

Chapter 2

Schedules 1 and 2—Automatic Rent Deduction Scheme

2.1 Schedules 1 and 2 of the Social Services Legislation Amendment (Housing Affordability) Bill 2017 (bill) seek to introduce the Automatic Rent Deduction Scheme (ARDS), which provides for the cost of rent, or other household payments, to be automatically deducted from the income support payment received by social housing tenant by request of social housing lessor to the Secretary.¹

2.2 If passed, the ARDS is expected to be operational from March 2018.²

Policy rationale

2.3 The Department of Social Services (DSS) outlined in its submission to the inquiry that the ARDS is consistent with the policy direction taken since the National Affordable Housing Agreement was implemented in 2009. The ARDS furthers the current Rent Reduction Scheme (RDS) and, unlike the RDS, provides for automatic deductions which cannot be amended by tenants without the input of lessors.³

2.4 DSS submitted that the ARDS responds to 'concerns from all levels of government and the community about evictions and homelessness due to rental arrears.'⁴ DSS provided the following summary of the policy context for the ARDS:

Eviction due to non-payment of rent or other tenancy costs is a major pathway to homelessness.

In 2013-14, more than 8,900 social housing tenants, including families with children, were in serious rental arrears, with more than 2,300 people evicted due to rent defaults. In NSW, over 80 per cent of those evicted due to serious rental arrears had previously participated in the current voluntary Rent Deduction Scheme (RDS) until they cancelled their payment arrangements. If ARDS was in place, this group would have been unable to cancel their payment. This strongly suggests that ARDS would be effective in reducing tenancy eviction rates.⁵

2.5 In his second reading speech, the Minister for Social Services, the Hon. Christian Porter MP (Minister) remarked that families evicted from social housing are highly likely to 'end up in specialist homelessness services, or staying with family or friends, or, indeed, sleeping rough.'⁶ The Minister went on to say:

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

2 Department of Social Services (DSS), *Submission 1*, p. 1.

3 EM, pp. [22–23].

4 *Submission 1*, p. 1.

5 *Submission 1*, p. 1.

6 The Hon. Christian Porter MP, Minister for Social Services (Minister), *House of Representatives Hansard*, 14 September 2017, p. 10419.

This is undoubtedly a terrible circumstance for the individuals and families involved and of course can lead to long-term homelessness. However it would also contribute to additional and avoidable costs for governments and does put extra pressure on community service providers.⁷

2.6 Despite the potentially dire consequences of rental arrears, several submitters questioned the evidence base for establishing the ARDS and whether the bill would achieve its stated objectives of reducing homelessness, or improving social housing.⁸ Submitters referred to data on national rental collection rates from social housing tenants being in the high 90 percent.⁹ Submitters also noted the low rates of eviction from social housing households due to rental arrears.¹⁰

2.7 The National Social Security Rights Network (NSSRN) suggested the bill 'fails to recognise that the causes of homelessness are complex and go beyond the non-payment of rent.'¹¹ NSSRN and the St Vincent de Paul Society suggested it is unlikely the ARDS will reduce homelessness.¹² Other submitters considered the ARDS to be a disproportionate response to the problem of rental arrears.¹³

2.8 Mr Paul McBride, Group Manager, Welfare and Housing Policy, DSS, informed the committee that, while only a small percentage of public and community housing tenants are in serious rental arrears, 'the consequences of those people not paying their rent are dramatic.'¹⁴

2.9 DSS further explained that state and territory governments have estimated they are losing more than \$30 million annually from the 'unpaid rent and administrative costs' of social housing tenants and this places an 'unnecessary burden on the already financially strained public housing system'.¹⁵ In evidence to the committee, Mr McBride said:

...we estimate that will be \$30 million extra that will be available to the states and territories for public housing that isn't there now. This is a more

7 Minister, *House of Representatives Hansard*, 14 September 2017, p. 10419.

8 See the following submissions: National Social Security Rights Network (NSSRN), *Submission 2*, p. 2; St Vincent de Paul Society, *Submission 6*, p. 3; Darebin City Council, *Submission 10*, p. [3]; Catholic Social Services Australia; *Submission 11*, p. 2; Shelter New South Wales, *Submission 17*, p. [1]; Tenants' Union of New South Wales (TUNSW), *Submission 21*, p. 2; Equality Rights Alliance (ERA), *Submission 25*, p. [1]; North Australian Aboriginal Justice Agency (NAAJA), *Submission 32*, p. 7.

