688
2021	13,355	0	$252,304	680,114	$332,856	$1,265,274
2022	20,593	$718,754	$416,447	$1,008,341	$513,234	$2,656,775
2023	27,521	$907,157	$446,467	$1,295,751	$685,903	$3,335,278
2024	34,171	$1,497,333	$581,799	$1,546,973	$851,642	$4,477,747
2025	40,572	$1,605,269	$594,902	$1,766,115	$1,011,176	$4,977,462
2026	46,751	$2,091,856	$706,949	$1,956,824	$1,165,179	$5,920,807
2027	52,733	$2,138,968	$707,387	$2,122,333	$1,314,280	$6,282,968
2028	58,543	$2,541,831	$800,548	$2,265,514	$1,459,065	$7,066,959
2029	64,201	$2,543,409	$791,625	$2,388,915	$1,600,081	$7,324,030
TOTAL (NPV)		**$14,044,576**	**$5,498,331**	**$15,336,734**	**$9,077,346**	**$43,956,988**

[230] This table uses the same core assumptions as the table in replicates in Section 5.1.

Appendix E: Summary of all reforms to the RTA

Rental Reform	Regulation making power	Regulations to be made	Comment
Modern regulation and processes			
Reform 1. The terminology for residential tenancies will be updated as follows: • 'Tenants' will be referred to as 'renters' • 'Landlords' will be referred to as 'residential rental providers' • 'Rooming house owners' will be referred to as 'rooming house operators'	No	No	References in the regulations will need updating to reflect the modern terminology introduced by the *Residential Tenancies Amendment Act 2018*
Reform 2. The *Residential Tenancies Act 1997* (RTA) will include new legislative objectives that reflect its role in the modern regulation of rental accommodation.	No	No	
Reform 3. A Commissioner for Residential Tenancies will: • champion the rights of Victorian renters, with a focus on renter experiences in the private rental sector • help identify systemic issues with the law and practices that could inform future policy, regulatory responses, education programs and resources, and improved dispute resolution services.	No	No	• This is a non-legislative reform • The Commissioner for Residential Tenancies was appointed on 10 September 2018
Reform 4. During implementation of the *Residential Tenancies Amendment Act 2018*, Consumer Affairs Victoria (CAV) will review all sources of information for market participants, to ensure they have access to high-quality, effective education tools that help them to understand their rights and obligations.	No	No	This is a non-legislative reform
Reform 5. Civil pecuniary penalties will be introduced for specific breaches of the RTA, together with a public warning power for the Minister and Director of CAV, as well as powers specifically tailored to ensure compliance with proposed key obligations (such as minimum standards and the prohibition on soliciting rental bids).	Yes	No	
Reform 6. The maximum criminal penalties for the majority of existing offences will be increased 2.5 times and applied to a number of contraventions by the rental provider and, in limited circumstances, by the renter. This aims to encourage greater compliance with the legislation.	No	No	Infringement penalties for existing infringement offences will reviewed in light of increased criminal penalties and new infringement offences considered as part of making a separate set of Residential

Rental Reform	Regulation making power	Regulations to be made	Comment
			Tenancies (Infringement) Regulations for commencement on 1 July 2020
Reform 7. A new Rental Non-compliance Register for rental providers and agents will be established and maintained by the Director of CAV. This will enable renters to identify those who have previously breached their obligations under the RTA. A listing for the rental provider or the agent will be made if VCAT has made a compliance or compensation order in respect of a breach of duty under the RTA, or if the rental provider or agent has been convicted of an offence under the RTA.	No	No	
Before a rental agreement			
Reform 8. Inappropriate questions in a residential rental application form will be able to be prohibited through regulations, should certain types of questions become problematic in the Victorian market in the future. This reform also applies to rooming houses, caravan parks and residential parks.	Yes	Yes - prescribed information that cannot be requested	
Reform 9. Unlawful discrimination is prohibited under the Eq*ual Opportunity Act 2010*. The RTA will now clarify that rental providers must not unlawfully discriminate (or instruct their agent to unlawfully discriminate) when: • refusing to let a property to an applicant • refusing consent to modifications, sub-letting or assignment, or • issuing a notice to vacate. Applicants and renters in these circumstances will have a right under the RTA to seek compensation if they have suffered loss as a result of this unlawful discrimination. This reform also applies to rooming houses, caravan parks and residential parks.	No	No	
Reform 10. Rental application forms will be required to include a prescribed information statement that educates applicants, rental providers and agents about unlawful discrimination. This reform will also apply to residency applications in rooming houses, caravan parks and residential parks.	Yes	Yes - prescribed information statement	
Reform 11. Private rental providers and smaller commercial agencies are not bound by the Australian Privacy Principles in the Privacy Act 1988. This reform will prohibit all rental providers and agents from misusing information in a residential rental application. This reform also applies to rooming	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
houses, caravan parks and residential parks.			
Reform 12. rental providers and their agents will be prohibited from inducing someone to enter a rental agreement by misleading or deceptive conduct (for example, if the agent tells a prospective renter that the house has a high-speed internet connection, when the agent knows this is not the case).	No	No	
Reform 13. Before entering into a rental agreement, the rental provider will now be required to disclose: • any ongoing proposal to sell the property • any ongoing mortgagee action to possess the property • that the rental provider has a legal right to let the property (if the rental provider is not the property owner) • details of any embedded electricity network • any other prescribed matters, such as the presence of asbestos. This reform also applies to rooming houses, caravan parks and residential parks.	Yes	Yes - prescribed mandatory pre-contractual disclosure	
Reform 14. Sometimes, if a rental provider is using an agent, the renter will only have the full name and address of the agent, not the rental provider. If the rental provider's details are needed for the purposes of legal proceedings, VCAT will be able to order that the agent disclose the rental provider's name and address.	No	No	
Reform 15. As part of the broader modernisation of rental laws, the RTA will be amended to authorise digital delivery of critical information, such as the 'Red Book' outlining the parties' rights and responsibilities.	No	No	This reform commenced early on 19 June 2019
Reform 16. The prescribed standard form for a rental agreement will be updated and modernised.	Yes	Yes - prescribed rental agreement	
Reform 17. Not all residential tenancies are in writing. Where, for all intents and purposes, a person is being treated as a renter by their rental provider, the RTA will allow them to apply to VCAT for an order requiring the rental provider to enter into a written rental agreement. This is aimed at providing a sense of security that the RTA applies to the parties' relationship. This reform also applies to rooming houses and residency in caravan parks.	No	No	
Reform 18. The RTA will be amended to clarify that a renter who does not have a properly executed rental agreement (that is, the rental provider has not signed the agreement) will nevertheless benefit from the protections in the RTA as if the agreement had been	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
properly signed from the beginning. This reform also applies to site agreements in residential parks.			
Reform 19. To prevent rental agreements from including particular detrimental additional terms, those terms will be prescribed in regulations as prohibited terms. It will be an offence to include a prohibited term in a rental agreement. This reform also applies to agreements for rooming houses, caravan parks and residential parks.	Yes	Yes - prescribed prohibited terms	
Reform 20. Any requirement in the rental agreement specifying that the renter must have the property professionally cleaned before vacating the property will only be valid if such cleaning was needed to return the property to the condition it was in at the start of the tenancy, taking into account fair wear and tear. This reform also applies to agreements for rooming house rooms and caravans.	Yes	Yes - prescribed professional cleaning terms for standard form rental agreements	
Reform 21. A rental provider will be required to give each renter listed on the rental agreement a key and/or other access device for the property free of charge, but can charge a reasonable fee for an additional key/device requested by the renter.	No	No	
Rent and bonds			
Reform 22. Rental properties must be advertised at a fixed price, and rental providers and agents cannot request or solicit rental bids. The reform does not prevent rental providers and agents from accepting a rental bid if it is offered unprompted by a prospective renter. Solicitation of bids exacerbates the imbalance of power between rental providers and renters, who may feel pressured to pay more than they can afford in order to get a rental. The reform leaves market participants to choose if they want to offer a bid, rather than in response to opportunistic price-gouging by rental providers and agents.	No	No	
Reform 23. Rent increases will be limited to no more than once per year. This reform also applies to rooming houses, caravan parks and residential parks.	Yes	Yes - prescribed notice of rent increase for rooming houses, caravan parks and residential parks updated to provide for annualised rent increases	• This reform commenced early on 19 June 2019 for rented premises • The Residential Tenancies Amendment Regulations 2019 (made on 12 June 2019) amended the notice of rent increase to

