

## **Inquiry into the provision and regulation of supported accommodation in Queensland**

**Submission No:** 196  
**Submitted by:** Tenants Queensland  
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Submission

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Committee Secretary, CSSC

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Dear Committee

Tenants Queensland (TQ) was established in 1986, TQ is a statewide community and legal service providing free tenant advisory services for residential tenants. TQ aims to protect and improve the rights of all people who rent their home in Queensland. This includes renters in private rental accommodation or social housing and renters in marginal tenures such as caravan parks and boarding houses. TQ is the lead provider in the newly developed Queensland Statewide Tenant's Advice and Referral Service (QSTARS) program initiated by the Queensland Government in October 2015. QSTARS provides quality, free, independent tenant advisory services to tenants across Queensland. Through QSTARS and our Community Legal Centres Program work, TQ assists renters to understand and exercise their legislative rights and responsibilities, and ultimately to manage and sustain their tenancies. The TQ Hub operates a statewide telephone advice service and provides training, information, support, community education materials and specialist advice in tenancy related legislation to support services throughout the state. TQ has been at the forefront of tenancy law reform and policy development since its establishment. TQ conducts research into a range of tenancy issues and contributes to the development of legislation and policy in Queensland and nationally.

TQ welcomes the opportunity to provide a submission to the Community Support and Services Committee in relation to the inquiry into supported accommodation in Queensland. TQ acknowledges, access to safe, affordable and appropriate housing is a fundamental human need and we congratulate the Committee for looking into the health, welfare and quality of the services residents of supported accommodation currently receive.

TQ's core interest and expertise is in the experience of renters both in the private market and social housing and our response to the inquiry into supported accommodation in Queensland is focused accordingly. Our response draws on over 30 years of extensive experience of our staff and board in advising and supporting tenants and residents throughout the state and our involvement in significant tenancy policy and law reform processes. This includes contributing to the review of the Residential Tenancies Act 1994 and development of the Residential Tenancies and Rooming Accommodation Act 2008 (RTRAA) and to the development of legislative protections for tenants from the unfair practices of tenancy databases.

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## **Residential Tenancies and Rooming Accommodation Act and Supported Accommodation**

The *Residential Tenancies and Rooming Accommodation Act* (RTRA Act) covers certain types of supported accommodation. This is generally rooming accommodation which is where a resident has the right to occupy one or more rooms but does not have the right to occupy the whole of the premises or a self-contained unit and shares other rooms or facilities outside of the room. All supported accommodation service providers, excluding those provided under the Supported Accommodation Assistance Program, must enter into a rooming accommodation agreement with a resident renting a room on premises if they have occupied the residence for longer than 13 weeks. Whilst residential services are managed under the RTRA Act in relation to the terms of the rooming agreements, not all rooming accommodation agreements will fall under the *Residential Services (Accreditation) Act 2002*. In Queensland residential services need to be accredited under the *Residential Services (Accreditation) Act 2002* and there are three levels of accreditation – level 1 accommodation services and operational standards, level 2 food services and level 3 personal care service. At Tenants Queensland we mainly see clients with issues relating to level 1 and 2. On rare occasions we see clients who receive level 3 services and note that these matters are often very complex, and clients will need many support systems in place to assist them through the process.

In Queensland, supported accommodation will fall within level 3 residential services. Our submission will focus on level 3 residential services which provide accommodation, personal care services and often food services to residents.

## **Support for Queenslanders Disability Network (QDN) submission**

Tenants Queensland has worked closely with QDN for many years and support the recommendations outlined in their submission to this inquiry.

In addition, Tenants Queensland would like to include the following in our submission.

### **Terminations under the RTRA Act**

Residents under a rooming accommodation agreement do not have the same protections afforded to tenants under a general tenancy agreement. A particular area of concern are residents under a residential services agreement who face termination of that agreement. The notice period for terminations of rooming agreements is much shorter than general tenancy agreements and the processes are also very different.

The RTRA Act contain an existing provision which allows for the provider of residential services to immediately evict residents (section 370) as well as self-evict residents without due process or tribunal order (section 375 which leave these renters in a particularly precarious and insecure housing.

A provider has the power to remove a resident if they have given that resident notice to leave the premises and the agreement has ended, or the due date for the resident to

leave the premises has passed and the resident refuses to leave. The resident can only be forcibly removed while a police officer is present. The provider cannot exert force which is likely to result in bodily harm to the resident or damage the resident's property.

TQ finds that this does type of eviction does occur even with the most vulnerable residents, including those receiving level 3 residential services.

Rooming residents can be asked to leave immediately because of a serious breach, if the provider reasonably believes the resident has used the resident's room or common area for an illegal purpose or the resident or guest has intentionally or recklessly destroyed or seriously damaged the premises or endangered another person in the rental premises or the resident significantly interfered with the reasonable peace comfort or privacy of another resident. The applicability of the Notice to Leave for a 'serious breach' if the provider has 'a reasonable belief "lowers " the standard of proof required regarding allegations of illegal use of the premises etc. TQ is concerned that the current s370 of the RTRA Act may breach the Human Rights Act 2019

It must be stressed that these concerns are shared by the Queensland Human Rights Commission (QHRC), as expressed in their 2020 submission –

*In the Commission's view, [this] may not be compatible with the HR Act as it unreasonably infringes several rights including privacy, equality, family and the presumption of innocence until proven guilty.<sup>1</sup>*

The serious human rights implications of this provision should be of great concern.