9 *Submission 2*, p. 2; National Shelter, *Submission 3*, p. 3; *Submission 25*, p. 2.

10 *Submission 21*, pp. 2–3.

11 Ms Genevieve Bolton, Chairperson, NSSRN, *Committee Hansard*, 14 November 2017, p. 1.

12 *Submission 2*, p. 2; *Submission 6*, p. 3.

13 Shelter New South Wales, *Submission 17*, p. 2; *Submission 21*, p. 2; *Submission 25*, p. 2.

14 Mr Paul McBride, DSS, *Committee Hansard*, 14 November 2017, p. 19.

15 DSS, *Submission 1*, p. 1.

efficient way of getting people to pay their rent, and that efficiency will allow more money to be available for public housing.¹⁶

2.10 DSS stated that the ARDS will ensure social housing providers 'receive rent from tenants on time, including [from] those tenants who consistently fail to pay' and, that participating states and territories will receive 'a more steady income stream, which will encourage increased private investment in social housing.'¹⁷

2.11 DSS advised the committee that the ARDS is 'an initiative that the states wanted and we [DSS] were prepared to facilitate.'¹⁸ In an answer to a question on notice, DSS confirmed that the then NSW Minister for Social Housing wrote to the Commonwealth Minister for Human Services in 2016 and sought the Commonwealth's agreement to introduce the ARDS. The correspondence was provided to the Minister for Human Services on behalf of all states and territories, excluding Victoria and the Australian Capital Territory.¹⁹

2.12 DSS submitted that ministers from participating states and territories had agreed to progress the ARDS 'with the intention to reduce homelessness, ensure financial sustainability of the system and support greater investment in social housing.'²⁰

2.13 DSS noted that the role of the states and territories in ARDS is paramount:

The Department's view is that State and Territory housing authorities are best placed to understand the individual circumstances of the tenant because of their tenancy management responsibilities, and will be responsible for reviewing any decisions about tenancy agreements and ensuring their legal obligations are met. Jurisdictions will also have control over the implementation of the scheme.²¹

Initiating an automatic deduction process

2.14 The bill provides for automatic deductions to be initiated by social housing lessors, which are defined under proposed subsection 124QC(1) as an authority, or body, approved by a state or territory to provide social housing.

2.15 Under proposed section 124QG, the Secretary is authorised to make a deduction in accordance with a lessors' request properly made under proposed section 124QF.

16 Mr Paul McBride, Group Manager, Welfare and Housing Policy, DSS, *Committee Hansard*, 14 November 2017, p. 22.

17 DSS, *Submission 1*, p. 2.

18 Mr McBride, *Committee Hansard*, 14 November 2017, p. 22.

19 Mr McBride, Answers to questions on notice, 14 November 2017 (received 17 November 2017).

20 *Submission 1*, p. 2.

21 *Submission 1*, p. 3.

2.16 Under proposed subsection 124QF(1), social housing lessors are able to request the Secretary make a deduction from the divertible welfare payment of a social housing tenant, if the tenant:

- has an outstanding, or ongoing, obligation to pay rent or household utilities, and the tenant has an agreement with the lessor which authorises the lessor to request deductions under the ARDS;
- is ordered by a court, tribunal or body with appropriate power to pay the lessor for loss, or property damage arising from the tenants' occupancy; or
- agrees in writing to pay the lessor for loss, or property damage arising from the tenant's occupancy.

2.17 In accordance with proposed subsection 124QF(3), a social housing lessor's request for an amount deducted 'must not be more than required to satisfy' the liabilities stipulated by proposed subsection 124QF(1).²²

2.18 Under proposed subsection 124QH(1), the Secretary is required to determine the amount to be deducted under 124QG. The Secretary's deduction must not: exceed the amount lessors' request under proposed subsection 124QF(1), or the amount remaining from a divertible welfare payment after any other deductions required by Commonwealth law are applied.