Rental Reform	Regulation making power	Regulations to be made	Comment
			provide for annualised rent increases
Reform 24. For rent increases that occur during a fixed-term rental agreement, the amount or method of calculation for the increase must be set out in the agreement (for example, no more than X per cent in a 12 month period).	No	No	
Reform 25. Rental providers must provide at least one reasonably available fee-free method of paying rent. rental providers will also be required to inform renters about any extra costs involved with a particular method of rent payment before they consent to use it. This reform also applies to payment of rent in rooming houses, caravan parks and residential parks.	No	No	
Reform 26. Rental providers will be required to permit rent payments via Centrepay. This reform will address the current practice where some rental providers reportedly refuse to accept rent payments through Centrepay, and will also apply to rental arrangements in rooming houses, caravan parks and residential parks.	Yes	Yes - 'electronic funds transfer' method of payment prescribed	
Reform 27. The cap of one month's rent for both bonds and rent in advance will still apply with an exemption for high value properties and VCAT discretion to set a higher amount. The current high value exemption (for properties with a weekly rent of more than $350) will be updated to reflect market rents, and set at twice the median rent for Victoria. This reform also removes the current exemption when a property is the rental provider's principal residence. This reform also applies to high value exemptions for bonds in residential parks.	Yes	Yes - prescribed new maximum bond amount	
Reform 28. Given the introduction of new long-term leases and requirements for rental providers to allow property modifications, rental providers will be able to take additional bonds for long-term leases and in respect of a renter's obligation to restore any modification.	Yes	No	
Reform 29. Renters can apply to the Residential Tenancies Bond Authority (RTBA) to have all or part of the bond released either with or without the rental provider's consent. If both parties have agreed, the RTBA will pay out the bond in accordance with instructions from the parties as to any apportionment. If the renter is applying without mutual consent, the RTBA will notify the rental provider, who then has 14 days to notify the RTBA if they are disputing the claim. If not, the bond will be automatically paid out. Rental providers will still have to apply to VCAT if claiming	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
from the bond without the renter's consent. This reform also applies to bonds in rooming houses, caravan parks and residential parks.			
Reform 30. Currently, the parties to a rental agreement can mutually agree to the release of the bond at any time before the agreement has ended. A renter can also apply for their bond to be released seven days before the end of the agreement, subject to the rental provider agreeing to the arrangement. To help alleviate financial stress, and to better facilitate these private agreements between exiting renters and rental providers, renters will be able to seek agreement from their rental provider up to a month before the end of the agreement for their bond to be released early. If the rental provider agrees, the bond can be paid out as agreed up to 14 days before the end of the agreement, rather than the current period of 7 days. This reform also applies to bonds in rooming houses, caravan parks and residential parks.	No	No	
During a rental agreement			
Reform 31. Renters will be required to obtain their rental provider's consent to keep a pet. However, the rental provider will be taken to have consented to the pet unless they apply to VCAT within 14 days. VCAT can order that the renter is permitted to keep a pet on the property, or may decide that it is reasonable to refuse consent and make an order excluding the pet from the property. The rental provider can terminate the lease if the renter does not comply with an order excluding the pet from the property. The factors that VCAT may consider when determining whether it is reasonable to refuse consent to keeping a pet are: • the type of pet the renter proposes to keep, or is keeping, on the property • the character and nature of the property • the character and nature of the appliances, fixtures and fittings on the property • whether refusing consent to keep the pet on the property is permitted under any Act • any prescribed matters • anything else VCAT considers relevant.	Yes	No	• At the time of drafting this RIS, Parliament was considering whether the pet reform should be introduced early • Parliament must pass the Consumer Legislation Amendment Bill 2019 to facilitate early commencement of this reform
Reform 32. Renters will be able to make certain prescribed minor modifications without the consent of the rental provider. Other types of modifications (including disability-related modifications) will require the rental provider's consent, which cannot be unreasonably refused. Modifications will need to be	Yes	Yes – • prescribed modifications that can be made without the rental	

