

Residential Tenancies and Rooming Accommodation (Rent Freeze) Amendment Bill 2022

Statement of Compatibility

Prepared in accordance with Part 3 of the Human Rights Act 2019

In accordance with section 38 of the Human Rights Act 2019, I, Amy MacMahon, Member for South Brisbane, make this statement of compatibility with respect to the *Residential Tenancies and Rooming Accommodation (Rent Freeze) Amendment Bill 2022* (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019* (HR Act). I base my opinion on the reasons outlined in this statement. It limits human rights only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HR Act.

Overview of the Bill

The Bill will enact a two-year freeze on residential rents in Queensland, in order to stop the profiteering and rampant rent rises that are currently being experienced by many Queenslanders.

Under this Bill, no landlord can increase the weekly quantum of rent with respect to a rental property, effective from the date of commencement of the bill for two years.

Rents will be frozen at no more than the amount agreed by a lessor and lessee, or publicly advertised by a lessor, on or before 1 August 2022. Failure to observe this will make a lessor liable for a fine of 50 penalty units.

For properties which have not been rented for over 12 months, rent will be set as the median rent for properties in that postcode which are comparable with respect to number of bedrooms and bathrooms, floor space and condition. This includes newly built properties.

After the two-year rent freeze period, rental increases will be capped at no greater than 2% every two years. Nonetheless, legislation which complements this bill by enacting a potentially more nuanced rent cap should be legislated before the expiry of the rent freeze period. Failure to observe rent caps will make a lessor liable for a fine of 50 penalty units. This fine will also apply for lessors who move a property from the private rental market to the short-term accommodation market during the rent freeze period.

The Bill requires the Residential Tenancies Authority (the RTA) to maintain a register of rents applicable to corresponding properties, as informed by agreements between lessors and lessees and evidenced on the rental bond lodgement form which it already administers.

Where there has not been a rental bond lodged with the RTA, it will have the power to compel lessors to provide information about the amount of rent payable with respect to a residential tenancy agreement. Failure to provide this information will make a lessor liable for a fine of 50 penalty units.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 Human Rights Act 2019)

This Bill will transform the lives of renters in Queensland, and as such it engages human rights in a significant way.

Without stable and appropriate housing, Queenslanders' ability to enjoy the human rights protected by the *Human Rights Act 2019* (Qld) are seriously limited. This is particularly the case with property rights, the right to privacy and reputation, the right to protection of families and children, cultural rights including those held by First Nations people, the right to liberty and security of person, the right to education and the right to health services.

Without access to appropriate housing, any member of our society is at a disadvantage when it comes to their other human rights. This is particularly the case for vulnerable groups such as children, people with disability, older people, First Nations people and people from culturally and linguistically diverse backgrounds.

During last year's parliamentary inquiry and debate about whether no-grounds evictions should end, Queensland's Human Rights Commissioner intervened to urge parliamentarians to 'carefully consider a range of human rights.'¹

He said 'While much of the conversation has so far focussed on the property rights of property owners, there are also rights held by tenants which need to be properly considered - including their rights to protection of families and children, and freedom from interference with their home, which is protected under the right to privacy and reputation.'

This bill does engage the **property rights** of both lessors and lessees, but as the Human Rights Commissioner pointed out last year, 'For this right to be unreasonably limited, a person needs to be "arbitrarily deprived" of their property.' While restricting rental increases may amount to an indirect diminution of a lessor's property rights, it is not an arbitrary deprivation, particularly in the context of mass evictions and homelessness.

As the Commissioner said last year 'An estimated one in 100 Queenslanders is experiencing homelessness. In the private rental market, one in five moves are made by tenants involuntarily. Many of the 1.8 million Queensland tenants are facing constant moves, with the media tenancy lasting only 13.1 months for units and 17.9 months for houses. 43% of

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https://www.qhrc.qld.gov.au/data/assets/pdf_file/0006/33747/2021.07.08-Media-statement-re-proposed-Qld-tenancy-reforms.pdf

renting households include children for whom housing stability, connection to community and access to schools is vitally important - and families and children are also entitled to protection under Queensland's human rights legislation.'

In 2022, the situation has become even worse.

To say that a lessor's right to profiteer from a housing crisis is more important than the human rights of tenants is a perversion of human rights law. There is no alternative proposal which can ensure housing justice for Queenslanders without limiting landlord's rights to make unprecedented profits.

In New Zealand, the Human Rights Commission has pointed out that a rent freeze is necessary to ensure citizens aren't 'sacrificing their fundamental human rights to pay the rent.'

We need a similar approach here, and this Bill provides the way to ensure tenants' human rights aren't trumped by the right to make unprecedented private profit.

Conclusion

In my opinion, the *Residential Tenancies and Rooming Accommodation (Rent Freeze) Amendment Bill 2022* is compatible with human rights under the *Human Rights Act 2019* (Qld). Any indirect and minor limitation on human rights is only to the extent that is reasonable and demonstrably justifiable, in accordance with section 13 of the Act. Indeed, if the human rights of everyday Queenslanders are to be balanced correctly against lessors' rights to make unprecedented profit, this Bill is necessary.