

Ministry of Business, Innovation, and Employment
TenanciesSubmissions@mbie.govt.nz

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Submission regarding the proposed **Residential Tenancies Regulations**

1. Community Housing Aotearoa is the peak body for the community housing sector that provides social and affordable housing throughout New Zealand. We represent the interests of our 90+ members on issues that impact their ability to fulfil their organisational missions. The proposed Residential Tenancies Regulations implementing the Residential Tenancies Amendment Bill are of great interest to our members and the sector is broadly supportive of Governments efforts to improve housing conditions for our most vulnerable citizens.
2. The proposed regulations, whilst a step in the right direction, do not take advantage of the opportunity to address shortcomings that have permitted a significant portion of New Zealand's rental housing stock to become hazardous to occupants.
3. We have submitted comments to the Select Committee regarding the Bill, including comments on the proposed Regulations. We are concerned that the impacts on tenants have not been fully addressed in the Bill and implementing Regulations. Given the tight timeframes for submissions, we continue to consult and may make supplementary submissions or provide further information to the Committee when we are heard.
4. Community Housing Aotearoa (CHA) agrees the necessity of standards to improve the quality and performance of rental housing. The proposed Residential Tenancies Regulations should be set to achieve the World Health Organisation (WHO) minimum air temperature standard of 18 degrees Celsius (20 degrees for vulnerable groups including the very young and very old). The proposed regulations should be expanded to include a fixed source of heating and proper ventilation. Setting an insulation standard alone cannot provide the full benefits which accrue from also setting standards for heating, ventilation and indoor mould which often flourishes in the absence of these inter-related elements.
5. The proposed Residential Tenancies Regulations enforcement mechanisms are too weak. The enforcement should not rely on tenants or landlords, but through a third party Housing Warrant of Fitness inspection.

6. The negative outcomes resulting from weak central government housing standards is well documented. Likewise, the positive benefits of insulation, heating, thermal curtains, smoke alarms and a Housing Warrant of Fitness have been shown. (Attached to this letter are the references in support of these statements.) CHA is concerned that the lack of stronger central government action is resulting in a nascent piecemeal regulatory approach by local councils. This will only lead to greater distortions in rental markets and potential concentrations of poorly maintained stock. City councils are now exploring how to implement a Housing Warrant of Fitness locally. In our view this is the next best possible alternative given the weak proposals currently contained in the Residential Tenancies Regulations.

Community Housing Aotearoa submits the following responses to the questions posed in the Discussion Document:

Key question 1: How many smoke alarms should be required and who needs to provide them?

Question 1A: If smoke alarms are required in all rental properties, do you support the minimum requirement of one alarm within 3 metres of each bedroom (and in a multi-level unit, there must be a working smoke alarm on each level)? If you don't support the proposal, what minimum requirement would you propose and why?

RESPONSE: CHA fully supports the requirements for smoke alarms to be provided by landlords and feel the proposed regulations are the right approach. The proposed standards are based on optimum benefits and current best practice in fire safety. The cost benefit analysis demonstrates the clear benefits of the additional upfront capital expense to meet the proposed standard requiring long-life batteries if not hard-wired.

Key question 2: What kind of alarm?

Question 2A: Do you agree with the proposal to require long life alarms that ensure lives and properties are protected more consistently? If not, what would you propose and why?

RESPONSE: CHA fully supports the proposed regulations for long life smoke alarms.

Key question 3: What is the benchmark for requiring residential rental properties to insulate?

Question 3A: Do you agree with the proposal to allow rental houses with insulation that is in good repair, but does not meet the current Building Code requirements for new builds, to meet the 1978 standards? If not, what minimum level of insulation would you propose and why?

RESPONSE: No, CHA does not support setting the benchmark for insulation at the 1978 standard. The level of insulation we propose is the amount necessary to achieve the World Health Organisation standard of a minimum healthy indoor air temperature of 18 degrees Celsius at an affordable operating cost to the tenant. Absent such a performance-based standard, the minimum level should be the current Building Code.

Question 3B: Do you agree with the proposal to require houses with insulation that is incomplete, damaged, damp or degraded to be retrofitted?

RESPONSE: CHA supports a revised standard to require insulation not enabling the home to meet the WHO standard to be retrofitted to meet the standard. In the alternative, should the currently proposed standards be adopted, then homes failing to meet the insulation standard should be required to retrofit to meet the adopted standard.

Question 3C: As a landlord/tenant – do you understand the proposed requirements and would you feel confident checking that your rental property or the property you rent meets them?

RESPONSE: CHA does not feel that landlords/tenants have the technical expertise to accurately assess the condition of the property against the proposed Residential Tenancy Standards. CHA supports the introduction of a Warrant of Fitness inspection regime to ensure proper compliance with all housing quality standards, not just those related to insulation and smoke alarms.

Key question 4: Which houses should be exempt?

