

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

## Explanatory Notes

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

The short title of the Bill is the *Residential Tenancies and Rooming Accommodation (Rent Freeze) Amendment Bill 2022* (the Bill).

#### Policy objectives and the reasons for them

The Bill will enact a two-year freeze on residential rents in Queensland, in order to stop the rampant rent rises that are currently occurring in Queensland.

Queensland's housing crisis is well-documented. Brisbane has seen the steepest annual rent rises on record, and the regions have near-zero vacancy rates. Working families are sleeping in cars and tents. Meanwhile, developers are hoarding properties, driving up rents and stopping everyday Queenslanders from finding a secure, affordable home.

Queensland is in a housing emergency, and we need an emergency response.

#### Achievement of policy objectives

The Bill achieves its policy objectives by enacting a rent freeze that ensures 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. 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.

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 Bill requires the Residential Tenancies Authority (the RTA) to maintain a register of rents applicable to corresponding properties, as informed by 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.

### **Alternative ways of achieving policy objectives**

There is no alternative method of achieving the policy objective.

### **Estimated cost for government implementation**

The bill requires the Residential Tenancies Authority (the RTA) to maintain a register of rents applicable to corresponding properties. This will generally be informed by the rental bond lodgement form which the RTA already administers. For tenancies where there is no rental bond lodged, the RTA will be empowered to compel this information from landlords.

It is anticipated that any increased resourcing required for the RTA to administer this function should be met from existing budget allocations. However, consideration should be given to reversing recent legislative changes whereby the RTA was deprived of the ability to use funds earned from interest on the rental bonds it holds.

### **Consistency with Fundamental Legislative Principles (FLPs)**

This legislation engages several fundamental legislative principles, as defined in section 4 of the *Legislative Standards Act 1992* (Qld).

This legislation has sufficient regard to rights and liberties of individuals, although it engages rights to property by imposing a restriction on the amount of rent a lessor can charge in respect of property they own.

Failing to adhere to the rent freeze and rent cap set by this bill makes a lessor liable to a fine of up to 50 penalty units. As these penalties are levied only in accordance with existing principles of natural justice applying in Queensland's state penalties system, this legislation is consistent with principles of natural justice and therefore has sufficient regard to the rights and liberties of individuals.

Further, it has sufficient regard to the institution of Parliament.

## **Consultation**

Since being elected in 2020, Dr Amy MacMahon has liaised with thousands of renters in the Queensland private rental market, both from the South Brisbane electorate and other electorates. This has taken the form of hosting forums, conducting surveys, personal advocacy, casework, social media communications and email.

The thousands of personal stories she has heard are the reason she has prepared this private member's bill, and these testimonials are amply supported by data showing unprecedented rent rises in Queensland.

According to SQM Research,<sup>1</sup> rents in Brisbane saw the steepest annual increase on record this year, at more than 20%. A similar study of rents by Domain found house rents in Brisbane surged to a new record high of \$520. Unit rents jumped to a new record high of \$450 per week, the steepest annual increase since early 2009, at 12.5%. The number of potential renters per listing hit a historic high and is 77% higher than the five-year average.<sup>2</sup>

The same report found similarly steep rent surges in our state's regions. Toowoomba house rents rose by more than 15% in the last year, while Bundaberg residents face rent rises of more than 22%. The five-year data paints an even grimmer picture, with rents in the Central Highlands rising by more than 50% and rents in Gladstone nearly doubling.

Dr MacMahon has also liaised extensively with stakeholder organisations who are working to progress rental reform, including Tenants Queensland.

## **Consistency with legislation of other jurisdictions**

Rent freezes have occurred in other jurisdictions which are much like Queensland.

In fact, they have even happened here before. At the beginning of World War 2, rents were frozen and eviction protections were introduced to protect against 'rampant profiteering in essential services'. Labor Prime Minister John Curtin's wartime cabinet strengthened rent control in 1941, fixing rents at 1940 levels to help deal with inflation caused by wartime shortages.<sup>3</sup>

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<sup>1</sup> <https://sqmresearch.com.au/weekly-rents.php?region=qld%3A%3ABrisbane&type=c&t=1>

<sup>2</sup> <https://www.domain.com.au/research/rental-report/june-2022/>

<sup>3</sup> <https://theconversation.com/australia-had-rent-control-in-wartime-war-on-coronavirus-demands-the-same-response-135694>

In June of this year, Cherbourg Aboriginal Council froze rents for 12 months to ensure that residents can find affordable and culturally appropriate housing.