Rental Reform	Regulation making power	Regulations to be made	Comment
made carefully, and using a suitably qualified person in some instances. If the rental provider asks, the renter will also need to restore any changes or face losing their bond to cover the cost if the rental provider has to do it. Renters will remain responsible for restoring any changes made to the property, and will be able to lodge a restoration bond to cover the future removal of fixtures. Consent to fixtures is not dependent on whether the renter can lodge a restoration bond. However, it does illustrate that they will be able to meet their obligation to restore the property if requested. A restoration bond will not be required if: • the amount in question is less than $500 • the amount requested does not reflect the reasonable costs of restoring the premises • the rental provider has agreed to leave the modification in place without the need for restoration, or • the modification has been funded by a scheme, and it is a condition of the grant that the rental provider must agree to leave the modification in place and not require the renter to restore the property when they leave. Whether a modification is authorised or unauthorised, it is still the renter's duty to redress any resulting damage to the property. For modifications in rooming houses, caravan parks and residential parks, operators will be required to not unreasonably refuse consent to disability-related modifications.		provider's consent • prescribed modifications that the rental provider must not unreasonably refuse consent • 'prescribed practitioner' that can assess and determine required disability-related modifications	
Reform 33. If a rental agreement is being assigned to a new renter, the rental provider will only be able to charge reasonable fees that are reasonably incurred by the rental provider because of the assignment of the agreement. This reform also applies to site agreements in residential parks.	No	No	
Reform 34. Where a renter or rental provider gives the other person a breach of duty notice, the person in breach will be required to remedy the breach if possible and, if the breach has resulted in loss or damage to the other person, compensate that other person. This reform will address current confusion about whether, if compensation is paid, there is still an obligation to remedy the breach. This reform will also apply to breaches of duty in rooming houses, caravan parks and residential parks.	No	No	
Reform 35. If a renter causing a nuisance is served a breach of duty notice but does not comply, the rental	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
provider can't take further steps (such as apply to VCAT or a compliance order or issue a second breach notice) for 14 days. This timeframe will be shortened to 7 days, to allow rental providers to deal more effectively with wilful nuisance while not unduly penalising renters. This reform will also apply to a breach of duty for nuisance by a site tenant in a residential park.			
Reform 36. If a rental provider who is not ensuring the renter's quiet enjoyment is served a breach of duty notice but does not comply, the renter can't take further steps (such as apply to VCAT or a compliance order or issue a second breach notice) for 14 days. This timeframe will be shortened to 7 days, to allow renters to deal more effectively with intrusions on their quiet enjoyment while not unduly penalising rental providers. This reform will also apply to a breach of duty for the site tenant's quiet enjoyment in a residential park.	No	No	
Property conditions			
Reform 37. There will be clearer obligations for rental providers to provide and maintain the property in good repair, and in a reasonably fit and suitable condition for occupation, despite the age and character of the property. This reform is intended to address a mistaken belief among some rental providers and their agents that it is unnecessary to undertake repairs to premises that are old and run-down, and that a renter should accept a property in disrepair if they have agreed to pay lower rent.	No	No	
Reform 38. Rental providers will be required to ensure that the rental properties they let out comply with prescribed rental minimum standards. The minimum standards that will be prescribed will include basic, yet critical requirements relating to amenity, safety and privacy, such as: • a vermin proof rubbish bin • a functioning toilet • adequate hot and cold water connections in the kitchen, bathroom and laundry • external windows that have functioning latches to secure against external entry • a functioning cooktop, oven, sink and food preparation area • functioning heating in the property's main living area • window coverings to ensure privacy in any room the owner knows is likely to be a bedroom or	Yes	Yes - prescribed rental minimum standards	

Rental Reform	Regulation making power	Regulations to be made	Comment
main living area. Rental providers will be given time to bring their properties up to scratch before the minimum standards come into effect.			
Reform 39. The power to prescribe rental minimum standards has been flexible designed, so that it can incorporate standards imposed under other Victorian legislation, such as energy and water efficiency requirements.	Yes	Yes - prescribed rental minimum standards	
Reform 40. If a property does not comply with the prescribed rental minimum standards, the renter can terminate the rental agreement before they move in, or they can move in and request compliance as an urgent repair. If the rental provider fails to bring property up to standard following the urgent repair request, VCAT can order that the rent be redirected into the Rent Special Account.	No	No	
Reform 41. Insurance companies commonly require deadlocks as a condition of obtaining full insurance cover, meaning that renters who live in a property without a functioning deadlock may not be eligible for compensation in the event of a burglary. rental providers will be required to ensure that any external doors are secured with a functioning deadlock. Deadlocks on windows are not recommended due to concerns about obstructing access to or from the property in an emergency.	No	No	
Reform 42. A more robust condition reporting process will clarify obligations to complete a condition report at the start and end of a rental agreement. Condition reporting will be required regardless of whether a bond is taken at the start of the rental agreement. Electronic reporting will be permitted by the RTA. A rental provider will also be required to complete a report at the end of a rental agreement, and to give the renter an opportunity to agree to the report. Renters and rental providers will also be able to have the condition report amended, whether or not the report has been signed. This reform also applies to condition reporting in rooming houses, caravan parks and residential parks.	Yes	Yes - prescribed condition report	
Reform 43. The Director of CAV will issue maintenance guidelines which must be taken into account by VCAT when determining a dispute about maintenance. The guidelines will list maintenance activities for which the rental provider and renter are responsible. This reform also applies to rooming houses, caravan parks and residential parks.	No	No	Guidelines will be made by the Director of CAV for commencement on 1 July 2020
Reform 44. The Director of CAV will issue guidelines	No	No	Guidelines will be

