



# **Australian Government**

Australian Government response to the  
Senate Community Affairs Legislation Committee report:

Inquiry into Social Services Legislation Amendment (Housing Affordability) Bill 2017  
[Provisions]

October 2018

## **Introduction**

The Australian Government (the Government) welcomes the Senate Community Affairs Legislation Committee's (the Committee) report on the Social Services Legislation Amendment (Housing Affordability) Bill 2017 (the Bill).

The Government introduced the Bill into Parliament on 14 September 2017. The Bill contained three schedules.

Schedules 1 and 2 include amendments to the *Social Security Act 1991*, the *Social Security (Administration) Act 1999* and *A New Tax System (Family Assistance) (Administration) Act 1999* to implement an Automatic Rent Deduction Scheme (ARDS). The objectives of ARDS are to reduce homelessness, ensure the financial effectiveness and sustainability of the social housing system, and support greater investment in social housing.

Schedule 3 includes amendments to clarify and correct certain ambiguous provisions in the *National Rental Affordability Scheme Act 2008* (NRAS Act).

### Committee Proceedings

The Bill was referred to the Committee for inquiry on 19 October 2017. The Committee invited interested stakeholders to provide submissions on the Bill by 10 November 2017. Thirty-two submissions were received from a range of organisations. The Department of Social Services (DSS) provided the Committee with a detailed submission on the Bill (submission No. 1). In addition to the lodgment of public submissions, the Committee convened a public hearing in Canberra on 14 November 2017. DSS and seven other organisations gave evidence at the public hearing.

Following consideration of the submissions and views from the public hearing, the Committee published its report on 6 December 2017.

### Committee Recommendations

The Committee recommended the passage of the Bill, noting that ARDS will contribute to reducing homelessness and to the sustainability of social housing.

The Australian Labor Party (ALP) Senators' Dissenting Report noted that automatic rent deductions could play a role in preventing homelessness and recommended that the Bill pass with amendments. The Australian Greens' Dissenting Report opposed the Bill.

The Government has considered the recommendations made in the majority and dissenting reports, in consultation with participating states and territories. The Government will amend the Bill and make administrative changes to address a number of the Committee's recommendations.

## **Inquiry into the Social Services Legislation Amendment (Housing Affordability) Bill 2017 [Provisions]**

### **Recommendations made by the Committee**

1. The Committee recommends that the Government consider whether there is merit in imposing a cap on the maximum percentage of a tenant's divertible welfare payment which can be deducted under the Automatic Rent Deduction Scheme, to ensure that an amount is available to meet a tenant's other basic and reasonable needs.

### **Noted**

State and territory housing policies already apply limits to the amount that tenants can be charged. As a precondition for participation, the Government will require relevant Ministers to write to the Minister for Social Services setting out how their policies and procedures put upper limits on deductions using ARDS. The letter will need to outline how tenants are protected from financial hardship. Jurisdictions will also confirm in the letter that housing providers are responsible for informing tenants of their intention to request an ARDS deduction, and the reasons for doing so.

The Minister for Social Services will publish these letters to ensure transparency. Participating housing providers will need to make deduction requests in accordance with the relevant jurisdiction's policies and procedures as outlined in the letter.

Where a jurisdiction has not written to the Minister for Social Services, housing providers in that jurisdiction will be ineligible to use ARDS.

The Department of Human Services (DHS) will undertake annual random assurance checks to ensure that housing providers using ARDS are complying with policies and procedures as outlined in their jurisdiction's letter.

2. The Committee recommends that the Government clarify how the scheme will interact with other forms of income management, such as cashless welfare arrangements, or other deductions made from a tenant's income support payment under Commonwealth law.

### **Supported**

ARDS will apply to people who are subject to the Government's welfare quarantining programs: the cashless debit card (CDC) or income management. These programs split a person's payment into restricted and unrestricted funds.

ARDS will apply first to the restricted portion of a person's payment. ARDS will only apply to the unrestricted portion if the restricted amount has been exhausted.

3. The Committee recommends that the Government consider the arguments for including a provision in the Automatic Rent Deduction Scheme guidelines for notification to be provided to a tenant when: a request for an automatic deduction is made by a lessor, the stated reason(s) for a request; the outcome of the Secretary's consideration of a request; and, if the Secretary approves a request, the amount that will be deducted, the deduction schedule and information regarding Government funded financial counselling and other relevant support services available to a tenant.