2.19 The Secretary must pay the amount deducted from the tenant to the social housing lessor.²³

2.20 Following a lessors' request for a deduction to be made, the Secretary may charge the lessor a fee, in accordance with proposed section 124QR for actions associated with processing the request.²⁴

2.21 If a deduction is made in excess of the amount determined by Secretary (see proposed section 124QH), the Secretary must pay the relevant tenant an amount equal to the excess deduction, regardless of whether the Commonwealth can recover the excess deduction paid to the lessor.²⁵

Definition of 'tenant'

2.22 Submitters to the inquiry expressed concern at the apparent breadth of the definition of 'tenant' in the bill.

2.23 Proposed section 124QD defines a tenant for the purposes of the ARDS as anyone over the age of 18 who pays rent, or is liable to pay rent, for premises let by a lessor. A person is considered a tenant 'whether or not the person is named in an agreement (however described) with the lessor for occupancy of the premises'.²⁶ The

22 EM, p. [8].

23 Social Services Legislation Amendment (Housing Affordability) Bill 2017, s. 124QK.

24 EM, p. [10].

25 Social Services Legislation Amendment (Housing Affordability) Bill 2017, ss. 124QO(4).

26 EM, p. [7].

Explanatory Memorandum to the bill (EM) provided the following context for the definition:

State and Territory social housing schemes provide for rent to be calculated based upon the income of all members of a tenant's household, despite the fact not all members of the household may be party to the lease with the social housing lessor. This definition will allow deductions to be sought from the welfare payment of any of the adult occupants of the house.²⁷

2.24 Some submitters expressed concern that the broad scope of the definition of tenants risks capturing individuals not liable to pay rent. For example, NSSRN argued that through the definition, social welfare recipients are:

...unfairly targeted, as there is no mechanism to compel rent or compensation payments from other compensation payments from other household members who do not receive welfare payments.²⁸

2.25 Shelter WA expressed a similar concern regarding the proposed definition and suggested that the provision may disadvantage indigenous women:

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.²⁹

2.26 However, the Community Housing Council of South Australia, the peak industry body representing community and not-for-profit housing providers in South Australia, expressed support for automatic deductions from any adult household member.³⁰

2.27 The NSW Federation of Housing Associations Inc. (NSWFHA) cautioned that the proposed automatic deduction of rent from tenants not listed on tenancy agreements would need to be designed in such a way as to avoid inadvertently creating property rights for residents not named as tenants on leases, and to ensure that the overall responsibility for paying rent is not confused.³¹

27 EM, p. [7].

28 NSSRN, *Submission 2*, p. 3.

29 Shelter WA, *Submission 23*, p. 6.

30 Community Housing Council of South Australia, *Submission 15*, p. 2.

31 NSW Federation of Housing Associations Inc. (NSWFHA), *Submission 24*, p 10.

Circumstances in which a deduction can be made

2.28 In accordance with proposed subsection 124QF(1), the ARDS will apply in a broad range of circumstances. Submitters to the inquiry expressed concern at the range of circumstances in which ARDS could be applied.³²

2.29 Whilst not supporting any form of automatic deductions, the NSSRN suggested that if there was support for ARDS, deductions should only be applied to tenants in a limited range of circumstances, such as when: tenants are in significant arrears; tenants have a significant history of rental arrears; lessors have demonstrated a significant attempt to put a tenant in arrears in contact with appropriate support services; and other available remedies have been exhausted.³³

2.30 The Salvation Army, Darebin City Council and the Australian Council of Social Services (ACOSS) also proposed that automatic deductions from tenants' divertible welfare payments should only be applied in limited circumstances.³⁴ ACOSS recommended in its submission:

If schedules one and two are not rejected, the Bill should be amended to allow automatic rent deductions as a last resort option for social housing tenants who are facing immediate eviction because of arrears. Automatic rent deductions could only be ordered by a state tenancy tribunal.³⁵

2.31 DSS informed the committee that if the ARDS were to apply to tenants in a narrower range of circumstances then it is 'arguable' that the potential administrative savings would not justify the up-front costs to the states in setting up the scheme.³⁶

Written agreement for deductions

2.32 The committee notes that under proposed subparagraph 124QF(1)(ii) a lessor may only make a deduction request if a written agreement is in place with the tenant which authorises the lessor to request a deduction be made from the tenant's divertible welfare payment.