Rental Reform	Regulation making power	Regulations to be made	Comment
setting out examples or instances of cleanliness and repair. VCAT will be required to have regard to the guidelines when determining related disputes. This reform also applies to rooming houses, caravan parks and residential parks.			made by the Director of CAV for commencement on 1 July 2020
Reform 45. The Director of CAV will issue guidelines clarifying the meaning of damage and fair wear and tear. VCAT will be required to have regard to the guidelines when determining related disputes. This reform also applies to rooming houses, caravan parks and residential parks.	No	No	Guidelines will be made by the Director of CAV for commencement on 1 July 2020
Reform 46. The duties for renters around reasonable cleanliness and avoiding damage will be clarified to take fair wear and tear into account. Renters will be required to leave the property reasonably clean and in the same condition as at the start of the tenancy, taking into account fair wear and tear to the property. This reform also applies to rooming houses, caravan parks and residential parks.	No	No	
Reform 47. Renters or their visitors must not intentionally or negligently cause or permit damage to the property and common areas, and renters must notify the rental provider as soon as practicable of any damage to the property. Damage does not include fair wear and tear caused by a renter or visitor.	No	No	
Reform 48. If a renter causes damage to the rented premises, the rental provider may give the renter a repair notice, and the renter is liable for the cost of repairing damage they caused. Amendments will allow the renter to seek an extension of time at VCAT to the 14-day period for complying with a request from the rental provider to repair damage to the property, or to reimburse the rental provider for any remedial action they have taken to repair the damage.	No	No	
Reform 49. VCAT will be required to take depreciation into account when assessing a rental provider's claims for compensation for damage to rented premises. This reform also applies to rooming houses, caravan parks and residential parks.	Yes	No	
Reform 50. Renters will be required to report damage or breakdown of facilities in the property. A renter who becomes aware of the need for a repair to the premises will have to give notice as soon as possible to the rental provider or agent. The aim of this reform is to minimise any reluctance the renter may feel to request a repair that has not previously been documented (for example, in the condition report), and to ensure that rental providers are able to prevent damage to the property that would occur if a repair was unnecessarily delayed. A failure by the renter to	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
report a defect would not lead to a breach of any other duty. However, if the renter subsequently alleges that the rental provider did not comply with their repair obligations, or tries to claim damages for reduced amenity, VCAT will be able to consider whether, and when, the rental provider was actually notified of the problem.			
Reform 51. If a rental agreement includes a prescribed term setting out safety-related activities (such as testing smoke alarms) that must be completed during the tenancy, the rental provider and renter will be required to undertake their respective safety-related activities and, where relevant, ensure the activity is carried out by a suitably qualified person.	Yes	Yes - prescribed safety-related activities	
Reform 52. Rental providers will be required to comply with prescribed requirements recording and producing gas and electrical safety checks conducted at the property.	Yes	Yes - prescribed record keeping requirements for gas and electrical safety checks	
Reform 53. Renters and rooming house residents will be required to not remove, deactivate or interfere with the operation of a prescribed safety device, unless it is reasonable in the circumstances to do so (for example, if the reason for removal was to repair or replace it). Examples of prescribed safety devices could include smoke alarms and pool fences.	Yes	Yes - prescribed safety devices for renters and residents	
Urgent and non-urgent repairs			
Reform 54. The existing definition of urgent repairs will be expanded to include breakdown of a cooling appliance, non-compliance with minimum standards or the safety-related obligations (such as a functioning smoke alarm), pest infestation and mould caused by the building structure. This reform also applies to urgent repairs in rooming houses and caravans.	Yes	No	
Reform 55. The limit for renters to authorise urgent repairs when their rental provider has not promptly responded to an urgent repair request will be increased to reflect inflation from the current limit of $1,800. The revised limit will be prescribed in regulations. This reform also applies to rooming houses, caravan parks and residential parks.	Yes	Yes - new prescribed authorised amount for 'urgent repairs'	
Reform 56. The Director of CAV will issue guidelines clarifying timeframes for responding to urgent repairs. VCAT will be required to have regard to the guidelines when determining urgent repairs disputes. This reform also applies to rooming houses, caravan parks and residential parks.	No	No	Guidelines will be made by the Director of CAV for commencement on 1 July 2020
Reform 57. Renters who have paid for urgent repairs up to the prescribed amount will be able to seek	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
reimbursement from the rental provider for the reasonable costs of repair within seven days, instead of 14 days. A failure by the rental provider to reimburse the renter will entitle the renter to seek a compensation order from VCAT. This reform also applies to rooming houses, caravan parks and residential parks.			
Reform 58. For non-urgent repairs, renters will be able to apply directly to VCAT if the rental provider has not carried out notified repairs within 14 days. While renters will still be able to request a CAV repairs report, renters will no longer be required to obtain this report before applying to VCAT. This reform also applies to non-urgent repairs in rooming houses, caravan parks and residential parks.	No	No	
Reform 59. To encourage residential rental providers to maintain their properties in good repair, renters will have increased access to the Rent Special Account. The Rent Special Account is designed to hold rent payments that have been redirected when the rental provider has not undertaken any necessary repairs. Upon application by the renter, VCAT will be required to order that rent be paid into the Rent Special Account instead of to the rental provider, unless the rental provider can prove that they would experience financial hardship if the rent was paid into the Rent Special Account. If, despite having been ordered by VCAT to undertake repairs, the rental provider still has not fulfilled their duty, the renter may now apply to have any rent held in the Rent Special Account repaid to them in full as compensation for the inconvenience of having to wait for repairs to be performed. This reform also applies to rental arrangements in rooming houses, caravan parks and residential parks, and responsibility for administering the Rent Special Account will be moved from VCAT to the RTBA.	Yes	No	
Reform 60. The rise in apartment living means the RTA must increasingly be able to address issues such as repairs that involve an owners corporation. Currently, where a residence is part of an apartment building or another complex managed by an owners corporation, rental providers may need to obtain approval before commencing repairs. Alternatively, a repair may have been caused by factors relating to the common property, such that the rental provider would need to obtain redress from the owners corporation. This can often force the renter to endure delays, particularly if there is a dysfunctional owners corporation. The RTA will be amended to provide that, where it is	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
alleged that a repair involves a problem or defect originating in any common property, the rental provider may join any relevant owners corporation as a party to the proceeding.			
Liability for services			
Reform 61. The list of fees and charges payable by the rental provider will be updated to reflect contemporary practice across the full range of essential services. While the rental provider's responsibilities will remain largely the same, additional charges prescribed in regulations will include pump out charges for septic tanks, in recognition that not all properties are connected to mains sewerage disposal systems. This reform also applies to rooming houses, caravan parks and residential parks.	Yes	Yes - prescribed other charges that the rental provider is liable for	
Reform 62. A new provision will provide that where a renter has received an excessive utility usage bill attributable to a hidden fault (such as a leaking water pipe), the renter or the rental provider can apply to VCAT to determine liability for the excessive usage charges. This reform also applies to rental arrangements in rooming houses, caravan parks and residential parks.	No	No	
Reform 63. Registered community housing operators will be able to impose a service charge for any water, central heating, laundry or utility services or facilities made available to the renter. At present, this is only available to the Director of Housing. Service charges will be contestable if a renter believes they have been overcharged. Changes to the cost of providing the services or facilities must be disclosed to ensure renters are properly informed of the method of calculating the change. This reform also applies to rooming houses.	No	No	
Rights of entry			
Reform 64. Rental providers will be required to give renters more notice before entering the property to conduct a general inspection or a valuation (increased from 24 hours' notice to seven days' notice, for these reasons for entry).	No	No	
Reform 65. Rental providers will be liable for any loss caused to renters while a rental provider is exercising a right of entry in the property. This includes any loss by theft that may occur during an inspection. This reform also applies to rights of entry in rooming houses, caravan parks and residential parks.	No	No	
Reform 66. In order to enter the property to take advertising photos or videos, a rental provider will be required to give seven days' notice to enter the	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
property, making a reasonable attempt to arrange a time that suits the renter. Renters will be able to prevent the taking of photos or videos, or the use of photos or videos, in certain circumstances.			
Reform 67. If a property is being sold during a tenancy the rental provider will have the right to conduct sales inspections (including open inspections) up to twice a week, at times reasonably negotiated with the renter at least 14 days in advance. The renter will be entitled to prescribed compensation for each sales inspection. If the renter is a protected person under family violence or personal safety legislation, the renter can require that any inspections be by appointment only, rather than open.	Yes	Yes - prescribed compensation for sales inspections	
Reform 68. In order to show the property to prospective renters, a rental provider will need to give 48 hours' (instead of the current 24 hours') notice of entry to the renter. Unless otherwise agreed with the renter, the rental provider can hold up to two inspections for prospective renters per week, within 21 days of the end of the tenancy. If the renter is a protected person under family violence or personal safety legislation, the renter can require that any inspections be by appointment only, rather than open.	No	No	
Terminations and security of tenure			
Reform 69. The 'no specified reason' notice to vacate for periodic rental agreements will be abolished. This is because rental providers' ability to terminate a tenancy for reasons other than those prescribed by the RTA does not adequately protect renters against unfair termination of their tenancies, where they can be asked to leave without a reason. This has a significant chilling effect on renters' behaviour – it can lead to an unwillingness to request repairs, for example, ultimately leading to run down properties and diminished enjoyment of their home. This reform aims to improve the balance of bargaining power between the parties, and to encourage rental providers to be more transparent about their reasons for wishing to end a tenancy. This reform also applies to periodic residency rights in rooming houses and caravan parks, and periodic site agreements in residential parks.	No	No	
Reform 70. Rental providers will be able to issue an 'end of fixed term' notice to vacate at the end of the first fixed term of a rental agreement, but not for any subsequent fixed terms. Renters will now be able to issue a 14-day notice of intention to vacate before the end of the first fixed term, in response to receiving an end of fixed term notice.	Yes	Yes - prescribed notice to vacate	

