

Making sure renting is safer and fairer for vulnerable Victorians

*Submission on the Residential Tenancies
Regulations 2020 (Vic)*

December 2019

About Justice Connect

Justice Connect is a social justice organisation that addresses public interest, access to justice and unmet legal need issues through a range of programs and projects; and uses our learnings to influence law and policy reform. We lead innovative solutions to help to close the 'justice gap', including:

- brokering strategic, efficient use of pro bono lawyers and barristers—30,000 hours last year, equating to \$15.6 million of pro bono legal help.
- being an effective partner in delivering holistic and intensive legal services to support clients experiencing significant disadvantage. For example, co-located staff at homelessness agencies and health justice partnerships to target hard to reach clients.
- leading access to justice innovation through our Legal Gateway and other digital programs.

Justice Connect Homeless Law

Justice Connect Homeless Law (**Homeless Law**) is Victoria's specialist free legal service for people experiencing or at risk of homelessness. Homeless Law staff work closely with pro bono lawyers to provide intensive legal representation (including ongoing casework, negotiations, court and tribunal appearances and advice) to over 400 homeless or at risk Victorians each year. Since 2001, Homeless Law has been outreach-based and client-centred, and from 2010, we have added depth to our practice by integrating two staff social workers, allowing us to holistically address clients' legal and non-legal needs under one roof.

In 2018-2019, Homeless Law:

- Opened 470 new client files to provide ongoing legal representation to people experiencing or at risk of homelessness;
- Delivered specialised social work supports to 142 highly marginalised clients;
- Connected 136 of the most transient and isolated Victorians, particularly rough sleepers, to legal services through co-locations and embedded partnerships with frontline community-based health and homelessness services, including cohealth, Launch Housing and Sacred Heart Mission – Journey to Social Inclusion; and
- Provided tailored legal assistance to 115 clients facing fines and charges directly related to homelessness.

Across our outreach legal clinics, in the last 12 months, Homeless Law has directly prevented 157 clients and their families from being evicted into homelessness. Based on findings by the Australian Housing and Urban Research Institute (**AHURI**), this equates to over \$4.6 million worth of savings to the Victorian Government and wider-community, through avoiding increased health, justice and welfare services costs.¹

In addition to our integrated model of service delivery, which focuses on early intervention and preventing legal issues escalating to crisis point, Homeless Law uses the evidence from our direct casework to inform systemic change aimed at stopping homelessness before it starts and reducing the negative impact of the law on people experiencing homelessness.

¹ Estimated annual cost to government services of an individual experiencing homelessness is \$29,450 higher than for the rest of the Australian population. See Zaretsky K. et al, Australian Housing and Urban Research Institute (**AHURI**), *The cost of homelessness and the net benefit of homelessness programs: a national study*. AHURI Final Report No 205 (2013) 14 available at https://www.ahuri.edu.au/__data/assets/pdf_file/0007/2032/AHURI_Final_Report_No218_The-cost-of-homelessness-and-the-net-benefit-of-homelessness-programs-a-national-study.pdf.

Acknowledgements

Homeless Law thanks our partner law firms and pro bono lawyers whose casework continues to generate positive outcomes for Victorians who are experiencing or at risk of homelessness and shapes our recommendations for reform. We also acknowledge our colleagues in the legal assistance, family violence, homelessness, community service, and housing sectors for their valuable collaboration and consultations regarding this submission. We have shared insights from Homeless Law's clients, and we are grateful for their contributions, which have informed and given light to our recommendations.

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1. Executive Summary

Homeless Law welcomes the *Residential Tenancies Amendment Act 2018* (Vic) (**RT Amendment Act**), which makes positive changes to the *Residential Tenancies Act 1997* (Vic) (**RT Act**), promoting a balanced rental market that meets the needs and expectations of renters, residential rental providers (**RRPs**) and property managers alike.

Homeless Law is grateful for the opportunity to make this submission to the Victorian Government's Department of Justice and Community Safety (**DOJCS**) regarding the proposed *Residential Tenancies Regulations 2020* (Vic) (**RT Regulations**). The proposed RT Regulations make some significant improvements to the current regulatory landscape, and we commend the DOJCS for its commitment to clarifying the respective rights and obligations of all parties affected by the regulations and to creating a well-functioning rental market.

