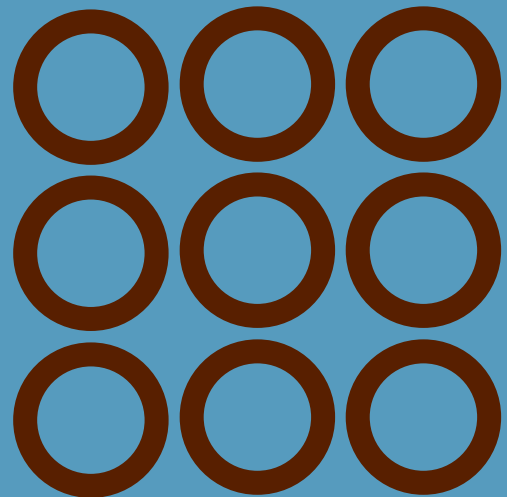


Getting the Balance Right

Te Mahi kia Tika ai te Whārite

SHORT-FORM DISCUSSION DOCUMENT



REVIEW OF THE
RESIDENTIAL TENANCIES ACT
1986



Department of
Building and Housing
Te Tari Kaupapa Whare



“The Residential Tenancies Act was passed in 1986, and a lot has changed since then - from the technology we use, to the cars we drive, and the way we live.

“It’s time to review the Residential Tenancies Act to make sure it provides a good balance between the rights and obligations of landlords and tenants, both now and into the future.”

Welcome to the Review of the Residential Tenancies Act



The Government is reviewing the Residential Tenancies Act, or “the RTA”. The RTA sets out the rights and obligations of people who rent their homes and of the people they rent from. It covers things like rent, bond, property repairs and giving notice. The RTA came into being in 1986.

New Zealand has changed significantly since 1986 – from the technology we use, to the cars we drive, the way we live and our view of our place in the world.

The people who are landlords and tenants in New Zealand, and the needs of those people, have changed too.

Getting the Balance Right provides information on what we see as the key themes and issues for a Review of the RTA. We’d like you to read it and then tell us your views.

Getting the Balance Right has been produced in a short form (which you are reading), and a long form, which contains more detail. You will find information on how to get the longer document on the inside back cover of this booklet.

This is your opportunity to have your say on residential tenancies and the Residential Tenancies Act. You will find a submission form in the centre pages of this document. You can choose to answer the questions there or to respond in your own format.

Every submission counts. All the information we gather during the Review will help to inform us about what’s working and what needs changing.

We look forward to hearing from you.

Katrina Bach

Chief Executive
Department of Building and Housing



Review of the Residential Tenancies Act

Key Issues and Themes



New Zealand's housing environment today is quite different from what it was when the RTA came into effect in 1986. Because the way we live has changed so much, the Government has decided to review the RTA to ensure that it continues to meet the needs of landlords and tenants in today's housing environment.

We've identified some key themes, issues and questions for the Review, and these are set out below. There are more detailed questions about each of these themes and issues in the submission form. Your answers to these questions will help the Government decide what changes to the RTA may be needed .

○ More people rent and it's important to get the balance between landlords and tenants right.

Compared with 1986, proportionately more New Zealanders now rent their homes and proportionately fewer live in houses they own. Because more people are renting, more people are affected by the RTA. This makes it even more important that the RTA provides the right balance between landlords and tenants.

The RTA sets out the rights and obligations of both landlords and tenants and provides a way for each to enforce their rights. The RTA requires tenants to pay their rent, to take reasonable care of the house they rent, and to give notice if they want to leave. Landlords are required to maintain the house, allow their tenants quiet enjoyment of the house and give reasonable notice if they want the tenants to leave.

The RTA allows a landlord to ask a tenant for up to two weeks' rent in advance and a bond of up to four weeks' rent money. The bond money is held by *Tenancy Services* and the landlord may claim some or all of this money if the tenant causes damage to the property, or owes rent to the landlord when they move out.

It is important that the RTA achieves the right balance between the rights and obligations of landlords and tenants.

Do you think the balance is right for 2004?

○ The circumstances of people renting are more diverse.

Fewer young people are flatting away from home and more older people and more families with children are renting. Many of these people will need or choose to rent for longer periods than they have in the past.

Tenants and landlords are more culturally diverse and more have English as a second language. Some tenants have special needs - for instance - they might need a very large house to accommodate extended family members, or they might need a particular form of accommodation because they are disabled.

It is important that the rental market provides for all people who want or need to rent – do you think it does?

○ People with different individual and family circumstances have different needs for stable housing.

Being able to live in the same home over time is very important for families, especially those with school-aged children, and for older people. Single people and couples might also value being able to stay in the same home over time, depending on their circumstances. This is what we mean when we use the words ‘stable housing’.

Many households in New Zealand achieve stable housing by owning their own home, but for many this is not possible, while others simply prefer to rent.

Most people who rent from private landlords have a “periodic tenancy” – which is a tenancy agreement that can be ended by the landlord or the tenant at short notice. Fewer people have a long-term fixed tenancy.

How important is stable housing for tenants? How might stable housing be provided for people who rent their homes?

○ Housing is becoming less affordable.

It seems that both buying and renting a home is becoming less affordable, especially for low-income earners and for people living in growth areas like Auckland, or in rural areas where quality housing is in short supply.

Being a landlord involves both risk and costs. These costs may deter some people from becoming landlords and providing affordable housing for low-income earners. Changes have been made to help landlords trace ex-tenants who owe them money but there are still concerns about how payment orders from the Tenancy Tribunal can be enforced against tenants. Many landlord/tenant disputes and evictions occur over unpaid rent.