Rental Reform	Regulation making power	Regulations to be made	Comment
This reform reflects the view that the first rental agreement is often a trial period for both the renter and rental provider. It may be, by the end of the first term that the rental provider does not wish to continue the relationship because they would like to rent the property to a new occupant. For subsequent fixed terms however, the ability to terminate using this notice will be removed, so that the rental provider will only be able to terminate for a reason prescribed by the RTA.			
Reform 71. A notice to vacate for the end of a fixed term agreement will be able to specify a date on or after the end of the fixed term. This will allow greater flexibility for rental providers and renters, by allowing the parties to agree to the renter staying slightly longer than the end of the fixed term, if this is needed. This reform also applies to these types of notices to vacate in rooming houses and caravan parks.	Yes	Yes - prescribed notice to vacate	
Reform 72. Renters will be able to give 14 days' notice of intention to vacate, without paying lease break fees, in limited circumstances: • where the rental provider has given the renter a notice to vacate • where the renter needs special or personal care • where the renter has been offered and accepted accommodation in social housing • where the renter needs temporary crisis accommodation • where the rental provider has given the renter a notice of intention to sell the property and conduct sales inspections (if the renter was not already told of the proposed sale before moving in).	Yes	Yes - prescribed notice of intention to vacate	
Reform 73. To guard against the misuse of notices to vacate, rental providers will be required to attach evidence of a change of use to a notice to vacate for change of use. Examples of required evidence could include a building permit, or a statutory declaration from the family member moving in to the rented premises. This reform also applies to change of use notices to vacate for rooming houses, caravan parks and residential parks.	Yes	Yes - prescribed notice to vacate	
Reform 74. Currently, renters may be given notice to vacate if they or their visitor endanger the safety of the rental provider or agent, or their contractor or employee. The Director of CAV will issue guidelines for interpreting 'endanger', which must be taken into account by VCAT when a possession order is sought following a notice to vacate being given for this	No	No	Guidelines will be made by the Director of CAV for commencement on 1 July 2020

Rental Reform	Regulation making power	Regulations to be made	Comment
reason. This reform also applies to rooming houses, caravan parks and residential parks.			
Reform 75. This reform clarifies that the meaning of 'malicious damage' which is currently in the RTA covers intentional or reckless serious damage. This reform applies for all tenure types.	No	No	
Reform 76. A rental provider will be able to issue a 14-day notice to vacate if the renter or other person jointly occupying the property has seriously threatened or intimidated the rental provider or agent, or their contractor or employee. This reform also applies to residents of rooming houses and caravan parks, and site tenants in residential parks. This is a new termination ground which, in combination with other protections targeting violence and dangerous conduct, is designed to help rental providers and other providers of property to respond effectively to a broad spectrum of unacceptable conduct.	Yes	Yes - prescribed notice to vacate	
Reform 77. A rental provider may issue a notice to vacate when any rent owed is unpaid 14 days or more after it has fallen due. This amendment will address a practice within VCAT of disallowing a notice to vacate where the renter has paid some, but not all of their rent, 14 days after it was due. In practice, this interpretation of arrears results in periods of arrears that are longer than 14 days, and reduces rental provider certainty about when they may be able to serve a valid notice to vacate. The reform will also allow increased discretion to VCAT to give a renter, in appropriate circumstances, an opportunity to catch up on outstanding rent arrears and remain in the rented premises. Within any 12 month period, on each of the first, second, third and fourth occasion of non-payment of rent, the residential rental provider will be able to give the renter a 14 day notice to vacate. On the first four occasions, if the renter pays the outstanding amount of rent before the expiry of the 14 days, the notice to vacate becomes invalid. If the renter does not pay the outstanding rent within the 14 day notice period, the residential rental provider can apply to VCAT for a possession order. In determining whether to grant a possession order, VCAT will be able to assess whether to place the renter on a payment plan to meet the outstanding arrears. If a payment plan is not a feasible option for the renter, VCAT will issue a possession order. However, if the renter is placed on a payment plan and complies with the plan by paying off the arrears, VCAT must dismiss the application for the possession	Yes	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
order. If the renter does not comply with the payment plan, VCAT can issue a possession order. If a renter has received four notices in any 12 month period, they will accrue '3 strikes' against their name. If no more notices are received during that period, the strikes will be cleared. However, if the renter fails to pay rent as required on a fifth occasion in the same 12 month period, the residential rental provider may apply to VCAT for a possession order and VCAT can choose to issue the order whether or not the renter pays the outstanding arrears within the 14 day notice period. VCAT must consider whether eviction would be reasonable and proportionate, taking into account a variety of factors, including the frequency of non-payment. As the proposed model will not provide a termination avenue to rental providers experiencing rent arrears up to 13 days after the due date, an additional amendment to existing compensation provisions for rent arrears will enable rental providers to seek compensation for any amount of unpaid rent and other consequential losses after the payment is at least 14 days late on two previous occasions.			
Reform 78. VCAT will be able to refuse to grant a possession order on the basis that it would not be reasonable or proportionate to do so. This will enable VCAT to formally consider such factors as the frequency of a particular breach, whether it is trivial, whether someone else was involved, whether family violence was a contributing reason, whether the breach has been remedied to the extent possible, the effect of the conduct on other people, the respective parties' behaviour, and any other relevant matter. The aim of this test is to ensure that eviction is a last resort, that rental relationships are not ended unnecessarily and that other avenues for dealing with problematic behaviour are pursued in order to promote greater security of tenure. This reform applies for all tenure types.	No	No	
Reform 79. VCAT will no longer have discretion to refuse to make a possession order if it considers that there will be no future reoccurrence of a breach, or that a disturbance will not be repeated. Predicting the future conduct of parties is a speculative practice which prevents the termination provisions from functioning effectively in instances of otherwise serious conduct. This reform applies for all tenure types.	No	No	
Reform 80. A mortgagee in possession of rented premises or a rooming house will be required to give 60 days' notice to vacate during a periodic or fixed	Yes	Yes - prescribed notice to vacate	