Through over 18 years of targeted eviction prevention work, Homeless Law has seen that the existing legal frameworks make it too easy to evict vulnerable renters into homelessness in Victoria, and legal safeguards need to be strengthened. Through this work as the state's specialist community legal service for clients who are homeless or at risk of homelessness, Homeless Law has observed:

- the impact of a regulatory framework that has failed to keep pace with a changing housing landscape. The rental market is no longer a stepping stone on the path to home ownership and in this context, there is an ever-increasing need to rebalance the market through additional protections for renters;
- through our Women's Homelessness Prevention Project (**WHPP**), that victims-survivors of family violence are inadequately protected in relation to their rental and housing rights. Over a five year period, the WHPP has provided 280 women with 391 children in their care with an intensive combination of legal representation and social work support. Of these 280 women, 84% had experienced family violence; and
- the importance of maintaining or accessing safe housing, particularly for people with disabilities, mental health issues or experiencing family violence, and low-income households who live week-to-week in supporting themselves and their families.

Homeless Law's high proportion of clients who identify as family violence victim-survivors has directly informed the focus of this submission. Family violence is the most common reason cited for women seeking assistance for homelessness in Victoria,² and Victorian legislation should make it as clear and easy as possible for women in these circumstances to end or create new residential rental agreements (**RR Agreements**), make any necessary modifications to a property that may increase their health and safety, or have their names removed from a residential tenancy database or "tenancy blacklist".

The other key focus of this submission relates to rental issues that impact on Victorians who are at risk of homelessness. The combined impact of an increasingly competitive private rental market and the ongoing shortage of public and community housing stock in Victoria is forcing many low-income individuals and families to rely on unaffordable rental properties. Given this current housing context, renters applying for a new RR Agreement should be entitled to make their application without being discriminated against by a RRP on the basis of using the Department of Health and Human Services bond loan scheme or Centrepay for rent payments. Where renters are facing eviction, the content of the Notice to Vacate is vital to ensure that renters understand their legal rights and option, ensure increased attendance at VCAT, and avoid evictions into homelessness. Changes to the draft standard form notice to vacate would increase renter attendance at VCAT hearings and provide a more equitable outcome and better balance the rights of RRP and renters.

Informed by our evidence-base from providing holistic legal representation to over 400 Victorians with complex vulnerabilities each year, Homeless Law shares client stories and casework evidence, and makes fifteen key recommendations for the RT Regulations to make sure that renting is safer and fairer for vulnerable Victorians. We also welcome any opportunity to provide additional contextual information around these recommendations, including through further consultation with DOJCS.

² Crime Statistics Agency (2016) *Royal Commission into Family Violence Specialist Homelessness Services Collection data – July 2011 to June 2014*, Table 3.

FIFTEEN RECOMMENDATIONS TO MAKE SURE RENTING IS SAFER AND FAIRER FOR VULNERABLE VICTORIANS

1. **Proposed regulations 26 & 28 – Modifications to rented premises**

To make it easier for victim-survivors to safely stay in their homes, renters should be empowered to modify rental properties to improve security in the context of family violence.

Homeless Law, working collaboratively with Domestic Violence Victoria, recommends that:

- A renter should not be required to obtain the RRP's consent to make modifications to the rented premises for the purposes of a **safety measure** taken by a victim-survivor of family violence.
- These safety-related modifications should include security cameras, locks, alarm systems, security lighting and gates and fences.

Homeless Law has also provided draft wording in support of this recommendation in the body of this submission.

Justice Connect's Seniors Law program has provided a complementary submission regarding modifications in the context of older Victorians at **Annexure A**.

2. **Proposed Regulations 36, 51, 71 & 88 – VCAT Orders and tenancies affected by family violence**

Homeless Law and Domestic Violence Victoria support the inclusion of proposed Regulations 36, 51, 71 and 88. When determining an application for termination or an application for a new RR Agreement because of family violence or personal violence, the prescribed matters that Victorian Civil and Administrative Tribunal (**VCAT**) can have regard to should be as broadly worded as possible. This is particularly important as it will not always be safe for renters experiencing or at risk of family violence to obtain formal documents, such as intervention orders or court orders.

Homeless Law commends the DOJCS's current drafting, which ensures that the prescribed documentary evidence includes:

- a statutory declaration from family and friends, police report, bank statement, photographic or audio-visual evidence, or letters, reports or other documentary materials from social workers, health professionals or legal practitioners.

3. **Proposed Regulation 95 – Documentary evidence to accompany objection to listing information**

Homeless Law and Domestic Violence Victoria support the inclusion of proposed Regulation 95. As set out at Recommendation 2 above, it will not always be safe for renters to obtain formal documents or court orders relating to family violence or personal violence, and any prescribed documentary evidence should be as broad as possible.

4. **Proposed Regulations 18, 43, 58 & 79 – Form of condition report should more easily enable renters to respond to allegations about damage made by RRP's or agent**

The current form of condition report does not adequately encourage renters to respond to allegations about damage made by the RRP or agent, particularly in the context of family violence.