**Supported**

Tenants with an ARDS deduction will receive a notification from DHS each time a housing provider commences, varies or terminates an ARDS deduction.

Notification will include the amount of the deduction, the applicable date, the name of the housing provider and a payment summary that shows the tenant's gross Centrelink benefit, lists all deductions from their benefit and shows the net amount payable. Notification will also include other relevant information for the tenant, such as where to get more information and review and appeal rights.

Tenants will be able to view their ARDS deductions through their online account on MyGov at any time.

State and territory housing providers participating in ARDS will be responsible for informing tenants of their intention to request a deduction and reasons for initiating that request.

4. The Committee recommends that the Government consider whether there is merit in providing a review mechanism in the Automatic Rent Deduction Scheme to provide a tenant with an accessible process for requesting a review of a decision made by the Secretary.

**Supported**

Tenants subject to ARDS will have access to DHS review and appeals processes including the ability to request a full explanation for a decision, request an internal review of a decision and to seek a review of a decision from the Administrative Appeals Tribunal.

All notices to tenants include review and appeal rights, and there is extensive information available regarding reviews and appeals on the DHS website.

5. The Committee recommends that the Bill be passed.

**Supported**



## Recommendations made in the Australian Labor Party Senator's Dissenting Report

1. Labor Senators on this Committee recommend that the Social Services Legislation Amendment (Housing Affordability) Bill 2017 be amended to:
  - only allow an amount to cover rent and utilities to be deducted;
  - ensure that where the tenant is also part of an income management scheme or a cashless debit card trial, deductions may only be taken from the quarantined portion of the income support payment, not the unrestricted portion;
  - set a cap for a maximum amount to be deducted;
  - not allow an amount for rental arrears as a result of the suspension of a payment to be deducted in a single fortnightly payment; and
  - include a provision to require the lessor to inform the tenant of a change in the amount of payment to be deducted.

### Partially supported

The Government partially addressed this recommendation in its response to the Committee's majority report.

The Government will also ensure that ARDS allows for deductions to cover rent and utilities only, and that rental arrears as a result of the suspension of a payment are not able to be deducted in a single fortnightly payment using ARDS.

DHS will ensure compliance with these requirements as part of the annual random review of housing providers using the scheme.

2. That the Bill be amended to provide an exception to the '20% at all times' rule in paragraph 7(2)(b) in circumstances where:
  - there is an unintentional rent overcharge as a result of a reduced market rent valuation; and
  - the overcharge does not persist for more than one rental payment period; and
  - the Approved Participant has notified the Secretary of the overcharge; and
  - the Approved Participant has refunded the rent overcharge.

### Partially supported

The Government will amend the Bill to permit the *National Rental Affordability Scheme Regulations 2008* (NRAS Regulations) to include a power for the DSS Secretary to grant dispensation from the '20% at all times' rule to an approved participant (on request) where there has been an unintentional overcharging of rent and the tenant has been compensated for the error. Matters of detail about the power of dispensation and the circumstances where it can apply can be included in the NRAS Regulations and do not need to be included in the NRAS Act.

The NRAS Regulations will sunset on 1 April 2019. In this context, DSS is undertaking a review of the NRAS Regulations. The specific matters mentioned in this recommendation will be considered as part of the review.

3. That the Bill be amended to provide that legislative authority to vary conditions attached to allocations is confined to circumstances where a variation is necessary to mitigate an emerging risk to:
  - a tenant of an NRAS dwelling; or
  - an NRAS approved participant; or
  - an NRAS investor; or
  - the integrity of the scheme.
4. That the Bill be amended to provide that the Secretary must consult with an approved participant in relation to a proposed variation to a condition attached to an allocation, the circumstances giving rise to the need for a variation and the nature of the variation proposed.

#### **Noted**

The specific matters mentioned in these recommendations can be dealt with appropriately in the NRAS Regulations and amendments to the NRAS Act are not required. The specific matters mentioned in these recommendations will be considered by DSS as part of the review of the NRAS Regulations.

#### **Recommendations made in the Australian Greens' Dissenting Report**

1. The Australian Greens recommend that Schedules 1 and 2 of the Social Services Legislative Amendment (Housing Affordability) Bill 2017 not pass.

#### **Not supported**