



# SUBMISSION

COMMUNITY AFFAIRS COMMITTEE

SOCIAL SERVICES LEGISLATION  
AMENDMENT (HOUSING AFFORDABILITY)  
BILL 2017

**NOVEMBER  
2017**



## **About Shelter WA**

### **Our vision**

*All people living in WA have housing that enables them to thrive.*

Shelter WA was founded in 1979 as an independent, community based peak body that advocates for social and affordable housing and ending homelessness in Western Australia. Shelter WA believes housing is a basic human right. Safe, secure and affordable housing is a key requirement for people to engage in work, education, maintain their health and contribute to society.

Shelter WA advocates for policy settings and responses that facilitate appropriate affordable housing options for low to moderate income earners, for those who are otherwise disadvantaged in the housing market or experiencing homelessness. This is done by strong collaboration with the not-for-profit housing and social services sector, government, industry bodies, business, the community and research institutions.

Shelter WA is a member of the National Shelter Council and a member of the Council to Homeless Persons Australia, and has a seat on the Board of Homelessness Australia. This national membership strengthens Shelter WA's capacity to represent Western Australia's interest through participation in research, policy advocacy and engagement in national debate.

### **Contact**

For further information on this submission please contact Michelle Mackenzie, on 08 9325 6660 or [strategy@shelterwa.org.au](mailto:strategy@shelterwa.org.au).

## Background

The Social Services Legislation Amendment (Housing Affordability) Bill 2017 is being considered by the Commonwealth. The Bill introduces the following measures:

- Automatic rent deduction scheme (ARDS)
- National Rental Affordability Scheme amendments

The object of the ARD is to provide for automatic deductions from certain welfare payments household utilities, or loss of or damage to property arising as a result of occupancy of premises, so as to:

- (a) reduce homelessness; and
- (b) ensure financial effectiveness and sustainability of the social housing system; and
- (c) support greater investment in social housing<sup>1</sup>.

Under the ARDS, a social housing lessor (defined to include public housing providers and community housing providers) (a **Lessor**) may enter into an agreement with a tenant permitting the Lessor to request that the Secretary deduct from certain welfare payments payable to a tenant an amount to: satisfy an outstanding or ongoing obligation for rent and/or household utilities; or compensate for loss of, or damage to, property arising in the course of the Tenant's occupancy of the rented premises.

Also, the ARDS would also permit a lessor to request that the Secretary deduct certain welfare payments payable to a tenant to satisfy an amount described in sub-paragraph 1(c)(ii) above where the Tenant's liability to pay that amount to the Lessor has been finally determined by a court, tribunal or "other body that has the power to make orders.

Shelter WA is limiting its comment to Schedules 1 and 2 of the Bill.

### In summary

- Shelter WA acknowledges that the timely collection of rents is important in ensuring the financial sustainability of the State's social housing system.
- Shelter WA does not support the Bill as it stands as it;
  - Does not safeguard the rights of tenants in respect to automatic rent deduction scheme (ARDS);

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<sup>1</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bId=r5974](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r5974).

- will lead to poverty and financial hardship by limiting people's ability to manage finite incomes; and
- will not facilitate greater investment in social housing by either the State or Commonwealth government.
- Shelter WA posits that the stated objects would be better met through an increase in unemployment and family payments and Commonwealth Rent Assistance.

## Shelter WA Recommendations

1. That the Committee should reject Schedules One and Two of this Bill.
2. That if the Bill be enacted safeguards should be built into the Automatic Rent Deduction Scheme to;
  - a. Impose an obligation to take reasonable action prior to submitting a request for deductions to be made;
  - b. Ensure that deductions are only be permitted in respect of a tenant's obligations to pay rent and for any amounts owing in respect of a serious breach of the terms of the tenant's occupancy;
  - c. Cap the amount that may be deducted at a percentage of the total value of all welfare payments received; and
  - d. Ensure that automatic rent deductions could only be ordered by a State tenancy tribunal.
3. That tenants should be provided with reasonable prior notice a request for ARDS has been submitted.
4. That tenants must be notified regarding the decision and if a request is granted advised of the amount to be deducted, the period during which deductions are to be made and the amount to be deducted and the rights of review the tenant.
5. That the Bill should provide a tenant with a mechanism by which the request can be challenged.
6. That the Bill should provide a means by which a tenant may apply for the review the decision of the ARDS and the amount and time frame for the ARDS.
7. That the Bill should set out the factors that must be considered whether to exercise when determining the amount of the deductions to be ordered. These factors should include at least;
  - a. The total value of the welfare payments to which the tenant is entitled;
  - b. Whether the deductions will cause the tenant to experience financial hardship;
  - c. The length of time for the which the tenant's payment obligation has been outstanding; and
  - d. The circumstances in which the tenants' payment obligation arose.