Homeless Law, working collaboratively with Domestic Violence Victoria, recommends:

	<ul style="list-style-type: none"> providing renters with space in the form to respond to each of the RRP's or agent's comments on exiting the property; and including an additional text box at the end of 'Part E' of the sample form of condition report for any comments that the renter may want to make about any alleged damage which may have occurred in the context of family violence.
5.	<p>Proposed Regulations 37, 53, 72 & 89 – Form of Notice to Vacate</p> <p>Given the importance of renters accessing the VCAT to avoid preventable evictions, Homeless Law recommends:</p> <ul style="list-style-type: none"> Amending the title of the 'Notice to Vacate' to be a 'Request to Vacate' or alternatively, softening the language in the standard form notice to vacate, to prevent renters interpreting these notices as a final requirement to leave and encouraging engagement with subsequent VCAT processes; and Amending the current form of the Notice to Vacate to include additional information and clarity about renters' legal rights and details of legal assistance services. <p>Homeless Law has provided our recommended amendments to the sample form notice to vacate, working collaboratively with Victoria Legal Aid (VLA), at Annexure B of this submission.</p>
6.	<p>Proposed Regulation 91 – Notice to Leave renamed as 'Temporary Notice to Leave'</p> <p>Homeless Law recommends renaming the 'Notice to Leave' form to better explain that the requirement to leave is initially only of a temporary nature (of 2 business days or until a future VCAT hearing).</p> <p>The Notice to Leave should also include referral information for further assistance to better inform rooming house residents of their rights, including homelessness services to assist people with accommodation.</p> <p>Homeless Law has provided our recommended amendments to the sample form Notice to Leave, working collaboratively with VLA, at Annexure C of this submission.</p>
7.	<p>Proposed Regulations 14, 40, 54, 55 & 75 – Statement of information for rental applications and occupancy forms</p> <p>Proposed Regulations 14, 40, 55 and 75 of the RT Regulations provide a helpful explanation and examples of discrimination in the statement of information that is to be provided to applicants. However, Homeless Law's view is that this form is currently insufficient to deter RRP's and other providers of accommodation from engaging in discriminatory practices.</p> <p>Homeless Law recommends that RRP's and RHOs be prohibited from inquiring about protected characteristics, as set out in Recommendation 8 below.</p>
8.	<p>Proposed Regulations 15, 41, 56 & 76 – Information that a RRP or RHO must not require a rental applicant or resident to disclose</p> <p>Homeless Law recommends that the prescribed information contained in the application form for a RR agreement should not enable a RRP or RHO to discriminate against particular groups of applicants, by requiring prospective renters:</p> <ul style="list-style-type: none"> to disclose anything that would constitute a protected attribute under s 6 of the Equal Opportunity Act 2010 (Vic); or

	<ul style="list-style-type: none"> to disclose whether their bond will be paid either as a 'bond loan' from the Director of Housing, or that their rent will be paid through Centrelink's 'Centrepay' facility.
9.	<p>Proposed Regulation 92 – Goods left behind</p> <p>The types of goods left behind that property owners should be required to store for the relevant period include additional items that have sentimental value for vulnerable renters.</p> <p>Homeless Law recommends:</p> <ul style="list-style-type: none"> prescribing additional goods, including labelled animal remains and taxidermy, and electronic devices which could reasonably be assumed to store sentimental items such as photographs or other important correspondence. <p>Homeless Law has provided some recommended drafting in the body of this submission.</p>
10.	<p>Proposed Regulation 12 – Professional Cleaning</p> <p>Homeless Law supports the default position in Regulation 12 which confirms that professional cleaning is only required at the end of a tenancy if the property needs to be returned to the RRP in the same state that it was when the tenancy commenced.</p> <p>Homeless Law supports both Tenants Victoria and Victoria Legal Aid's submissions, which acknowledge the ambiguity of 'fair wear and tear', and recommends that the RT Regulations should only provide for professional cleaning being required where this is clearly and demonstrably necessary.</p>
11.	<p>Proposed Regulation 29 – Rental Minimum Standards</p> <p>Homeless Law commends the DOJCS for its inclusion of a number of positive rental minimum standards in Regulation 29. Homeless Law supports the submission of Tenants Victoria, Victoria Legal Aid, Housing for the Aged Action Group and the Victorian Public Tenants Association.</p> <p>Specifically, we agree that:</p> <ul style="list-style-type: none"> the minimum standards: should apply to tenancies commenced prior to 1 July 2020, should prescribe for functioning cooling systems (not merely heating systems); and that certain urgent repairs in common areas at Part 4A Parks should be prescribed as 'urgent site repairs'; and that all of the transitional provisions in relation to the minimum standards should require compliance in respect of all property types by 1 July 2023.
12.	<p>Proposed Regulations 17 & 78 – Amount of rent for which the maximum bond does not apply</p> <p>Homeless Law supports the increase in the maximum bond amount provided for in the RT Regulations to \$900 per week. However, Homeless Law also recommends that this figure:</p> <ul style="list-style-type: none"> be reviewed and amended every year on the 30 June; be informed by the Department of Health and Human Services' 'Quarterly Rental Reports'; and be adjusted relative to changes in the private rental market.
13.	<p>Proposed Regulation 6 – Definition of Temporary Crisis Accommodation</p>

