



# REGULATIONS TO SUPPORT IMPLEMENTATION OF THE RESIDENTIAL TENANCIES LEGISLATION FAMILY VIOLENCE BILL 2018

Shelter WA Response  
*July 2018*





## **Your feedback sought**

### **Regulations to support implementation of the Residential Tenancies Legislation Family Violence Bill 2018.**

The Department of Mines, Industry Regulation and Safety (DMIRS) Consumer Protection Division (Consumer Protection) are drafting proposed amendment regulations of the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018.

DMIRS have released a consultation paper seeking input into the drafting of these regulations. The closing date for feedback to DMIRS is 31 August 2018. Shelter WA is seeking your feedback on the four questions within the DMIRS Consultation Paper by **30 August 2018**. Feedback can be sent to [ceo@shelterwa.org.au](mailto:ceo@shelterwa.org.au) For further information please contact Michelle Mackenzie at [ceo@shelterwa.org.au](mailto:ceo@shelterwa.org.au).

If you would like further information in relation to these proposed amendment regulations, please contact Ms Patricia Blake, Senior Policy Officer at DMIRS, on 6552 9260 or [trish.blake@dmirs.wa.gov.au](mailto:trish.blake@dmirs.wa.gov.au). If you would like to make your own submission, please send your response by email to [trish.blake@dmirs.wa.gov.au](mailto:trish.blake@dmirs.wa.gov.au).

### **Background on amendments to the Residential Tenancies Legislation Family Violence Bill**

The Residential Tenancies Legislation Amendment (Family Violence) Bill 2018 (the Amendment Bill) is currently before the Western Australian Parliament. The Amendment Bill has been passed by the Legislative Assembly and is expected to be debated in the Legislative Council in September.

Key changes, which could be law by the end of 2018, would enable victims of FDV to: exit a tenancy with seven days' notice without going to court, remove a perpetrator from a lease by applying to the courts, change locks or increase security, handle disputes about property damage or unpaid rent, and have their name removed from a tenancy database blacklist.

The Amendment Bill seeks to amend the *Residential Tenancies Act 1987* (WA) (the RT Act) and the *Residential Parks (Long-stay Tenants) Act 2006* (WA)<sup>1</sup> (the RPLST Act)<sup>1</sup> to deliver better outcomes for tenants who are subjected or exposed to family and domestic violence (FDV) during the course of their tenancy agreement. Further Information on these changes can be found at: <https://www.commerce.wa.gov.au/consumer-protection/family-violence-prevention>.

### **Regulations to support the implementation of the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018**

Subject to the timing of the passage of the Amendment Bill through the Parliament, it is anticipated the amendments will be implemented to commence by December 2018. In order for this to occur, a small number of amendment regulations will need to be drafted and approved. Shelter WA is seeking your feedback on the amendment regulations.

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<sup>1</sup> Only in relation to on-site tenants.

### ***Prescribed alterations – Feedback sought***

Proposed new section 47(4) of the RT Act and Schedule 1 clause 14(4) of the RPLST Act will allow a tenant to make ***prescribed alterations*** to premises to:

1. prevent entry onto the premises/agreed premises of a person who has been excluded from the premises because their interest in the tenancy agreement has been terminated by the court; or
2. in any event it is necessary to prevent the commission of further family violence.

For this provision to become operative, it is necessary to prescribe what alterations a tenant can make to the premises. The Department of Mines, Industry Regulation and Safety Consumer Protection Division (Consumer Protection) has sought feedback from the safe at home program<sup>2</sup> operators to identify the common type of security upgrades that are facilitated through that initiative. Based on the feedback, it is proposed that the following security upgrades be prescribed:

- Security alarm;
- CCTV cameras;
- Window locks, screens and/or shutters;
- Security screens on the doors<sup>3</sup>;
- Exterior lights;
- Changes to external gate locks (excluding gates for common areas in strata properties or residential parks); and
- pruning of shrubs and trees abutting the agreed premises.

It is important to bear in mind the following:

- the provision does not apply to heritage listed premises;
- the tenant must pay for any prescribed alterations;
- work on the prescribed alterations must be undertaken by a qualified tradesperson;
- the prescribed alterations must take into account the age and character of the premises and must comply with any applicable strata laws; and
- the tenant must restore the premises to their original condition at the conclusion of the tenancy agreement.

#### **FEEDBACK SOUGHT**

1. ***Is the list of prescribed alterations appropriate? If no, why and what changes should be made to the list?***
2. ***Should the list of prescribed alterations for properties under the RPLST Act be different? If so, what prescribed alterations should be permitted to on-site premises leased under the RPLST Act?***

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<sup>2</sup> The aim of the Safe at Home Program is to provide support for people experiencing domestic violence to stay in their housing, when it is safe to do so. Safe At Home staff can help tenants who have been subjected to FDV to assess their safety to stay at home, advise them on the physical safety of their home, and help them to make safety plans. A key element of this program is also to assist victims of FDV by arranging and paying for security upgrades to their home.

<sup>3</sup> door locks can be changed without permission of the lessor under another amendment in the Amendment Bill so this doesn't need to be prescribed in this list)

### ***Prescribed professional – feedback sought***

Proposed new section 71AB(2) of the RT Act and 45A(2) of the RPLST Act list the type of documents that a tenant who is seeking to terminate their interest in the tenancy agreement on the grounds of FDV must provide to the lessor. The list includes

- a domestic violence order;
- a family court order;
- a copy of a prosecution notice or indictment for FDV related offences committed against the tenant; or
- a report of FDV signed by a prescribed professional.

The proposed new sections noted above already include the following professionals:  
medical practitioner;

- psychologist;
- social worker;
- CEO of a women's refuge;
- police officer; or
- other prescribed person.

The list is intended to represent the type of professionals that a person who has been subjected to FDV is most likely to come into contact with and disclose their circumstances.

The purpose of this being so that victims of FDV are not forced to repeat their story to multiple professionals or officials.

Based on feedback from key stakeholders during consultation on the Amendment Bill, in addition to the professionals identified above, it is proposed to prescribe in the regulations child protection workers and Aboriginal Family Support workers as other professionals who would be entitled to sign a report attesting to the occurrence of FDV for the tenant.

Some stakeholders have requested that solicitors be added to this list, while other stakeholders have recommended against this. As there is divided opinion on this point, feedback is being sought on this issue. Feedback is also being sought on whether any other category of professional worker likely to be involved in dealing with FDV should be prescribed.

#### **FEEDBACK SOUGHT**

- 3. Should solicitors be prescribed for the purposes of proposed new section 71AB(2) of the RT Act and 45A(2) of the RPLST Act? Why or why not?***
- 4. Should any other professional categories be added to this list? If so, why?***