## Rationale for Shelter WA Recommendations

1. Automatic Rent Deduction Scheme is unnecessary: The Western Australia Department of Communities (Housing) has a voluntary rent deduction scheme. Advice from the Department is that 85 per cent of tenants have opted to use this voluntary scheme<sup>2</sup>. Items covered include rent, water, tenant liability, vacated debt, bond assistance loan, rental arrears and other deductions as agreed. This is voluntary. Tenants can stop, vary or suspend the amount being deducted from their Centrelink payments by advising the Department.
2. Autonomy and liberty are core elements of our liberal democracy. Forcibly reducing people's autonomy, by restricting how they spend their income, will decrease self-determination and resilience, and increase social exclusion. Compulsory quarantining of income is vastly different to voluntary repayment schemes, which support individual decision-making and empowerment.
3. The Bill extends to payments that are not usually essential terms in terms of a tenancy agreement, for example household utilities. Shelter WA believes these obligations go too far in terms of a tenancy agreement.
4. The Bill does not have a cap on the amount that can be deducted. There is nothing in the Bill that would prevent a deduction that would utilise the entire amount of a tenant's social security entitlements.
5. The Bill will limit people's ability to manage their incomes; this may lead to financial hardship, people incurring debts or running out of money<sup>3</sup>. The majority of public housing tenants are on very low statutory incomes and may find it very difficult to manage unexpected costs (such as medical bills, higher utilities, or repairs). ARDS it can interfere with the ability of tenants to juggle their own budgets, e.g. if they need to spend money on urgent repairs of white goods, cars etc and need to delay rent payments for a few days as people do. This will restrict discretionary spending decisions available to these households.

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<sup>2</sup> Advice to Shelter WA from the Department of Communities (Housing) 31<sup>st</sup> October, 2017

<sup>3</sup> There were significant rises in electricity, water and transport prices in the 2017/18 Western Australian State budget: An annual increase of \$169 to the fixed access cost for electricity, a 6% increase in water and sewerage charges, a 1.8% increase in public transport costs and significant rises in other household fees and charges. Together these hikes take an extra 7.7% per year away from the average household budget against 2016/17 levels. This is at a time when wage growth is flat and increasing numbers of households in hardship seeking assistance are being turned away from overstretched services. (Source WACOSS <http://wacoss.org.au/wp-content/uploads/2017/09/Household-fees-and-charges.pdf>.)

6. The Bill does not afford procedural fairness to tenants. The Bill does not require a tenant to be notified when a request is lodged for automatic rent deductions, if the request is granted and the amount or duration of the deductions to be made. The Bill does not provide the tenant with any right of review or to challenge the request for an automatic rent deduction. Without required notification to the tenant, the Bill does not provide the opportunity for the tenant to negotiate or to pay outstanding amounts from other income sources.
7. The Bill needs further safeguards to respond to disputes in relation to accountability for outstanding property damage.
8. Tenancy advice and education services, and services to support tenants maintain and sustain tenancies are underfunded and oversubscribed<sup>4</sup>. There is a current lack of funding for tenancy advice services, as well as other preventative programs to empower individuals and households to take control of their finances. ARDS will lead to further need for tenancy and financial service support putting increasing pressure on an already oversubscribed service.
9. Not paying rent can be a sign that people are experiencing a crisis, or have financial problems. ARDS will limit the opportunity for housing providers to work with tenants and the community services sector to build renter's capacity to maintain and sustain tenancies.
10. In Western Australia there are over 15,000 people on the wait list for social housing. Given the scarcity of housing supply, and the imbalance of power between tenants and social housing providers, tenants may feel obliged to permit deductions to improve their ability to access and maintain housing.
11. ARDS may reduce the capacity of tenants to manage their own affairs and potentially transition out of social housing.
12. ARDS reinforces an unfounded stereotype that social housing tenants are financially irresponsible.
13. ARDS only applies to the person with their name on the lease. However, rents in social housing are calculated on all members of the household. Making one person responsible for the unpaid rent of others in the household is not fair.

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<sup>4</sup> Advice to Shelter WA from Tenancy WA, October 2017.

14. Many Aboriginal women who are social housing tenants and named on leases but who have within their house-holds other family members who contribute to a household rent. Shelter WA is concerned that because they are named on a lease, it will be they who have the rent deducted from their payments and are then in a position where they have to get rent off their other adult family members who are not named on the lease. Once the rent is already paid they may struggle to be paid by other family members.
15. Tenants' incomes can fluctuate, which can lead to changes in rent liability. ARDS could lead to people paying more or less rent than they owe, impacting on household budget management
16. Housing affordability would be improved if unemployment and family payments were increased and indexed to wages. The Productivity Commission acknowledged that Commonwealth Rental Assistance has outstripped rental price growth and that this gap must be addressed<sup>5</sup>.

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<sup>5</sup> Productivity Commission (2017) *Introducing Competition and Consumer Choice into Human Services: Reforms to Human Services*, Draft Report, p 145.