To ensure that both providers of temporary crisis accommodation and those accessing it have clarity of their respective rights and obligations, Homeless Law recommends a prescribed period of 6-8 weeks in the definition of temporary crisis accommodation.

14. Proposed RT Regulations should not prescribe services other than financial counsellors

Homeless Law supports the current position in the RT Regulations which do not prescribe services other than financial counsellors to prepare reports. The financial counselling sector is chronically underfunded, and will need a significant boost in resources if it is to cope effectively with increased requests for appointments in light of s 331(1A)(a) of the amended RT Act.

Homeless Law recommends:

- that the RT Regulations should not prescribe services other than financial counsellors, as there is the risk that these bodies may be ill-equipped to prepare such reports, or may make hasty assessments that a payment plan and the RR agreement cannot be sustained;
- there should be an increase in funding provided to not-for-profit organisations such as Community Legal Centres (**CLCs**), to enable integrated services such as financial counsellors to be embedded in their models.

15. Proposed Regulation 34 – Compensation for sales inspections should be increased to one day's rent per inspection

Homeless Law recommends that compensation for sales inspections for renters in metropolitan areas, including Melbourne and Geelong, should equate to *one day's rent* per sales inspection. This provides a fairer basis for compensation without imposing a significant additional regulatory burden for rental providers.

2. Fifteen recommendations to make sure renting is safer and fairer for vulnerable Victorians

We confirm that Homeless Law's recommendations below relate to the proposed RT Regulations.³

Recommendation 1: Proposed Regulations 26 and 28 – Modifications to rented premises⁴

Homeless Law and Domestic Violence Victoria have collaborated on the submission below. It is the view of Domestic Violence Victoria and Homeless Law that the proposed RT Regulations do not currently adequately protect renters' safety, particularly in situations of family violence or personal violence.

Section 64 of the amended RT Act relates to prescribed modifications that can be made without the RRP's consent.⁵ It also provides that certain modifications must not be unreasonably refused by the RRP, including those approved by a prescribed practitioner. The amended RT Act now provides that:

Section 64(1):

"A renter may make any modifications to rented premises that are prescribed modifications without the residential rental provider's consent".

Section 64(1B)

"A residential rental provider must not unreasonably refuse consent to modifications made by the renter—

(c) "that are— assessed and determined to be required modifications by an accredited occupational therapist or a prescribed practitioner".⁶; or

(e) "that are reasonable security measures".⁷; or

*(f) "that are necessary to ensure the safety of a party to the existing residential rental agreement who—
(i) has been or is being subjected to family violence by another party to that agreement (including a protected person under a family violence safety notice, family violence intervention order or recognised non-local DVO); or (ii) is a protected person under a personal safety intervention order made against another party to that agreement".⁸; or*

(h) "A residential rental provider must not unreasonably refuse consent to modifications made by the renter—... that are prescribed modifications for the purposes of this subsection".⁹

Proposed RT Regulations 26 and 28 respectively prescribe the types of modifications that can be made by renters without the RRP's consent, and the modifications for which RRP's must not unreasonably refuse consent. These provisions are important for ensuring the safety of victim-survivors of family violence. To better ensure that victim-survivors can safely stay in their homes after an experience of family violence, renters should be empowered to modify the rented property to improve security if they are a victim of family violence.¹⁰

³ With the exception of Recommendation 14 regarding Financial Counselling Services.

⁴ This also applies to Pt 3, s 115(2)(b) and Pt 4A s 206ZMB(2)(b) of the RT Act. Regulation 26 relates to modifications which can be made without the RRP's consent, and Regulation 28 relates to modifications for which RRP's must not unreasonably refuse consent.

⁵ RT Amendment Act, s 49.

⁶ RT Act, s 64(1B)(c)(ii).

⁷ RT Act, s 64(1B)(e).