2.33 Whilst proposed subparagraph 124QF(1)(ii) expressly requires tenants' written authorisation, Mr Ned Cutcher, Senior Policy Officer, Tenants' Union of New South Wales (TUNSW) suggested that the authorisation requirement may eventuate as a standard condition of rental agreements:

...I think the expectation that some social housing providers have is that they would be able to start applying this across the board, regardless of a

32 See for example: Mornington Peninsula Shire, *Submission 9*, p. 2; NSSRN, *Submission 2*, p. 6; Salvation Army, *Submission 7*, p. 3; Darebin City Council, *Submission 10*, p. [7]; New England and Western Tenants Advice and Advocacy Service, *Submission 19*, pp. 2–3.

33 NSSRN, *Submission 2*, p. 6.

34 Salvation Army, *Submission 7*, p. 3; Darebin City Council, *Submission 10*, p. [7]; Australian Council of Social Services, *Submission 13*, p. 1.

35 *Submission 13*, p. 1.

36 Mr Paul McBride, Group Manager, Welfare and Housing Policy, DSS, *Committee Hansard*, 14 November 2017, p. 20.

tenant's propensity to fall into arrears or to establish liabilities...Their income would just as a matter of course be diverted. That's facilitated by the bill through the provisions that allow the social housing landlord to utilise the scheme with prior agreement from a tenant. Residential tenancy agreements would include this as a standard provision...would give the social housing lessor the opportunity to access the scheme.³⁷

2.34 NSSRN expressed a similar view and anticipated 'all new social housing tenants will be compelled to sign written agreements authorising requests for automatic deductions in order to gain housing.'³⁸

Retrospective deductions

2.35 Under proposed subsection 124QF(2), lessors' request for a deduction are not limited to tenants' liabilities which arise following commencement of the ARDS, i.e. lessors can make retrospective requests for deductions for tenants outstanding obligations, in accordance with proposed subsection 124QF(1).

2.36 The National Association of Tenants Organisation (NATO) commented that the effect of proposed subsection 124QF(2) is to 'capture *any* historical amounts for rent of household utilities owed by the [t]enant, even if the amounts are arbitrary or are no longer being pursued by the Lessor.'³⁹

2.37 NATO and National Shelter recommended that lessors should not be able to make retrospective requests relating to tenants' outstanding obligations.⁴⁰ The Salvation Army went further and urged 'the total waiving' of past arrears for ARDS participants.⁴¹

Range of social security payments effected

2.38 For the purposes of the bill, tenants' social security payments are defined as 'divertible welfare payments' from which automatic deductions under ARDS can be made. The EM outlines the scope of divertible welfare payments:

Section 124QB defines a divertible welfare payment for the purposes of this Part as a social security payment or a payment under the ABSTUDY scheme that is payable (except as an advance), that is not an Australian Victim of Terrorism Overseas Payment, a Disaster Recovery Allowance, a student start-up loan, or an ABSTUDY student start up loan under the Student Assistance Act 1973. The Minister may also determine, by legislative instrument, that one or more kinds of social security payments are not divertible welfare payments.⁴²

37 Mr Ned Cutcher, Senior Policy Officer, TUNSW, *Committee Hansard*, 14 November 2017, p. 9.

38 NSSRN, *Submission 2*, p. 4.

39 National Association of Tenants Organisation (NATO), *Submission 22*, p. 3.

40 National Shelter, *Submission 3*, p. 4.

41 *Submission 2*, p. 2.

42 EM, p. [7].

2.39 Schedule 2 of the bill proposes amendments to the *A New Tax System (Family Assistance (Administration) Act 1999* (Family Assistance Administration Act) to allow automatic deductions to be made from the family tax benefit (FTB) paid to a tenant.⁴³

2.40 The committee received submissions indicating concerns regarding the range of payments to which the ARDS will potentially apply (see proposed subsection 124QB(1) for excluded payment types).⁴⁴ Micah Projects proposed that FTB payments should be excluded from automatic deductions, as FTB is an income based secondary payment to support children.⁴⁵ NSWFA also recommended that FTB be excluded from the ARDS and observed:

The inclusion of Family Tax Benefit...seems inconsistent with the Commonwealth's concerns about the well-being of children and its support for optimising their opportunities and potential.⁴⁶