British Columbia in Canada has had rolling rent freezes since 2020, meaning that until earlier this year, landlords could not raise the rent by more than 1.5 per cent. In New York, the city government already has the power to freeze rent rises, and elderly residents can apply for a rent freeze anytime. Countries like Scotland and Canada have used rent freezes and controls to protect residents against massive rent increases, while even Victoria froze rents during the pandemic.

In New Zealand, the government froze rents at the start of the COVID-19 pandemic in 2020, the Human Rights Commission has called for an immediate freeze on rental increases in August 2022.

### **Notes on provisions**

**Clause 1** sets out the short title of the Act this Bill would create.

**Clause 2** specifies this Act would amend the *Residential Tenancies and Rooming Accommodation Act 2008* (the RTRA Act).

**Clause 3** amends section 57 of the RTRA Act to refer to sections 82B and 82D for maximum rent payable.

**Clause 4** inserts a new chapter 2, part 2, division 1AA establishing the amount of maximum rent payable for residential tenancy of premises:

- **Section 82A** defines ‘2-year rent freeze period’ as a period of 2 years starting on the day of the Act’s commencement.
- **Section 82B** specifies that the maximum amount of rent payable for a residential tenancy for premises during the rent freeze period is:
  - The amount of rent payable under a residential tenancy agreement for the premises on 1 August 2022; or
  - if the property wasn’t let at that date:
    - the amount payable if rented at any time in the previous 12 months; or
    - the amount the property was advertised for after 1 August 2022; or
    - the amount calculated under section 82C, which relates to median rent.

This section goes on to say that any lessor taking an amount for rent which is higher than this during the 2-year freeze is liable for a fine of 50 penalty units, or \$7187 in 2022.

- **Section 82C** sets out how rent should be calculated if a property is not let as at 1 August 2022, and has not been in the previous 12 months. In this case, rent will be based on the median rent for comparable residential premises located in the area that has the same postcode as the premises, published on the authority's website. The following elements must be considered in determining whether residential premises are comparable to others:
  - the number of bedrooms, bathrooms and car parks of the premises;
  - the area of the indoor and outdoor areas of the premises; and
  - the standard and state of repair of the premises and inclusions.
- **Section 82D** sets out a rent increase cap to apply after the 2-year rent freeze period ends. Any rental increase will be capped at no greater than 2% every 2 years. Failure to do this will make a lessor liable for a fine of 50 penalty units.
- **Section 82E** requires the Residential Tenancies Authority (RTA) to keep a register of rents for residential tenancies, showing the amount of rent payable under the current residential tenancy for premises, and the maximum rent payable for a residential tenancy of premises.
- **Section 82F** applies if there has not been a rental bond lodged with respect to a residential tenancy. In this case, the RTA can give the lessor a written notice enquiring about the rent payable. If a lessor does not provide this information, a fine of 20 penalty units will apply.
- **Section 82G** applies where a person considers the rent applied by a lessor to be higher than this bill would allow. They can apply to the Queensland Civil and Administrative Claims Tribunal (QCAT) (the tribunal) for a declaration about the maximum rent. The tribunal may make an order reducing the rent to a lower amount, in line with the provisions of this bill.

**Clause 5** amends section 91 of the RTRA to specify a landlord must not increase rent during the 2-year rent freeze period, or in contravention of the restrictions on rent increases after that time as set out in section 82C. Failure to comply with this is punishable by 50 penalty units.

**Clause 6** deletes section 92 from the RTRA Act, which provides for a tenant's application to the tribunal about a rent increase.

**Clause 7** amends section 468 of the RTRA Act to insert a new sub-paragraph (fa) to the RTA's functions, describing its function to audit whether rent payable under residential tenancy agreements is in line with the provisions of this bill.

**Clause 8** inserts a new Part 7 with transitional provisions.

**Clause 9** amends the Dictionary to reflect the new definitions in this bill.