⁸ RT Act, s 64(1B)(f).

⁹ RT Act, s 64(1B)(h).

¹⁰ See Justice Connect Homeless Law and safe steps Family Violence Response Centre, *Joint submission: Rights and Responsibilities of Landlords & Tenants* (May 2016), 39, available at: <https://justiceconnect.org.au/wp-content/uploads/2018/08/Safe-Steps-Rights-and-responsibilities-of-landlords-and-tenants-May-2016.pdf>.

Safety-related modifications should not require the RRP's consent

The DOJCS has requested feedback from stakeholders in its Guiding Questions (**Guiding Questions**) about 'safety-related activities', and whether there are further matters that should be considered in this respect.¹¹ Domestic Violence Victoria and Homeless Law support the Victorian Government's commitment to implementing Recommendation 116 of the Royal Commission into Family Violence's Report, which:

"prevent a landlord from unreasonably withholding consent to a request from a tenant who is a victim of family violence for approval to reasonably modify the rental property in order to improve the security of that property".¹²

However, in Domestic Violence Victoria and Homeless Law's view Proposed Regulation 26 does not currently meet the safety-based intentions of this recommendation.

Renters should be able to make family violence safety modifications *without* being required to obtain the RRP's consent. It is not sufficient to leave the issue of what constitutes "reasonable security measures" or measures "that are necessary to ensure the safety" of a person who is experiencing family violence to the discretion of VCAT members. Specific safety-related modifications are required to provide the necessary, evidence-informed guidance to VCAT members, who do not generally have expertise regarding family violence supports or the related safety considerations. In order to strengthen the safety-related matters in the proposed RT Regulations, Domestic Violence Victoria and Homeless Law strongly support the inclusion of a non-exhaustive list of safety modifications, which should be able to be made without the RRP's consent. As set out below, these modifications should include security-related modifications, such as locks, security cameras, alarm systems, security lighting and window coverings.

If the alternative option is ultimately adopted (where requests for safety-modifications cannot be unreasonably refused by RRP's) then Domestic Violence Victoria and Homeless Law are also concerned that presently, there is no time limit for RRP's to provide renters with a response to their request to modify the residential property. If long periods of time are permitted to lapse between the request to make the modification and the RRP providing their consent to the modification (or otherwise rejecting it), this could have extremely serious consequences for highly vulnerable renters. Domestic Violence Victoria and Homeless Law view the need for amendments to the proposed RT Regulations (and if necessary, consequential amendments to the RT Act) to provide that RRP's must respond to requests for family violence-related safety modifications within 24 to 72 hours. This would better assist at-risk renters to take immediate measures to protect themselves and their families.

Renters should not be required to remove safety-related modifications at the end of a tenancy

Domestic Violence Victoria and Homeless Law recommend that renters should not be required to remove safety modifications at the end of their tenancies. While we acknowledge that consequential amendments to the RT Act may be required to implement this recommendation, it is our view that:

- it is onerous and unfair for RRP's to expect family violence victims, who are some of the most marginalised Victorian renters, to remove any modifications installed throughout the duration of their tenancy. This logic also applies to disability-related modifications; and
- as is the case for disability-related modifications made in circumstances where the property is to be subsequently sold by the RRP, modifications made to a property to increase safety in cases of family violence should also be exempt from this restoration requirement.

Ensuring the success of the 'Flexible Support Packages' initiative

The RT Regulations should also enable renters experiencing family violence to have access to safe and sustainable rental housing. The Royal Commission into Family Violence, which issued its final report in 2016,¹³ recommended that the DOJCS

¹¹ Department of Justice and Community Safety, Guiding Questions (accessed on 25 November 2019) (**Guiding Questions**) available at: https://engage.vic.gov.au/download_file/21962/2930.

¹² Royal Commission into Family Violence, Summary and Recommendations, Recommendation 116 (March 2016) 77 available at: <http://files.rcfv.com.au/Reports/Final/RCFV-All-Volumes.pdf>.

¹³ State of Victoria, *Royal Commission into Family Violence: Summary and recommendations*, Parl Paper No 132 (2014–16), (accessed on 16 December 2019) available at: <http://www.rcfv.com.au/Report-Recommendations>.

consider amendments to the RT Act to ensure the safety of at-risk renters, including the provision of 'Flexible Support Packages' to victim-survivors of family violence. Since announcing this initiative in January 2016, the Victorian Government has allocated more than \$64 million for more than 19,000 flexible support packages,¹⁴ which can be used to purchase services and goods, including technological safety support such as CCTV, mobile phones, personal/property alarms, security doors or lighting.¹⁵ To maintain the impact of this initiative, which helps women and children experiencing family violence to safely remain in their own homes, it will be important for the RT Regulations to prescribe a broad variety of reasonable modifications that go towards adequate safety measures. In our experience, it is also likely that most safety measures taken by renters would enhance properties, improving their future re-letting prospects.