Question 4A: Are there properties that would be exempt under these proposed changes that should be included in the requirements?

RESPONSE: The adoption of a performance-based system as described in point 4 of our opening statement would remove the need for exemptions. Under a performance-based system, the home could be fitted with other measures such as thermal curtains, double glazing, and high efficiency heating to meet a healthy minimum indoor air temperature. The fact that there is a greater or lesser amount of insulation used to achieve the performance standard is irrelevant.

Under the proposed Regulations, the exemptions should be kept to an absolute minimum. The proposed exemptions effectively allow the worst performing homes to remain that way while still requiring better performing homes to upgrade under some circumstances. This is not equitable to responsible landlords nor to tenants. Where properties have physical constraints to installing insulation, then the landlord should be required to demonstrate what additional measures have been taken to improve indoor air temperature to compensate for the lack of insulation.

Question 4B: Are there other properties that should be excluded from the requirements? Why?

RESPONSE: No.

Key question 5: If you have to insulate what standard should be required?

Question 5A: Do you support the proposal to require that when new insulation must be installed, it should match the current installation standard required for new builds or alterations under the Building Code? If not, what standard do you think should be required?

RESPONSE: CHA supports setting the benchmark for insulation at the level necessary to achieve the World Health Organisation standard of a minimum healthy indoor air temperature of 18 degrees Celsius at an affordable operating cost to the tenant. Absent such a performance-based standard, the minimum level should be the current installation standard required for new builds or alterations under the Building Code.

Key question 6: What are the biggest risks of the proposal and how do we mitigate them?

Question 6A: Do you have any comments on the risk of incorrect installation and effects on the rental market?

RESPONSE: CHA agrees with the Discussion Document analysis that identifies the risk of landlords choosing the cheapest products and unqualified installers as likely to occur resulting in the risk of death or injury to the landlord, tenant and potentially others. Professional installation should be required. In addition, the Housing Warrant of Fitness conducted by a suitably qualified professional will also identify incorrect installation. We do not feel that the minimal costs identified to properly insulate rental properties will result in rent increases. We also feel that costs to landlords can be mitigated through the provision of targeted incentive schemes, such as the Warm Up NZ programme.

Question 6B: Are there other risks you think are significant? If so, what are they and how should Government deal with them?

RESPONSE: CHA believes the greatest risk results from the proposed Residential Tenancy Regulations falling short of achieving the goal of making 'residential rental properties warmer, drier and easier to heat'. CHA supports the introduction of a performance-based standard, for example, requiring properties to be able to achieve the World Health Organisation recommended interior temperature of 18C year-around. Such systems are used in other jurisdictions, and would enable a property owner to pick a cost-effective mix of insulation, window performance and efficient heating that could meet the standard, appropriate to the climate in which the house is situated. CHA also supports the introduction of a rental housing Warrant of Fitness to ensure compliance with all housing related health and safety requirements.

Question 6C: Do you think the proposal reduces the risks enough? If not, how would you reduce them?

RESPONSE: CHA believes the proposed Residential Tenancy Regulations do not adequately address the existing risks to tenants living in cold, damp and mouldy homes. The costs of allowing this to continue are well documented. It is time to require landlords to provide warm,

safe and dry rental homes to all New Zealanders who are renters. CHA supports the introduction of a performance-based standard, for example, requiring properties to be able to achieve the World Health Organisation recommended interior temperature of 18C year-around. Such systems are used in other jurisdictions, and would enable a property owner to pick a cost-effective mix of insulation, window performance and efficient heating that could meet the standard, appropriate to the climate in which the house is situated. CHA also supports the introduction of a rental housing Warrant of Fitness to ensure compliance with all housing related health and safety requirements.

Kind Regards,



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Reference Documents

Cost/Benefits Analysis of Insulation

Motu Research 2012 - <http://www.motu.org.nz/our-work/urban-and-regional/housing/cost-benefit-analysis-of-the-warm-up-new-zealand-heat-smart-programme/>

MBIE: Proposed Residential Tenancies Regulations for insulation and smoke alarms Discussion Document

MBIE: Regulatory Impact Statement Smoke alarms and insulation in residential rental properties

Cost benefit analysis for a minimum standard for rental housing, Sapere Research Group, November 2014

Housing Conditions and impacts on residents

Presbyterian Support Otago. Out in the Cold a survey of low income private rental housing in Dunedin 2013. Dunedin: PSO, 2014.

Professor Howden-Chapman, RadioNZ interview, June 2015
<http://www.radionz.co.nz/news/national/275458/'they're-getting-sick'>

Results from a Rental Housing Warrant of Fitness Pre-Test, He Kainga Oranga/ Housing and Health Research Programme, University of Otago, May 2014

World Health Organisation. Health impact of low indoor temperatures: Report on a WHO meeting. Copenhagen: WHO, 1987.