

18 December 2019

Submitted via Engage Victoria

Simon Cohen
Deputy Secretary - Regulation
Department of Justice and Community Safety

Dear Simon,

Residential Tenancies Regulations 2020 Regulatory Impact Statement

Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Residential Tenancies Regulations 2020 Regulatory Impact Statement (**RIS**). Consumer Action's National Debt Helpline service provided financial counselling to over 11,000 people in the 2018/19 financial year. Often issues with low quality rental properties or disputes with rental providers are identified as key contributors to the financial issues people face when calling this service. We support proposed reforms to tenancy regulations that improve rights and access to justice for renters seeking to resolve issues and support submissions made by our colleagues Tenants Victoria.

To make sure renters in Victoria have a right to healthy homes that are affordable to heat or cool the proposed regulations on energy efficiency minimum standards in the RIS must be strengthened. Heater standards should be at a higher and consistent level in all properties. Measures like draught proofing, energy efficient hot water and insulation must also be pursued as a priority. Fourteen percent of callers to the National Debt Helpline Consumer Action report issues with energy debt. Those calling who live in private rentals or public housing report energy debt more often than other callers.¹ A lack of minimum standards for energy efficiency for rental housing has put renters at greater risk of debt due to split incentives for rental providers and renters that could only be overcome by regulation.

A summary of recommendations is available at **Appendix A**.

¹ Consumer Action, 2019. [Energy Assistance Report: Tracking how Victoria's changing energy policies are impacting households in the state.](#)

Implement comprehensive fixed heating minimum standards

The proposed regulations provide no minimum standards on fixed heaters in the living areas for category two² buildings. This blanket inconsistency unnecessarily excludes some renters in category two properties who may end up with no right to appropriate efficient heating, despite living in class two properties that can still be worse than class one.

We support the clear case explained on pages 45 and 46 of the RIS as to why effective energy efficiency and heating requirements are needed to meet the objectives of the proposed regulations and to prevent numerous unacceptable health and social impacts. This case demonstrates why *"It is a societal expectation that people can heat their home to a comfortable temperature, particularly during the winter months."*³ However, the assessment of feasible options falls short of delivering effective benefit to all renters in Victoria by not setting consistent minimum standards at levels that will address the harm identified.

Instead of simply providing no minimum energy efficiency standard for heating in the living areas of class two properties, the regulations should instead require the same standards as class one properties. Where it is not possible to install such heating due to practicalities of building structures, ownership structures or excessive costs then rental providers should be able to apply for an exemption from heating standard requirements through an appropriate system, where evidence must be provided. With an exemption system in place any class two homes that are exempt should also be mandatorily disclosed by rental providers to current or prospective renters and still be required to have fixed heating with no minimum standard for efficiency. This disclosure would ensure some opportunity for renters to understand their rights within exempted properties and the reason why they have less rights than others.

The RIS notes that generally class two properties are more energy efficient,⁴ ignoring that some may perform far worse than class one properties where renters need protection from unaffordable energy or unhealthy home temperatures through minimum standards. Clear regulatory guidelines could be created to ensure these regulations and exemptions are easy to communicate and enforce. This adjustment to the regulations should reflect increased benefits to renters with relatively little or no extra costs to class two rental providers that will not be exempt and would have incurred costs installing fixed heating already.

RECOMMENDATION 1. Requirements for fixed heating minimum standards in the proposed regulations should be the same for class one and class two properties. An appropriate exemption system for class two properties should replace exclusion of minimum efficiency standards.

The RIS fails in its assertion that a requirement for a fixed heater in class one rental properties with a minimum two-star rating is a 'medium' energy efficiency option for the regulations and that this reflects a 'basic' standard. The regulation for basic minimum standards should instead reflect a minimum of 4 star rated fixed heater in the living room of both class one and class two properties.⁵

Energy ratings schemes are designed to give a clear indication of the performance of appliances from a rating of '1' as the bare minimum that can be sold and therefore most expensive to run to a rating of '10' which reflects the

² 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).

³ Residential Tenancies Regulations 2020; Regulatory Impact Statement, pg.45-46

⁴ Ibid, pg.49-50

⁵ Consumer Action has seen modelling completed by Renew which demonstrates that the cost to rental providers for purchasing and installing 4 star heating are similar to equivalent costs for 3 star heating. The benefits for renters through lower running costs are greater for four star heating at no extra cost to rental providers and therefore the standard should be set at this level.

most efficient.⁶ Many air conditioning units that provide heating that are registered on the energy rating website are rated at '6' or '7' stars for heating spaces.⁷ Therefore a minimum of 2 stars is not basic or in line with community expectations around an acceptable product but is instead close to the worst energy efficiency performance for heating a space.