Rental Reform	Regulation making power	Regulations to be made	Comment
term agreement. This increase (from 28 days' notice to vacate) will align more closely with other notice periods given for change of use.			
Reform 81. If a mortgagee has expressly or impliedly consented to the mortgagor entering into a rental agreement in relation to the mortgaged premises, the mortgagee upon taking possession of the rented premises will be subject to all the provisions of the RTA as though it were the rental provider, including honouring any fixed term of the rental agreement.	No	No	
Reform 82. If a mortgagee applies to VCAT for possession of a rented property, the mortgagee will need to evidence their entitlement to possession and to exercise a power of sale with the relevant court order. This reform also applies to mortgagee repossession to rooming houses, caravan parks and residential parks.	No	No	
Reform 83. Current provisions for a 28 day notice period following the death of a sole renter can result in a property being left vacant unnecessarily and can create unnecessary delays in the creation of a new tenancy for other occupants. The provision for termination after the death of a sole renter will be streamlined and modernised. In these circumstances, either the rental provider or the legal personal representative or next of kin of the deceased renter will be able to give a notice to vacate or notice of intention to vacate to the other party, and VCAT will also be able to make orders terminating the agreement.	No	No	
After a rental agreement			
Reform 84. There will be greater clarity about how a rental provider should be compensated when a renter breaks a fixed term lease. This will include: • requiring advertising costs and re-letting fees to be calculated on a pro rata basis • requiring the pro rata loss to be a percentage of what the rental provider actually paid (not what the rental provider may now be asked to pay the agent) for securing the renter who is breaking the rental agreement • preventing rental providers from claiming for loss of rent where the rental provider had served a notice to vacate • requiring a rental provider claiming for loss of rent to mitigate loss by placing the premises back on the rental market promptly and not unreasonably rejecting proposed new renters. This reform also applies to fixed term site agreements	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
in residential parks.			
Reform 85. When making a compensation order in the case of a lease break of a rental agreement or Part 4A site agreement, VCAT will be required to have regard to the severe hardship the renter or site tenant would have suffered due to an unforeseen change in circumstances, if the agreement had continued. Previously, severe hardship could only be taken into account by VCAT if the rental agreement had not yet ended. This reform aims to improve equitable outcomes for vulnerable renters and site tenants by ensuring that all parties suffering severe hardship due to unforeseen circumstances can have that hardship taken into account, even after the agreement has been terminated.	No	No	
Reform 86. The process for storing and disposing of goods left behind by a renter at the end of a rental agreement will be simplified, streamlined and modernised. • All goods of monetary value must be stored by the rental provider for 14 days, during which time the renter can reclaim them. • If the volume of goods left behind prevents the rental provider from reletting the property, the rental provider can require the renter to pay an occupation fee (equivalent to the rent) for each day the goods are stored, in order to reclaim the goods. • The renter can apply to VCAT to extend the 14 day storage period if necessary, and the rental provider can apply to VCAT to charge a higher occupation fee if necessary. • When the storage period ends, the goods can then be sold or disposed of by the rental provider, and the renter can reclaim any proceeds of sale minus the rental provider's costs. This reform also applies to goods left behind in rooming houses, caravan parks and residential parks.	Yes	Yes - prescribed goods of no monetary value that must be stored	
Reform 87. A rental provider or database operator must give a copy of personal information about a person listed in a residential tenancy database to that person if requested in writing, and may charge a fee to provide the information. Amendments will allow renters to access one free copy of their residential tenancy database listing per year. This reform also applies to residents of rooming houses and caravan parks, and site tenants in residential parks.	No	No	
Reform 88. A renter will be able to apply to VCAT to have a listing on a residential tenancy database	Yes	Yes - prescribed documentary	

Rental Reform	Regulation making power	Regulations to be made	Comment
amended or removed if VCAT is satisfied that the listing is unjust in the circumstances, with regard to the reason for the listing, the renter's involvement, and any adverse consequences. This reform also applies to residents in rooming houses, caravan parks and residential parks.		evidence of family violence or personal violence that the renter can rely on to object to a tenancy database listing	
Reform 89. VCAT can order the RTBA to provide a renter's address for the purposes of serving a document on the renter. This reform also applies to residents of rooming houses and caravan parks, and site tenants in residential parks.	No	No	
Family violence and personal violence			
Reform 90. A person who has applied for a family violence intervention order, family violence safety notice, non-local DVO or personal safety intervention order can access family violence protections in the RTA. VCAT, in considering an application under any family violence related provision, may take into account: • whether an application for an intervention order has been made • if an application was made, whether an order was granted and/or is still in place • if an order was granted, whether an exclusion condition exists, and • anything else VCAT considers relevant.	Yes	Yes - prescribed other evidence of family violence or personal violence	
Reform 91. Under this reform, family violence related applications must be heard by VCAT within a specified time.	No	No	
Reform 92. Family violence related protections under the RTA can be accessed by a parent or guardian of a child who is a victim of family violence, where the parent or guardian lives in the same rented premises as the child. This will ensure that where family violence has occurred against a minor, family violence related protections under residential rental legislation are available. For example, a parent or guardian of a child who is a victim of family violence will be able to make reasonable security-related modifications to rented premises, even though the child is not a party to the rental agreement.	No	No	
Reform 93. VCAT will be able to adjudicate terminations of rental agreements in situations of family violence. It can terminate an agreement or require creation of a new agreement that does not include the person who committed the violence. Under this reform, the RTA will include provisions that:	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
• enable a renter who has been subjected to family violence to challenge the validity of a notice to vacate issued on a range of grounds including danger, threats and intimidation, failure to comply with VCAT order, successive breaches of duty, use of premises for an illegal purpose, where the offending conduct was caused or committed by the person who subjected the renter to family or personal violence • enable a victim of family violence who is a co-renter to apply to VCAT for an order to terminate a fixed term or periodic tenancy, without requiring consent from the other co-renters • require VCAT to consider the relative impacts and hardship of each party to the rental agreement, prior to making an order • enable VCAT to make an order requiring the rental provider or agent to ensure that the victim of family violence has access to the rented premises to remove their belongings, where this is necessary • enable VCAT to apportion liability between the relevant parties in relation to bond, utility charges, other liabilities such as damage, and compensation for early termination of the rental agreement (if relevant). VCAT would be able to determine that the person who committed family violence was fully liable • enable VCAT to specify a termination date that must not exceed a certain period of time from the making of the order (for example, two weeks) • enable VCAT to make an order preventing a rental provider, agent and database operator from making a negative listing on a tenancy database against the renter who had been subjected to family violence. To address the impact on co-renters and rental providers, VCAT, when making an order to terminate the rental agreement, may also make an order to: • terminate the rental agreement, or • terminate the existing agreement and create a new agreement with one or more of the remaining co-renters (with the same terms and conditions as the original agreement).			
Reform 94. Agents and rental providers will be prohibited from making unfair tenancy database listings for victims of family violence when the listing is a result of the perpetrator's actions. VCAT will be able to order the removal of an unfair listing and to	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
oversee the removal of unfair or unsafe details from a listing.			
Reform 95. VCAT will be able to make an order that the rental provider, agent or database operator must remove an existing listing or not make a listing on a residential tenancy database in relation to a victim of family violence, where it is satisfied that the breach of the rental agreement resulted from the actions of another person who committed family violence.	No	No	
Reform 96. VCAT will be able to make an order that a database operator must remove or edit information from an existing listing in relation to a victim of family violence, where it is satisfied that not removing or editing the information would put the victim's safety at risk (for example, current contact details). Information about the nature of the breach that resulted in the listing would not be able to be removed or edited.	No	No	
Reform 97. This reform enables a notice to vacate to be challenged on the grounds that the relevant action or conduct was committed by a perpetrator of family violence. The renter must apply to VCAT challenging the validity of the notice to vacate on or before the hearing of an application for a possession order.	No	No	
Reform 98. In situations where a victim of family violence and the perpetrator are co-renters, VCAT will be able, when making a compensation order or determining payment out of a bond, to: • consider whether another party to the agreement is a victim of family violence • apportion liability between co-renters, including determining that the perpetrator of family violence be fully liable for the rental provider's loss or damage • exclude the victim's share of the bond from being made available for compensation, if the victim's name is registered against the bond.	No	No	
Reform 99. When considering an application for a compensation order or determining payment out of a bond, VCAT will be able to determine that a renter who is a victim of family violence is not liable for any loss, debt or damage. In making such a determination, VCAT would need to be satisfied that: • the loss or damage resulted from the actions of another person who has committed an act of family violence, and • an order (interim or final) with an exclusion condition had been made against the perpetrator	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
of family violence.			
Reform 100. A consequential amendment to the VCAT Act will enable renters subjected to family violence to nominate VCAT to serve documents on the perpetrator of family violence in tenancy matters.	No	No	
Serious violence on managed premises			
Reform 101. There will be stronger protections for rental providers and operators of managed premises in cases of serious violence on managed premises. A notice to leave will now be able to be served on a resident for their visitor's behaviour if the resident caused, encouraged or permitted the violence. Victims of family violence cannot be given a notice to leave where the visitor is the perpetrator.	Yes	Yes - prescribed notice to leave	
Reform 102. For instances where a resident's residency is suspended because of serious violence on managed premises, the prescribed notice given will be updated to include further practical information for a suspended resident, advising them to contact VCAT during their suspension period and shortly after the end of two business days to determine whether or not an application has been made to terminate the residency.	Yes	Yes - prescribed notice to leave	
Reform 103. If a renter's rental agreement has been suspended because of an act of serious violence on managed premises, the suspended renter will be able to make arrangements with the rental provider to have an authorised representative collect any personal items that belong to the renter (such as medication) from the premises during the renter's suspension period. This reform also applies to residents in rooming houses, caravan parks and residential parks.	No	No	
Reform 104. There will be shorter adjournment periods for applications to VCAT to terminate a rental agreement where an act of serious violence occurs on managed premises. The hearing of the application will only be able to be adjourned once, and the adjournment must not be for longer than five days. This reform also applies to rental arrangements in rooming houses, caravan parks and residential parks.	No	No	
Reform 105. If a notice to leave is served on a resident for serious violence on managed premises, and the rental provider or operator seeks to terminate the residency at the end of the two-day suspension period, VCAT must do so if it determines that the notice to leave was appropriately given.	No	No	
Reforms unique to rooming houses			
Reform 106. A future inter-governmental project will	No	No	This is a non-legislative