Suggested Drafting – Proposed Regulation 26

We strongly recommend that the RT Regulations prescribe that a renter should not be required to obtain the RRP's consent to make modifications to the rented premises for the purposes of a "safety measure" taken by a person specified in the sub-regulation. Our suggest amendments to the proposed Regulation 26 are as follows:

26 Modifications which can be made without residential rental provider's consent

For the purposes of section 64(1)(h) of the Act, the following modifications are prescribed—

- (a) in a rented premises that is not a registered place—
 - (i) installation of picture hooks or screws for wall mounts, shelves or brackets on surfaces other than brick walls; and
 - (ii) installation of wall anchoring devices on surfaces other than brick walls to secure items of furniture; and
 - (iii) installation of LED light globes which do not require new light fittings; and
 - (iv) replacement of halogen or compact fluorescent lamps; and
 - (v) installation of blind or cord anchors; and
- (b) in all rented premises—
 - (i) replacement of curtains if the original curtains are retained; and
 - (ii) installation of adhesive child safety locks on drawers and doors; and
 - (iii) the following family violence modifications including the following:
 - (A) Additional locks or door chains to any door or window in the rented premises; and
 - (B) Security cameras; and
 - (C) Security screen doors and security screen windows; and
 - (D) Alarm systems; and
 - (E) Sensor lighting; and
 - (F) Gates and fencing; and
 - (G) Replacement locks, keys and electronic remotes to any door or window; and
 - (H) Locks for letter boxes and new or replacement letterboxes with additional security; and
 - (I) Locks for electricity boxes or electricity metres.

Justice Connect Seniors Law submission on prescribed modifications

Justice Connect's Seniors Law team assists older tenants with their legal problems and sees older tenants struggle to persuade landlords to agree to modifications.

¹⁴ The Honourable Jenny Mikakos MLC, Media Release, Flexible Support For Victims Of Family Violence, (31 July 2018) available at: <https://www.premier.vic.gov.au/wp-content/uploads/2018/07/180731-Flexible-Support-For-Victims-Of-Family-Violence-1.pdf>

¹⁵ Department of Health and Human Services November, Program requirements for the delivery of family violence flexible support packages, 4-7, (accessed on 16 December 2019) available at: <https://providers.dhhs.vic.gov.au/program-requirements-delivery-family-violence-flexible-support-packages>.

Please refer to **Annexure A** for Seniors Law's discrete submission on the modifications that should be prescribed for older Victorians and for which older renters should be permitted to make without a RRP's consent.

Homeless Law supports Seniors Law's submission and envisages that the prescribed matters referred to could also be inserted into a new r 26(b)(iv) located after the family violence amendments suggested by Domestic Violence Victoria and Homeless Law.

Recommendation 2: Proposed Regulations 36, 51, 71 and 88 – VCAT Orders and tenancies affected by family violence

Section 91W(3)(c) of the amended RT Act provides that VCAT, when determining an application for termination or an application for a new residential agreement because of family violence or personal violence, must take into account any prescribed matters:¹⁶ Homeless Law and Domestic Violence Victoria welcome the changes in the RT Amendment Act which seek to expand the matters that VCAT may have regard to in determining the existence of family violence or personal violence. Similarly, we commend the DOJCS for the broad range of matters prescribed by proposed Regulations 36, 51, 71 and 88 (**VCAT Order Regulations**).

However, from the day-to-day lived experience of our clients, we are also aware of the complexity of family violence, and the need to ensure that perpetrators cannot use these provisions to their advantage by falsely claiming that they are family violence victim-survivors. In consultation with Domestic Violence Victoria, we have suggested amending proposed Regulation 36(1)(x) to require that family members and friends of the renter to provide statutory declarations, rather than letters, in order to ensure that this sub-regulation is not open to misuse by perpetrators. We also note that there appears to be a typographical error in the current drafting of the VCAT Order Regulations, through omitting 'and' at the end of each proposed sub-regulation at 36(1)(a). For completeness, we note that specified persons should not be expected to produce *all* of the prescribed evidence set out in the VCAT Order Regulations. Please see amended drafting for the DOJCS consideration below:

