

Chapter 1

Introduction

1.1 On 19 October 2017, the Senate referred the provisions of the Social Services Legislation Amendment (Housing Affordability) Bill 2017 (bill) to the Community Affairs Legislation Committee (committee) for inquiry and report by 27 November 2017.¹

1.2 The committee notes that the principal reason for referral of the bill was to allow for consideration of the bill's effect on income support recipients.²

Purpose of the bill

1.3 In his second reading speech, the Minister for Social Services, the Hon. Christian Porter MP (Minister), outlined that the purpose of the bill is to introduce the Automatic Rent Deduction Scheme (ARDS), to enable tenancy payments to be deducted from income support payments and to make amendments to the *National Rental Affordability Scheme Act 2008* (NRAS Act).³

1.4 The bill is designed to support the government's housing affordability package as announced in the 2017–18 Budget.⁴ The bill introduces the framework for the ARDS to enable tenancy charges and other housing costs to be deducted from income support payments and family tax benefit for occupants living in social housing; and making amendments to the NRAS Act to support streamlining and simplifying the administration of National Rental Affordability Scheme (NRAS), until it ceases operation in 2026–27.

1.5 The Minister explained that these measures were designed to reduce instances of homelessness:

The government is committed to putting in place measures which aim to reduce homelessness for social housing tenants who are in serious rental arrears and to reduce rental costs for low- and moderate-income households. The measures in this bill will support the Housing Affordability Package and contribute to this goal.⁵

Automatic Rent Deduction Scheme

1.6 The Explanatory Memorandum (EM) explains the bill introduces the ARDS which enables social housing lessors to request the Secretary deduct the cost of rent

1 *Journals of the Senate*, No. 67, 19 October 2017, p. 2138.

2 Senate Standing Committee for Selection of Bills, *Report No. 12 of 2017*, 19 October 2017, p. [7].

3 The Hon. Christian Porter MP, Minister for Social Services (Minister), *House of Representatives Hansard*, 14 September 2017, pp. 10419–10421.

4 Australian Government, *Budget Measures 2017-18—Part 1: Revenue Measures*, pp. 26-31, <http://budget.gov.au/2017-18/content/bp2/download/bp2.pdf>.

5 Minister, *House of Representatives Hansard*, 14 September 2017, pp. 10419–10421.

and other associated housing utilities, from social housing tenants' divertible welfare payments.⁶

1.7 Part 8 of the bill contains the main provisions of the ARDS, including proposed section 124QB of the *Social Security (Administration) Act 1999* (Social Security Administration Act), which defines divertible welfare payments. Divertible welfare payments include any social security payment, or payment under ABSTUDY, excluding a narrow band of exceptional payments such as the Disaster Recovery Allowance.⁷

1.8 Part 8 of the bill also includes proposed section 124QD, which defines a social housing tenant as anyone over the age of 18 who pays rent, or is liable to pay rent, to a social housing lessor regardless of whether they are party to a rental agreement. Deductions can therefore be sought from the divertible welfare payments of any adult occupant of a social housing household.⁸

1.9 Under proposed subsection 124QF, social housing lessors' requests must specify the amount to be deducted and the amount:

...must not be more than that required to satisfy rent, household utilities or both payable by the tenant, and any outstanding payment or rent, household utilities or both payable by the tenant.⁹

1.10 Deductions from social housing tenants' divertible welfare payments will be paid to the social housing lessor and the Secretary may charge a fee for the service provided.¹⁰

National Rental Affordability Scheme amendments

1.11 The EM details amendments made to the NRAS to 'clarify and correct' certain provisions of the NRAS Act, which have been identified as 'ambiguous in their application' since the commencement of NRAS in 2008.¹¹ Amendments to the NRAS Act include:

- *Rent charged*—proposed subparagraph 7(2)(b)(ii) clarifies the rate of rent charged for dwellings under the scheme must be 20 per cent lower than the market rate each and every time rent is charged;
- *Transfer of allocations*—proposed paragraph 8(ba) provides express legislative authority for an allocation to be transferred to another dwelling under specified conditions;

