

This submission may be made public but without attribution to me

Dear Minister,

I am providing this submission as both a tenant of a house in NSW, and a landlord of an apartment in NSW. I will experience both the impacts and benefits of any reform. I am of the view that reform is necessary.

The reforms currently proposed by the government appear to focus on reducing the incidence of events that cause a tenant to be vulnerable, for example reducing the frequency of evictions by banning no fault evictions. I would urge the government to instead consider what about these events cause a tenant to be vulnerable in the first place; and enfranchise greater rights for tenants, such that vulnerability is reduced or eliminated when a tenant faces events outside their control initiated by their landlord (such as rental increases and evictions).

Excessive rental increases:

Rental increases are inevitable, as with all forms of price inflation in the economy. While rental controls and freezes (as proposed by the greens) have several known undesirable impacts to the overall rental market. The government have rightly avoided such interventions. I would instead propose:

Any rental increase above CPI should entitle a tenant to rights the same as if they were served with a (no-reason) termination notice. That being:

1. The notice period for an above CPI rental increase should be 90 days rather than 60 days; and
2. During this 90 day period the tenant may vacate the property without notice.

This change would introduce a market-based mechanism to assess the fairness of an above CPI rental increase. If the increase is fair, the tenant will not find a comparable property below the proposed increased rent and remain at the property. If the increase is unfair (i.e. exceeds what is competitive in the market) the tenant will have the freedom to quickly and without penalty move to a new property charging fair rent.

This change will also:

- act as a buffer to run-away rental increases, as it will cause landlords to hesitate on an above CPI rental increase given the rights it would trigger for the tenant;
- Act as a market-based punishment for landlord whos' property will be vacated without notice should they attempt to impose an unfair or uncompetitive rental increase; and
- Increase the turnover (i.e. supply) of property during periods of high rental inflation/demand, when it would be expected that more tenants would face above CPI increases, thus giving them the option to move without giving notice.

Evictions:

Evictions are in my view similarly inevitable; the proposed reforms leave the door open to many alternative and legitimate means for a landlord to evict an unwanted tenant. The government should instead focus on ensuring that whenever a landlord is initiating an eviction – adequate time is provided for the tenant to locate an alternative home, the prospect of paying double rent is minimised and the tenant is provided means to vacate immediately once that alternative home is found.

As such, tenants on periodic tenancies have the least to fear from a “no-grounds-eviction”. The current notice period (90 days) provides adequate time for a tenant to find an alternative home; and if a home is found sooner than this, tenants are free to leave without notice and pay no further rent. The government should instead focus on ensuring other forms of eviction provide the same privileges of notice and vacation to tenants as a universal right.

Under the proposed reforms, tenants on periodic tenancies required to vacate due to exchange of a sales contract requiring vacant possession would continue to need to vacate the property within 30 days. This is a grossly inadequate time to find an alternative home, and it is illogical for the rights of a tenant to vary based on the circumstances of the landlord.

Under the proposed reforms, tenants on fixed leases coming to an end could similarly be required to vacate the property with just 30 days' notice (though admittedly the incidence of this will reduce through the removal of no-grounds-evictions). The government should similarly introduce a 90-day notice period for such evictions, and importantly enable the tenant to cease the tenancy at any point during those 90 days so they can get on with finding their new home. They should not be required to see out the remainder of their lease once an eviction notice is served.

Conclusion:

It is my view that the reforms I have proposed will be more beneficial to tenants, and less contentious for landlords than those proposed by the government.

In circumstances where a landlord requires their house back (regardless of the reason) or wishes to significantly increase their rent, a tenant will be provided adequate opportunity to find a new home, and afforded a right of ultimate competitiveness in the rental market by being able to take up a new tenancy immediately without providing notice to their existing landlord.

Landlords will continue to be able to increase their rent with the market and require tenants to vacate, whatever the reason. But such notice needs to provide tenants with adequate time to find a new home, and flexibility that maximises their competitiveness in the market by allowing them vacate at any point during the notice period without penalty or further payment of rent.