2.41 However, the EM notes:

The Bill recognises that recipients of a range of social security payments and family tax benefit have children and that the best interests of children are served when parents responsibly ensure that their welfare benefits are directed towards housing as a primary and basic need. The Bill also aims to reduce pressure on child protection services by maintaining continuity of accommodation through ARDS.⁴⁷

2.42 The bill also proposes that automatic deductions be made from income support payable under cashless welfare arrangements, typically referred to as the Cashless Debit Card (CDC), and makes provisions for deductions from both the restricted and unrestricted portions of that payment.⁴⁸

2.43 NSSRN expressed concern that automatic deductions could potentially be made from the unrestricted portion of a CDC holder's income support payment. NSSRN argued this provision will cause card holders to have access to even less discretionary money than the already limited amount available to them through the CDC (20 per cent).⁴⁹ In providing evidence to the committee, Mr Roland Manderson, Deputy Director, Anglicare Australia, questioned the interaction between the ARDS

43 EM, p. [12].

44 For excluded payment types see: Social Services Legislation Amendment (Housing Affordability) Bill 2017, ss. 124QB(1).

45 Micah Projects, *Submission 20*, p. [7].

46 NSWFA, *Submission 24*, p. 5.

47 EM, p. [23].

48 EM, p. [6].

49 NSSRN, *Submission 2*, p. 12.

and income support payable under cashless welfare arrangements, particularly the potential impact on individuals who could be left with no discretionary income.⁵⁰

Impact of the ARDS on tenants' financial autonomy

2.44 A number of submitters expressed concern that the bill will unduly impact on tenants' financial autonomy.

2.45 The Australian Association of Social Workers described the financial vulnerability of social housing tenants:

In all states except South Australia, the income limit for entry to public housing sector is significantly below the minimum wage. This means that the only people who are eligible for social housing must be in insecure employment, or dependant on government pensions or allowances. The shortage of housing in this category means that priority goes to people with an added layer of need, such as people with a disability or mental health condition. Therefore, the people who fall under the scope of this bill are among our most financially disadvantaged and socially isolated.⁵¹

2.46 NATO similarly suggested:

...the ARDS is a form of income management that would erode Tenants' financial independence and make it difficult for Tenants to manage their money, potentially giving rise to increased financial hardship.⁵²

2.47 Concerns regarding the ARDS's potential to limit tenants' financial autonomy were raised by several other submitters to the inquiry.⁵³ For example, Redfern Legal Centre was of the view that the bill 'unreasonably limits tenants' financial flexibility, discourages financial independence and may increase tenants' financial hardship.'⁵⁴ The Housing for the Aged Care Action Group Inc. observed that the bill will reduce 'the capacity of older tenants to manage their finances and, in particular, to deal with unexpected and sudden expenses'.⁵⁵

2.48 Shelter TAS and Darebin City Council suggested that the ARDS is inconsistent with the right of self-determination contained in Article 1 of the International Covenant on Economic, Social and Cultural Rights.⁵⁶

50 Mr Roland Manderson, Deputy Director, Anglicare Australia, *Committee Hansard*, 14 November 2017, p. 5.

51 Australian Association of Social Workers, *Submission 28*, p. 3. [Footnotes have been removed from this quote.]

52 NATO, *Submission 22*, p. 2.

53 See for example: Shelter NSW, *Submission 17*, p. 2; The ParentHood, *Submission 18*, p. 2.

54 Redfern Legal Centre, *Submission 27*, p. 2.

55 Housing for the Aged Action Group Inc. *Submission 8*, p. 2.

56 National Shelter, *Submission 3*, pp. 1–2; Darebin City Council, *Submission 10*, p.4.

Cap on deduction amounts

2.49 A number of submitters expressed concern that there is no effective cap on the amount of deductions that can be made and that this raises the potential for automatic deductions to precipitate a trade-off between tenants' cost of housing and the cost of other basic necessities for tenants in financial stress.⁵⁷ The NSSRN summarised the perspective:

There is nothing in the Bill which prevents a person's social security or family assistance payment from being fully expended on these deductions. This is unacceptable for the cohort of social security and family assistant recipients who are already living in poverty.⁵⁸

2.50 Similarly, the Salvation Army observed that the absence in the bill of provisions regulating the maximum deduction amount could lead to increased housing stress for social housing tenants:

While the bill requires that the Secretary must not request a deduction of more than that required to satisfy current and outstanding obligations, there is no upper limit of the deduction specified. Furthermore, there is no requirement to negotiate any such payment or amount with the social housing tenant, thus alienating and disempowering the tenant from managing their own affairs.