Rental Reform	Regulation making power	Regulations to be made	Comment
consider the definition of a rooming house in the context of the modern breadth of rooming house accommodation.			reform
Reform 107. Under this reform, buildings owned or leased by a registered housing agency will be able to be declared rooming houses by the Minister for Housing. Currently only buildings owned or leased by the Director of Housing can be declared.	No	No	
Reform 108. An owner of a building, or that owner's agent, must notify the relevant local council if they have reason to believe the building is being used as an unregistered rooming house. This reporting obligation will be expanded to include where the building owner or their agent ought to know, in all the circumstances, that the building is being used as an unregistered rooming house. This reform will prevent owners and agents profiting from leasing a building from turning a blind eye where there is evidence it is being used as an unregistered rooming house.	No	No	
Reform 109. To improve rooming house residents' awareness of their rights and responsibilities, the RTA will also be amended to explicitly require rooming house operators to give a resident a copy of the 'Red Book'. A summary of these rights and responsibilities will also need to be displayed in each resident's room.	No	No	
Reform 110. A rooming house operator wishing to give notice to enter a resident's room to conduct a general inspection will be required to give the resident 48 hours' notice (rather than the current 24 hours' notice for this reason for entry).	No	No	
Reform 111. Rooming house operators will be able to charge for separately metered water consumption in the same way that they can already charge for separately metered electricity and gas consumption. Where a room is separately metered for water, this will better reflect the resident's water use than the current practice of including water consumption in rent.	No	No	
Reform 112. While not in the Bill itself, the prescribed rooming house minimum standards will be updated to clarify that: • a resident's room must have at least two power points that are unoccupied, working and safe • the operator must provide laundry facilities in a ratio of one set of facilities for every 12 residents.	No	No	This reform will be implemented separately be making amendments to the Residential Tenancies (Rooming House Standards) Regulations 2012
Reform 113. The current practice of some rooming house operators using Part 2 tenancy agreements for rooms in a rooming house will be abolished. Tenancy agreements and the provisions in Part 2 of the RTA are	Yes	Yes - prescribed new fixed-term rooming house agreement	

Rental Reform	Regulation making power	Regulations to be made	Comment
ill-suited to the communal living aspects of a rooming house, and vulnerable rooming house residents are disadvantaged by agreements that hold them to a fixed term (liable for lease break fees) in accommodation where conditions can be chaotic and residents have no control over who occupies the other rooms or shares their room This reform will replace the use of tenancy agreements for rooms in rooming houses with tailored fixed term rooming house agreements. If the parties choose to enter a fixed term rooming house agreement, the operator will be able to request a higher amount of bond (up to 28 days' rent instead of the usual 14 days' rent) and a resident will be required to give 14 days' notice of intention to vacate (instead of the usual two days' notice) at any time.			
Reform 114. An amendment will clarify that where a building owner or lessee is entitled to terminate the lease of a building in which a rooming house is operating, the rooming house residents will be entitled to be given a notice period when a building lease terminates, whether or not the building owner or person discontinuing the lease was aware that the rooming house was being operated.	No	No	
Reforms unique to caravans and residential parks			
Reform 115. The definition of caravan park 'resident' will be amended to address the problem of holiday-makers becoming 'accidental' residents, by ensuring that a person who has a genuine holiday arrangement will not meet the definition of a resident, even if they occupy the site for 60 or more days. The reform will also ensure that park operators will not be able to avoid the operation of the RTA by putting people genuinely residing in the park on sham 'holiday' agreements.	No	No	
Reform 116. If a park operator is not the freehold owner of the park land, the operator will be required to make appropriate pre-contractual disclosure to prospective park residents of the nature of the operator's interest in the land, and of the limitations on the operator's ability to grant interests in the land to prospective park residents. A park operator who is not the freehold owner of the land must not enter into an agreement with a resident for a fixed term that exceeds the unexpired term of the head lease to the park operator.	Yes	Yes - prescribed mandatory pre-contractual disclosure	
Reform 117. The ability of park operators to terminate a Part 4 periodic residency right or a Part 4A periodic site agreement for 'no specified reason' will be removed. Park operators will be able to issue a notice	Yes	Yes - prescribed notice to vacate	