36 Matters—Tribunal Orders

- (1) For the purposes of section 91W(3)(c) of the Act, the prescribed matters are—
 - (a) any letter, report, written declaration or other documentary materials from any of the following—
 - (i) support workers; and
 - (ii) health professionals; and
 - (iii) religious entities and their employees; and
 - (iv) crisis accommodation providers; and
 - (v) the Department of Health and Human Services (Child Protection); and
 - (vi) Victoria Police within the meaning of the **Victoria Police Act 2013**; and
 - (vii) the Australian Federal Police within the meaning of the Australian Federal Police Act 1979 of the Commonwealth; and
 - (viii) a police service (however described) of another State or Territory; and
 - (ix) employees of educational institutions and schools; and
 - (x) **statutory declarations from** family and friends of the renter; and
 - (xi) the employer of the specified person; and
 - (xii) an Australian Legal Practitioner; and
 - (b) any bank statements of the specified person or the party who is alleged to have subjected the specified person to the family violence or personal violence; and
 - (c) any photographic or audio-visual evidence; and
 - (d) any electronic communication within the meaning of section 3(1) of the **Electronic Transactions (Victoria) Act 2000**; and
 - (e) any oral evidence about where the specified person has been staying or living; and
 - (f) the risk to personal safety of the specified person or any children of the specified person occupying the rented premises; and

¹⁶ This also applies to sections in Part 3: 142T(3)(c), Part 4: 206AH(3)(c) and Part 4A: 207N(3)(d) of the RT Act.

- (g) whether the party who is alleged to have subjected the specified person to the family violence or personal violence has been arrested, charged or released on bail.
- (2) For the purposes of subregulation (1), **specified person** means—
 - (a) a person who has made an application under section 91V(1) of the Act; or
 - (b) a person on whose behalf an application has been made under section 91V(5) of the Act.

Domestic Violence Victoria and Homeless Law support the DOJCS's current drafting which prescribes a broad range of documentary evidence for the following reasons:

Issues with the previous section 233A of the RT Act

The previous section 233A of the RT Act was the legal mechanism intended to support victim-survivors to stay in their homes when they choose to and when it was safe to do so. It was introduced as part of the *Family Violence Protection Act 2008* (Vic), and provided that, where a renter is excluded from the premises pursuant to a final intervention order (IVO), the protected person under that IVO can apply to VCAT for an order terminating the existing rental agreement.

This section created difficulties for family violence victim-survivors, particularly because:

- (a) A final IVO can take considerable time to obtain, by which time the tenancy may have been terminated for other reasons – e.g. rent arrears attributable to a perpetrator as in the example above;
- (b) There can be issues with serving an IVO after it has been made, with some orders remaining unserved for significant periods of time, which can significantly delay finalisation of an IVO;
- (c) Police do not always apply for exclusion conditions in IVO applications where they would be warranted;
- (d) The victim-survivor must apply under two jurisdictions (the Magistrates' Court of Victoria and VCAT) in order to use this provision; and
- (e) Many victim-survivors will not seek an IVO. This can happen for a range of reasons, including fear of further escalation of the violence, lack of police enforcement, a belief that the order will not change the perpetrator's behaviour, the inconvenience and time investment that can be involved in obtaining an IVO, or other competing personal priorities following an incident of family violence (i.e. children's needs).

The prescribed matters should be as broad as possible

As set out above, there are many circumstances where a person may be experiencing family violence or personal violence, and may not be able to obtain any formal documents such as an IVO, which assert this fact. In our experience, many victim-survivors feel unsafe obtaining court orders or other formal documents, and it can often be re-traumatising for them to have to recount their experiences of family violence to multiple different first-responders, courts, tribunals and support workers. In this context, we recommend that the prescribed documentary evidence be as broad as possible, and

not require unnecessary hurdles such as proof of the existence of intervention orders. Sonia's story below highlights the shortcomings of requiring formal documentation such as IVOs to terminate or create a new RR Agreement and the barriers to its accessibility where prescriptive evidence is required from people experiencing family violence.

Family violence victim-survivor concerned whether she will be able to terminate her lease without unfair debts

Sonia,* who has an extensive history of family violence, moved into a 12 month fixed term private rental with her new partner. Soon after that, the partner perpetrated physical violence and economic abuse, and after he left the property, she discovered a rental arrears debt of \$5000. The partner spent money that Sonia had allocated for rent on his gambling addiction.

Through friends and community-based supports, Sonia found enough money to begin paying back the rental arrears. However, the monthly rent however is not affordable for Sonia by herself, and she wanted to end the fixed term agreement to find a more affordable and safer home. The partner's name also remained on the agreement, but he had stopped contributing to the rent and continued to make threats against Sonia.