As 30 per cent or more of household income has historically provided the benchmark against which households are considered to be in housing stress, collection of amounts that may exceed this creates significant risk.⁵⁹

2.51 The NSSRN also noted the bill does not make provisions to limit the number of requests for deductions a lessor can make for housing costs associated with a tenants' divertible welfare payments.⁶⁰

2.52 National Shelter, NATO and Shelter WA recommended that a cap be placed at a percentage of the total value of income support payments received by tenants.⁶¹ Whilst the Salvation Army is 'cautiously supportive of the bill', it specifically recommended the maximum amount deducted from tenants under the ARDS should be capped at below 30 per cent.⁶²

2.53 The committee notes DSS' submission states that tenants will be able to seek amendments to deductions made under the ARDS by working with their social

57 See the following submissions: Glebe Housing Action Plan Now (Glebe HAPN), *Submission 14*, p. 2; NSWFA, *Submission 24*, p. 7; Shelter WA, *Submission 23*, p. 4; NSSRN, *Submission 2*, p. 5; Micah Projects, *Submission 20*, p. 2; Homelessness Australia, Homelessness NSW and the Council to Homeless Persons, *Submission 16*, p. 2.

58 NSSRN, *Submission 2*, p. 5.

59 Salvation Army, *Submission 7*, p. 2.

60 *Submission 2*, p. 5.

61 National Shelter, *Submission 3*, p. 4; NATO, *Submission 22*, p. 5.

62 *Submission 7*, p. 3.

housing lessor; however the capacity to request the Secretary amend the deduction amount would remain solely with the lessor.⁶³

2.54 The committee also notes DSS' evidence that the ARDS would operate alongside 'government funded financial counselling and other available support services, to ensure that tenants continue to be housed safely and affordably while they get the help they need to sustain their tenancy'. The committee would welcome further information on this expectation.

Procedural fairness—notifications and reviewable decisions

2.55 The committee received evidence which emphasised concerns regarding the bill's provisions for procedural fairness and due process for tenants. The two principal concerns raised by submitters were the absence of provisions in the bill for reasonable notification to tenants regarding deduction requests and the absence of a mechanism for tenants to seek review of deduction decisions.

2.56 Submitters noted that whilst the bill includes provisions which require social housing lessors to notify the Secretary of matters relevant to a deduction request (see proposed subsection 124QI), the bill does not include provisions for the notification of tenants of matters relating to a potential deduction request.

2.57 Glebe Housing Action Plan Now noted that if the Secretary grants a lessor's deduction request, the provisions of the bill do not require the Secretary to notify the tenant that lessor's request has been approved, or the amount, or duration, of the request. Consequently, the first opportunity for social housing tenants to become aware that a deduction request has been approved is when amounts have already been deducted from their income support payment.⁶⁴

2.58 Submitters expressed concern that the bill does not make provisions for tenants to seek a review of a request for automatic deductions, or to negotiate or pay an outstanding amount from another income source.⁶⁵

2.59 Ms Genevieve Bolton, Chairperson, NSSRN, provided evidence to the committee and explained that vulnerable and disadvantaged people often have difficulty accessing administrative review processes. Ms Bolton subsequently said the ARDS 'poses real risk that tenants may end up paying debts which are simply not owed through the operation of this scheme.'⁶⁶

2.60 NATO recommended that the Secretary should be required to notify tenants when a lessor has made a deduction request and if that request has been approved or rejected. If the request is approved, NATO recommends that the Secretary be required

63 DSS, *Submission 1*, p. 2.

64 Glebe HAPN, *Submission 14*, p. [2].

65 See submissions from: Shelter WA, *Submission 23*, p. 5; Homelessness Australia, Homelessness NSW and the Council to Homeless Persons, *Submission 16*, p. [3]; NSSRN, *Submission 2*, p. 4; Housing for the Aged Action Group Inc., *Submission 8*, p. 2. Micah Projects, *Submission 20*, p. [3].