6 Explanatory Memorandum (EM), p. [5].

7 EM, p. [6].

8 EM, p. [7].

9 EM, p. [8].

10 EM, pp. [9–10]; Social Services Legislation Amendment (Housing Affordability) Bill 2017, ss. 124QK, 124QR.

11 EM, p. [17].

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- *Vacancy periods*—proposed paragraph 7(2)(c) provides greater flexibility regarding treatment of maximum vacancy periods for NRAS allocated dwelling; and
 - *Conditions of allocation*—proposed subsections 7(4) and 7(5) provides express legislative authority for variation of the conditions of allocation under the Scheme (other than those prescribed under the NRAS Act), including for a condition to be imposed after an allocation is made.¹²

Bill structure

1.12 The bill is structured into three schedules:

- Schedule 1—includes the main provisions of the bill which establish the ARDS, through amendments to the Social Security Administration Act, and consequential amendments to the *Social Security Act 1991*;¹³
- Schedule 2—includes provisions for tenancy charges and other housing costs deductions under ARDS to be made from family assistance benefits, through amendments to the *A New Tax System (Family Assistance) (Administration) Act 1999*;¹⁴ and
- Schedule 3—includes provisions to clarify ambiguous elements of NRAS relating to: rent charged; transfer of allocations; vacancy periods; and conditions of allocation, through amendments to the *National Rental Affordability Scheme Act 2008*.¹⁵

Financial impact

1.13 The EM notes the financial impact over the forward estimates for ARDS is not for publication. Financial impacts from the amendments to NRAS will be nil.¹⁶

Reports of other committees

1.14 The Senate Standing Committee for the Scrutiny of Bills reported it had no comment on the bill.¹⁷

1.15 The Parliamentary Joint Committee on Human Rights (Human Rights committee) considered the bill in Report 12 of 2017.¹⁸ The committee raised questions about the compatibility of the bill with the rights to social security, adequate standard

12 EM, pp. [19–21].

13 EM, pp. [5–11].

14 EM, pp. [12–16].

15 EM, pp. [17–21].

16 EM, p. [3].

17 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 12 of 2017*, 18 October 2017, p. 48.

18 Parliamentary Joint Committee on Human Rights, *Report 12 of 2017*, 28 November 2017, pp. 43–52.

of living, privacy, protection of the family and the rights of children and sought advice from the Minister.

1.16 The Human Rights committee also noted that the ARDS 'appears to have a disproportionate negative impact on women and persons with a disability' and the cashless welfare regime amendments may have a disproportionate negative effect on Indigenous people, raising questions about potential unlawful discrimination.¹⁹ The Human Rights committee has sought advice from the Minister about both issues.²⁰

1.17 The Statement of Compatibility with Human Rights contained in the EM concluded the bill is compliant with relevant human rights provisions and provided the following rationale:

Schedules 1 and 2 are compatible with human rights. ARDS will limit people's capacity to withdraw from their social housing deductions to meet their obligations under their leases.

To the extent that this may limit human rights those limitations are reasonable, necessary and proportionate to achieving the legitimate objective of preventing evictions due to arrears and debt which may force a person, and their children, into homelessness.

...[Schedule 3] is compatible with human rights because it supports the protection of the right to adequate housing.²¹

Conduct of the inquiry

1.18 Information regarding the inquiry was published on the committee's inquiry webpage.²²

1.19 On 27 November 2017, the Senate granted an extension of time for reporting until 6 December 2017.

Submissions

1.20 The committee called for submissions to the inquiry by 10 November 2017 and wrote to key stakeholders inviting them to make a submission.

1.21 By the reporting date, the committee had received 32 submissions. A list of these submissions is at Appendix 1 of this report.

Hearings

1.22 A public hearing was held in Canberra on 14 November 2017. The committee heard evidence from seven non-government organisations and the Department of Social Services. A list of witnesses is at Appendix 2 of this report.

19 *Report 12 of 2017*, pp. 50, 52.

20 *Report 12 of 2017*, 28 November 2017, pp. 50, 52.

21 EM, pp. [25–26].

22 The committee's inquiry webpage can be located here: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/HousingAffordability/.

Notes on references

1.23 References made in this report are to the proof *Committee Hansard*. Page numbers may vary between the proof and official *Committee Hansard* transcripts.

Report structure

1.24 This report comprises three chapters:

- this first chapter provides a summary of the bill and the committee's inquiry;
- Chapter 2 details the committee's consideration of the key issues of Schedules 1 and 2 of the bill; and
- Chapter 3 details the committee's consideration of the key issues of Schedule 3 of the bill.

Acknowledgements

1.25 The committee thanks the submitters and witnesses who contributed to the inquiry.