Rental Reform	Regulation making power	Regulations to be made	Comment
to vacate at the end of a specified period of occupancy under a residency right, or end of a fixed term site agreement. There will also be new notices to vacate for closure of the park.			
Reform 118. If a park is to be closed, the park operator must give at least 14 days' notice to local government before giving a notice to vacate to a park resident. Advance notice of the park closure will enable the council to plan early service responses for affected residents.	No	No	This reform commenced early on 3 April 2019
Reform 119. In the event of a park closure, the park operator will have to pay compensation to site tenants and residents who own fixed dwellings in the park. The park operator will be required to apply to VCAT for a determination of compensation within 30 days of giving notices to vacate. The amount of compensation payable will cover reasonable relocation costs if the resident's dwelling is being relocated, or compensation for loss of residency if the dwelling is not being relocated. A park operator will not be liable to pay compensation for park closure if they do not own the land on which the caravan park or Part 4A park is located, and the closure of the park is due to the expiry of a head lease over that land.	No	No	This reform commenced early on 3 April 2019
Reform 120. Park operators who charge an exit fee will be required to provide prospective site tenants with additional information about the exit fees to help prospective site tenants better understand their future liability. The additional details that must be disclosed will be prescribed in regulations, and will be similar to the enhanced disclosure requirements that exist for exit fees in retirement villages.	Yes	Yes - prescribed pre-contractual disclosure of exit fees	
Reform 121. A Part 4A site agreement will be able to specify that rent increases will be either by a fixed amount according to a specified method of calculation, or by a non-fixed amount. If a fixed amount is used, a reminder notice will be sent to site tenants ahead of an increase, which cannot be subject to rent review by CAV. Non-fixed rent increases will still be subject to rent review.	Yes	Yes - prescribed notice of rent increase	
Reform 122. A site tenant will be able to use their site for non-residential purposes (such as running a home business), provided they obtain the park operator's written consent. The park operator must not unreasonably withhold consent, but may specify reasonable conditions relating to the non-residential use of the site.	No	No	
Reform 123. A fairer and more efficient system will be introduced for providing keys or devices enabling	No	No	

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vehicular access to the park to park residents. An initial key/device must be provided free of charge, but the park operator can charge for any additional or replacement keys or devices, and the park resident must return all keys and devices at the end of their residency.			
Reform 124. Where a breakdown of communal facilities in a park has been reported to the operator, the operator must ensure the breakdown is repaired as soon as is reasonably practicable.	No	No	
Reform 125. Urgent and non-urgent repairs processes will be introduced for Part 4A sites, modelled on the repairs processes that exist for other rented premises under the Act. The park operator will be responsible for urgent and non-urgent repairs to the site, including any structures and fixtures on the site owned by the park operator.	Yes	Yes – • prescribed definition of 'urgent site repairs' • prescribed authorised amount for 'urgent site repairs'	
Reform 126. The urgent and non-urgent repairs processes that exist in the RTA for Part 4 caravans will be extended to cover Part 4 caravan sites. The park operator will be responsible for urgent and non-urgent repairs to the site, including any structures and fixtures on the site owned by the park operator.	Yes	Yes – • prescribed definition of 'urgent site repairs' • prescribed authorised amount for 'urgent site repairs' • new prescribed authorised amount for 'urgent repairs'	
Reform 127. Park residents who own their dwelling will owe a duty to maintain (subject to fair wear and tear) their dwelling in good repair, and ensure it is safe to live in and does not pose a significant health risk.	No	No	
Reform 128. Park operators will be prohibited from making park rules that require park residents to undertake significant works on a dwelling other than for reasons of reasonable cleanliness, safety or good repair.	No	No	
Reform 129. If a dwelling owned by a park resident is being sold on-site and the dwelling is not in a reasonable state of cleanliness or repair, or poses a significant health or safety risk, the operator may require an undertaking that the defect will be rectified within a reasonable timeframe, as a condition of	No	No	

Rental Reform	Regulation making power	Regulations to be made	Comment
consenting to the transfer of the residency right (or assignment of the site agreement).			
Reform 130. A park operator who enters into an agreement to sell a Part 4A dwelling on behalf of a site tenant must not charge a commission for the sale unless the services provided by the operator as the selling agent are the effective cause of the sale, and the purchaser is not the operator or a related party.	No	No	
Reform 131. Caravan park residents will be able to form and participate in Part 4 residents' committees, equivalent to the Part 4A site tenants' committees that site tenants can participate in. In the case of a 'hybrid' park containing both Part 4 residents and Part 4A site tenants, only one committee may be formed in respect of the park, and may comprise both residents and site tenants.	No	No	
Reform 132. An operator will be required to give consult with caravan park residents on any proposed change to the park rules, in the same way that operators are already required to consult with Part 4A site tenants.	No	No	
Reform 133. A park operator will be required to consult with the residents' committee (if a committee has been formed in the park) on any proposed change to the park rules, or any proposal to introduce, remove or substantially restrict a facility or service in the park.	No	No	
Reform 134. Site tenants will be able to request from the park operator that a person residing with them in their dwelling be added to the site agreement and recognised as a site tenant. This reform will protect co-habitants of site tenants (such as partners or relatives) by ensuring they can continue to live in the home in the event of the original site tenant's death. Park operators must not unreasonably refuse the original site tenant's request.	No	No	
Minor or technical amendments			
Reform 135. Amendments to the provisions dealing with liability for utility usage charges for non-compliant replacement appliances, to make them more adaptable to any future introduction of energy efficiency standards.	Yes	Yes - prescribed efficiency rating standards for end of life replacement appliances	
Reform 136. Amendments providing for the suppression of certain crisis accommodation from the public Rooming House Register, particularly where there is a threat of interpersonal or family violence.	No	No	This reform commenced early on 3 April 2019
Reform 137. Amendments clarifying the definition of 'temporary crisis accommodation', to accommodate	Yes	Yes - prescribed updated definition of	

Rental Reform	Regulation making power	Regulations to be made	Comment
fluctuations in the average time clients remain in such accommodation.		'temporary crisis accommodation'	
Reform 138. Amendments clarifying the definitions of 'health or residential service' and 'service agency', to reflect contemporary settings for service delivery.	No	No	
Reform 139. VCAT will be able to postpone the issue of a warrant of possession in relation to residency in a rooming house or a caravan park in certain cases, based on relative hardship grounds and provided there is no unpaid rent or other breach.	No	No	