It may be that some tenants would benefit from additional support to budget better and to manage on limited finances. There may also be ways to decrease the costs faced by landlords.

How can landlords be encouraged to provide affordable rental housing?

○ Is there a problem with the quality of rental housing?

The RTA does not require rental houses to meet particular quality standards.

While some rental properties are new and were built as rental properties, many are older homes that were built for owners to live in. Rental properties, like some owner-occupied houses, are not always well maintained.

The RTA requires landlords to keep their property in a ‘reasonable’ state of repair but landlords and tenants don’t always agree about what ‘reasonable’ means.

Are there problems with the standard of rental housing in New Zealand?



○ Standards of property management are variable.

Most private landlords own only one or two rental properties – they are not big commercial investors. Many manage their properties well. Some do not. Some people become landlords because they are left a house in a will or because they buy a new house and can't sell their old one. Others only intend being landlords until they can sell their rental property for capital gain.

Most landlords manage their own properties – they don't use professional property managers. That said, standards of practice between property managers are also variable – some do their job well, and others don't.

What do you think about the services provided by landlords and property managers?

○ Do prospective landlords get the right advice?

A number of people now invest in rental property as a business investment, or as a way of saving for their retirement. Concerns have been raised about the advice provided to people who are interested in becoming property investors or landlords. Sometimes the information provided is comprehensive and high quality but this is not always the case. Often the advice includes no reference to the obligations or the work involved in being a landlord.

Are people getting the right advice before they decide to become landlords?

○ Not all rental accommodation is covered by the RTA.

The rental housing market includes specialist accommodation where services (such as meals or cleaning) may be provided along with accommodation, such as serviced apartments and student accommodation. The RTA doesn't cover these types of accommodation.

While the RTA is currently being amended to cover boarding houses, other forms of specialist accommodation where services are also provided are either covered by other laws, or not specifically provided for under any law. People who own or live in these types of accommodation cannot automatically use the mediation services provided by *Tenancy Services* or the Tenancy Tribunal.

Should more types of accommodation be covered by the RTA?

○ It is not always clear who is responsible for paying some household costs.

The cost of providing utilities (such as water) and services (such as removal of wastewater or rubbish collection) to rental homes is becoming a frequent cause of dispute between landlords and tenants.

For instance, some gas companies are now charging separately for the costs of maintaining gas meters and gas lines to houses – someone has to pay for these costs, even if no gas is used.

In other cases, there may only be one gas, water or power meter to a rental property that has been divided into a number of flats and no way of knowing the actual share of the power or water used by different tenants.

The way these things are charged for has changed since the RTA was passed. We need to establish clear principles to guide the way that these costs are divided.

What are the options for dividing household costs?

○ Tenancy support services for landlords and tenants are important.

The RTA provides for tenancy services for both landlords and tenants, including education and information, advice, mediation and adjudication. Most of these services are provided by the *Tenancy Services* part of the Department of Building and Housing (formerly Ministry of Housing).

A recent review of *Tenancy Services* indicated that the approach being taken by *Tenancy Services* is right – with a focus on trying to deal with disputes between landlords and tenants as early as possible. Landlords and tenants thought that the services provided were useful, but there's always room for improvement.

What other tenancy services would help landlords and tenants?

○ Would some tenants benefit from advocacy services?

Some tenants may need additional help to understand and act on their rights and responsibilities under the RTA.

For instance, people with a mental or other disability may have difficulty understanding their rights and dealing with their responsibilities as tenants; people who have language difficulties or come from a different cultural background may be uncomfortable with the tenancy mediation and adjudication process.

The RTA could provide for advocacy services for tenants who need them.

Are advocacy services needed?

We invite your responses to each of the issues and questions raised in Getting the Balance Right. If you think there are other issues or questions that have not been covered, please include them in your submission. Remember that there's a longer form of this document available, which contains more information on the issues. You will find this document at www.dbh.govt.nz or you can get a copy by calling the Department of Building and Housing on 0800 83 62 62.



Making a Submission



We invite you to have a say on the themes and issues raised in Getting the Balance Right, and more generally on residential tenancies. We'd like you to make a submission so that a wide range of perspectives can be considered as part of the Review.

To help with your submission we have developed a series of questions relevant to the themes and issues for the Review. These are set out on the submission form in the middle of the document. You can choose to answer these questions or to respond as you choose.

Every submission counts. All submissions will be carefully considered.

Your submission must be in writing. You can make your submission by using the form provided here or on-line at www.dbh.govt.nz, or by writing to us. If you do not use the submission form provided, please make sure that your submission includes the following information:

- *Your name.*
- *Your address, telephone number and email address.*
- *Whether you are a landlord, tenant or property manager or whether the organisation you are submitting for represents any of these groups.*
- *If you are representing an organisation or group, please give the name and contact details for that organisation or group, and the position you hold.*

Please send submissions, to be received by 5pm, 18 February 2005 to:

*RTA Review
PO Box 10729
Wellington*

Your submission (but not your personal contact details) will be available to the public. If you do not want your submission to be available to the public (for example – if it contains commercially sensitive information), you must indicate this. Any request for a copy of your submission will be considered under the provisions of the Official Information Act 1982.

You can find this discussion document, along with a longer version, the submission form and instructions for making an electronic submission on www.dbh.govt.nz.

Additional hard copies can be obtained by phoning the Department of Building and Housing on 0800 83 62 62.