66 Ms Genevieve Bolton, Chairperson, NSSRN, *Committee Hansard*, 14 November 2017, p. 2.

to notify the tenant of: the deduction amount; the period for which deductions will be applicable; and 'any rights of the review the [t]enant has in respect of the Secretary's decision.'⁶⁷

Inalienability of social security

2.61 The EM explains the bill amends the absolute inalienability of social security payments established under section 60 of the *Social Security (Administration) Act 1999* to be made subject to automatic deductions, as provided for in new Part 3E of Social Security Act and new Part 3A of the *A New Tax System (Family Assistance) (Administration) Act 1991*.⁶⁸

2.62 NSSRN suggested ARDS 'abrogates the principle of inalienability which ensures that an individual qualified for a Social Security payment receives that payment.'⁶⁹ Equity Rights Alliance commented the bill represented a 'departure from the fundamental inalienability of social security incomes.'⁷⁰ The North Australian Aboriginal Justice Agency asserted the bill 'grossly undermines the inalienability of social security payments.'⁷¹

2.63 NATO acknowledged that in limited circumstances, restrictions on the use of social security payments may be necessary, however argued that the 'erosion of the inalienability of social security entitlements is not necessary to achieve the Bill's objectives.'⁷² TUNSW held a similar view and suggested the affect the bill has on the inalienability of social security payments 'seems quite out of proportion to the issue as stated.'⁷³

2.64 National Shelter and Queenslanders with Disability Network opposed the compulsory nature of ARDS as it removes the ability of tenants to make their own budgets.⁷⁴

Committee view

2.65 The committee considers homelessness and the provision of sustainable social housing are complex public policy issues which require concerted effort on the part of governments and the community, social services and health sectors. The committee considers that the introduction of the ARDS will be an important contribution to this.

67 NATO, *Submission 22*, p. 5.

68 EM, pp. [5, 17].

69 NSSRN, *Submission 2*, p. 5.

70 Equity Rights Alliance, *Submission 25*, p. 2.

71 NAAJA, *Submission 32*, p. 6.

72 NATO, *Submission 22*, p 2.

73 TUNSW, *Submission 21*, p. 2.

74 National Shelter, *Submission 3*, p. [1]; Queenslanders with Disability Network, *Submission 12*, p. 5.

2.66 The committee values the evidence received from submitters to the inquiry and notes that evidence provided indicates rent collection rates from social housing households are high and that evictions resulting from rental arrears are uncommon. The committee also notes some submitters expressed opinions that the ARDS may not be effective in achieving its stated goals of reducing homelessness and reducing rental costs for low and moderate income households.

2.67 In receiving evidence from submitters to the inquiry, the committee considers that there may be some elements of the scheme that the government may seek to consider further. The committee recognises that some of these recommendations may be subject to negotiation with state and territory governments and that some recommendations may be addressed in guidelines produced after the bill has been passed. For example, the committee recommends the government consider whether a cap should be applied on the maximum percentage of a tenant's divertible welfare payment that is deducted under the ARDS. The committee recommends government consider how the ARDS will interact with other income support measures. The committee notes the evidence received regarding the bill's lack of provisions for notifications to be provided to tenants and tenants' access to a review process and the committee makes associated recommendations for the government's consideration.

2.68 The committee recognises the evidence provided by the government that, despite the relatively low rate of rental arrears, the effect of tenants failing to be pay rent can severe. The committee notes the Commonwealth's position that the bill is a 'significant step towards ensuring a stable rental income stream for social housing providers' that will 'lead to a more efficient social housing system and reduces the risk of homelessness due to tenant evictions as a result of tenants not paying rent'.⁷⁵

2.69 The committee notes that the ARDS is an initiative requested by the majority of state and territory governments, as a means to streamline the rent collection process from social housing households. The committee notes that the Commonwealth anticipates that the streamlined rent collection process will contribute to the social housing system, through reducing the burden of unpaid rent and associated administrative costs for social housing providers. The committee therefore anticipates that participating state and territory governments will take a lead role in providing stewardship of the ARDS to deliver a successful policy outcome.

Recommendation 1

2.70 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.

75 DSS, *Submission 1*, p. 3.

Recommendation 2

2.71 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.

Recommendation 3

2.72 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.

Recommendation 4

2.73 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.