#### Recommendation

##### **TQ recommends that:**

- The removal of immediate and self-evictions of residents under a rooming accommodation agreement (section 370 and s375 of the RTRA Act).
- All disputed evictions take place only when the Tribunal has heard the matter and issued a termination order.
- The notice periods for terminations for rooming agreements are extended or at least in line with general tenancies for failure to remedy breaches (7 days).

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<sup>1</sup> p12 QHRC, [A Better Renting Future – Consultation Regulatory Impact Statement Submission to Department of Housing and Public Works](#)

- That all terminations of rooming agreements for those residents receiving level 3 residential services are made by the Queensland Civil and Administrative Tribunal.
- Removal of end of fixed term agreement as a ground for termination for people in supported accommodation

### **Support for the Victorian protections**

TQ supports adopting similar provisions to those included in the Residential Tenancies Act 1997 (Vic) Part 12A to protect residents of Specialist Disability Accommodation (SDA) under the National Disability Insurance Scheme. The Residential Tenancies Act 1997 (Vic) changes ensure that the residential rights of NDIS participants residing in SDA are fully protected and duties of SDA providers are clearly set out, including penalties and non-compliance. TQ would like to see similar provisions incorporated into our RTRA Act in relation to specialist disability accommodation which may sit within level 3 residential services rooming agreement.

The various protections afforded under the part 12A provisions include:

- a. the right to apply to the Tribunal for an order requiring the SDA provider to carry out specified urgent repairs which must be heard within 2 business days after the application is made ([s 498P](#));
- b. the right to make a complaint to the Director about excessive rent ([s 498ZG](#));
- c. the resident is not required to pay a bond ([s 498ZL\(1\)](#));
- d. the resident does not breach their duty not to cause damage if the damage is because of fair wear and tear; their disability or reasonable use of the property or room ([s 498N\(3\)](#));
- e. the resident can end the agreement at any time by giving the SDA provider a notice of intention to vacate ([s 498ZZA](#));
- f. in some circumstances, the resident cannot be asked to vacate property without first finding them suitable temporary accommodation ([s 498ZX\(3\)\(a\)](#)).

The Part 12A provisions strengthens protections for SDA residents against unreasonable evictions, something needed in our RTRA Act in Queensland.

## Recommendation

### TQ recommends that:

- The incorporation of similar provisions to those enacted in Part 12A of the *Residential Tenancies Act 1997 (Vic)* into the *Residential Tenancies and Rooming Accommodation Act 2008 (Qld)*.

## Minimum Housing Standards

Under the RTRA Act minimum housing standards came into effect for new tenancies from 1 September 2023, meaning if a tenancy agreement or rooming agreement is signed or renewed from this date, the room and premises must meet minimum housing standards. Minimum housing standards will come into effect for all remaining tenancies from 1 September 2024. These new standards will apply to all types of tenancies, including general tenancies, moveable dwellings, and rooming accommodation agreements.

### Safety and security

The property must:

- be weatherproof and structurally sound:
- be in good repair, with fixtures and fittings (such as electrical appliances) that are not likely to cause injury through normal use
- have functioning locks or latches on all external doors and windows that can be reached from outside the premises without a ladder
- be free from vermin, damp, and mould (this does not include cases where vermin, damp or mould has been caused by the resident)
- have privacy coverings for windows in all rooms where the resident could reasonably expect privacy, such as bedrooms. Privacy coverings:

### Reasonable functionality

The property must:

- have adequate plumbing and drainage for the number of people occupying the premises

- be connected to a water supply service or other infrastructure that supplies hot and cold water suitable for drinking
- provide privacy in bathroom areas
- have toilets that are all flushable and refillable, and connected to a sewer, septic tank or other waste disposal system
- have a functioning cooktop, if a kitchen is provided
- include the necessary fixtures for a functional laundry, such as tap fixtures and adequate plumbing, if laundry facilities are provided. The laundry does not have to include a washing machine or other white goods as these may be provided by the resident.

TQ notes that these minimum standards are difficult to enforce for rooming accommodation residents the only options would be to terminate the agreement within the first seven days of occupation, apply to QCAT for a termination order on the grounds of misrepresentation or to request a routine repair. Tenants have additional remedies to enforce the minimum housing standards which include requesting an emergency repair or filing an urgent application to QCAT for a repair order.

Minimum housing standards were enacted to ensure that all Queensland rental premises are safe secure and reasonably functional. This is especially the case where the resident has a disability and has mobility issues. Due to the vulnerability and support requirements of residents of supported accommodation it is proposed that the remedies to enforce the minimum housing standards extend in the very least to level 3 residential services premises.

The RTRA Act minimum housing standards are very different to the minimum accessibility provisions for new and extensively modified residential housing and apartments under the National Construction Code (NCC) 2022, based on the Liveable Housing Design Guidelines (LHDG) silver standards.

The Residential Tenancies Authority do not play a role in the enforcement of the RTRA Act's minimum housing standards other than investigating a complaint about a failure to comply with a repair order. TQ notes there is no register of current or outstanding repair orders therefore it is difficult to know the history of a rental premises unless disclosed.

#### Recommendation

##### **TQ recommends that:**

- The inclusion of emergency repairs and repair orders for rooming accommodation agreements which are for level 3 residential services.