A minimum of a 4 star rating for non-ducted air conditioners and 4 star rating for gas space heaters should be regulated to reflect a basic energy efficiency. The RIS has not effectively measured many of the benefits to the community for this level of energy efficiency that will likely prove the case for these appropriate standards. For instance, Appendix C of the RIS does not measure the benefits to households and the health system for less illness being caused by homes being unaffordable to heat. This may include significant savings through lower hospital admissions for respiratory illnesses where cold homes are a major cause. There may also be a reduction in lost income due to time off work for people who would be ill otherwise and greater productivity at workplaces where workers are absent less often. This type of illness is one of many harms that will be reduced by appropriate minimum standards that create both direct and indirect benefits for government budgets and the wider economy. The RIS should not limit itself from assessing the many other benefits for improving the energy efficiency of people's homes.

RECOMMENDATION 2. A minimum of 4 star rating for non-ducted air conditioners and 4 star rating for gas space heaters should be regulated as to reflect a basic energy efficiency standard in class one and class two properties.

Pursue other energy efficiency minimum standards as a priority

We agree with the RIS's assessment that to be fully effective, energy efficiency minimum standards for rental properties must not only address the efficient production of heating but also the efficient retention of heating or cooling through insulation and draught stopping.⁸ We also agree that efficient heating of hot water systems will provide significant benefits to renters.⁹ It is feasible to implement more minimum standards as demonstrated by standards implemented in New Zealand¹⁰ which has a similar climate to Victoria.

In order to effectively meet regulatory objectives, the rental regulations addressed in this RIS should also introduce minimum standards that include draught proofing for all properties.¹¹ The regulations should also be redrafted to ensure that renters are not restricted from modifying properties to low flow shower heads without seeking rental provider's approval when accessing government schemes that require existing heads to be removed from the property. Adjustments to the proposed regulations to make draught proofing a minimum standard will amplify the benefits of efficient heaters in properties for low cost to rental providers for properties of a reasonable standard. It would also be unreasonable to draft regulations in a way that blocked renters from accessing programs designed to deliver significant benefits, such as lower water usage including total hot water usage and associated water heating costs for households.

The Government must also progress minimum standards for insulation as a priority. These will deliver significant savings and thermal comfort to rental households that are unlikely to be achieved otherwise due to issues with

⁶ See <http://www.energyrating.gov.au/label>

⁷ Based on a search on 11 December 2019 of:

https://reg.energyrating.gov.au/comparator/product_types/64/search/?&order_by=-star2010_heat&order_direction=desc

⁸ Residential Tenancies Regulations 2020; Regulatory Impact Statement, p.53

⁹ Ibid.

¹⁰ Tenancy Services (New Zealand). *Healthy home standards*. Retrieved 11 December 2019 from: <https://www.tenancy.govt.nz/assets/Uploads/files/healthy-homes-standards-key-facts.pdf>

¹¹ We recognise safety risks in relation to open flue gas heating but these should be committed by enforcing compliance with safety standards for these heaters as opposed to stalling necessary regulation.

split incentives. Minimum standards for hot water systems and cooling must also be pursued as soon as possible to deliver effective outcomes for renters from the regulations.

RECOMMENDATION 3. Implement draught proofing as a minimum standard for energy efficiency in all rental properties.

RECOMMENDATION 4. The regulation be amended drafting should ensure that renters can access programs to modify properties with low flow shower heads.

RECOMMENDATION 5. Prioritise implementing minimum standards for insulation.

RECOMMENDATION 6. Implement minimum standards for hot water systems and cooling as soon as possible.

Please contact Jake Lilley at **Consumer Action Law Centre** on 03 9670 5088 or at jake@consumeraction.org.au if you have any questions about this submission.

Yours Sincerely

CONSUMER ACTION LAW CENTRE



Gerard Brody | Chief Executive Officer

APPENDIX A - SUMMARY OF RECOMMENDATIONS

RECOMMENDATION 1. Requirements for fixed heating minimum standards in the proposed regulations should be the same for class one and class two properties. An appropriate exemption system for class two properties should replace exclusion of minimum efficiency standards.

RECOMMENDATION 2. A minimum of 4 star rating for non-ducted air conditioners and 4 star rating for gas space heaters should be regulated as to reflect a basic energy efficiency standard in class one and class two properties.

RECOMMENDATION 3. Implement draught proofing as a minimum standard for energy efficiency in all rental properties.

RECOMMENDATION 4. The regulation be amended drafting should ensure that renters can access programs to modify properties with low flow shower heads.

RECOMMENDATION 5. Prioritise implementing minimum standards for insulation.

RECOMMENDATION 6. Implement minimum standards for hot water systems and cooling as soon as possible.