Sonia's landlord was unhappy with her terminating the agreement early, and told her that she would need to pay rent until a new tenant was found, along with advertising and reletting fees, which would total over \$4000. Sonia was very concerned about the impact of this further financial burden, and she was unsure whether her evidence of economic abuse would be enough to secure an order reducing her tenancy agreement early without financial penalty.

**Name has been changed.*

If Sonia had been able to provide documentary evidence such as photos showing her partner's gambling habits, a bank statement or a statutory declaration from a friend or support worker (as the proposed VCAT Order Regulations prescribe), her 'unhappy' RRP may have terminated Sonia's lease early, so that she could look for more affordable, safe housing and avoid homelessness.

Recommendation 3: Proposed Regulation 95 – Documentary evidence to accompany objection to listing information

Section 439F(7)(b) of the amended RT Act provides that, in relation to tenant 'blacklisting', prescribed documentary evidence of family violence or personal violence can be provided by a renter to object to a tenancy database listing.¹⁷

Domestic Violence Victoria and Homeless Law commend the DOJCS for the draft wording provided in proposed Regulation 95. As with Proposed Regulation 36, the broad wording currently adopted in proposed r 95(1)(b)(ii) which allows "*any letter, report, written declaration in relation to the alleged family or personal violence or other documentary materials from a person, organisation or entity specified in subregulation (2)*", will have a genuinely beneficial impact for victim-survivors of family violence and personal violence. However, as noted above, we confirm the need to ensure perpetrators do not misuse these provisions. Domestic Violence Victoria and Homeless Law's view is that the range of specified persons, organisations and entities in proposed r 95(2) provides the requisite flexibility for vulnerable Victorians to acquire the relevant documentary evidence.

Victim-survivors are often forced to urgently leave rented properties, sometimes at the insistence of police who have attended the property in response to family violence. The victim-survivor's departure will often result in the tenancy being terminated, because of unpaid rent for example, and the victim-survivor will be left with housing related debts. In our experience, this can lead to the victim-survivor's personal details being recorded for three years on a residential tenancy database that future prospective RRP's and real estate agents may rely on when assessing their applications for private rental properties. Often, victim-survivors will be unaware that a listing has been made due to being in crisis accommodation and will only find out about the listing when they apply for a new private rental property.

Victim-survivors being 'blacklisted' on tenancy databases due to the actions of perpetrators remains a direct barrier to them obtaining secure private rentals. This regularly results in women and children facing housing insecurity for longer periods, which keeps their safety at risk.

As discussed above at Recommendation 2, it will not always be safe for some people to obtain formal documents or court orders relating to family violence or personal violence, and any prescribed documentary evidence should be as broad as possible. The RT Regulations should therefore include a mechanism to prevent victim-survivors being listed in a tenancy database for breaches of tenancy agreements due to perpetrator conduct, and to have their name removed from any blacklist through the provision of documentary evidence indicating the existence of family violence.

RRPs and database operators should be obliged to remove and amend listings if the relevant breach is attributable to a perpetrator of family violence, and the documentary evidence in support of this should be broad. These improved protections against 'blacklisting' will reduce the risk of victim-survivors being prevented from accessing safe, stable housing and moving forward with their lives.

We note that DOJCS may have unintentionally omitted the prescribed documentary evidence we proposed at r 95(c)-(g).

Suggested Drafting

As set out in Recommendation 2, Homeless Law recommends that any prescribed documentary evidence could also include:

- (1) For the purposes of section 439F(7)(b) of the Act, the prescribed documentary evidence is—
- (a) a written statement by the person making the objection, stating that the information relates to an act or a circumstance of family violence or personal violence experienced by the person; and
 - (b) either—
 - (i) a copy of an extract of a relevant family violence intervention order, family violence safety notice or recognised non-local DVO or a personal safety

¹⁷ See s 302 of the RT Amendment Act.

intervention order that has been certified in accordance with Part 5 of the **Oaths and Affirmations Act 2018**; or

- (ii) any letter, report, written declaration in relation to the alleged family or personal violence or other documentary materials from a person, organisation or entity specified in subregulation (2).

(c) bank statements of the alleged victim, the perpetrator of violence or related party; and

(d) photographic or audio-visual evidence; and

(e) any electronic communications as defined in s 4(1) of the **Electronic Transactions (Victoria) Act 2000 (Vic)**; and

(f) any oral evidence about where a victim has been staying or living; and

(g) a statutory declaration given by friends or family of the renter.

- (2) For the purposes of subregulation (1)(b)(ii), the following persons, organisations and entities are specified—

- (i) support workers; and

- (ii) health professionals; and

- (iii) religious entities and their employees; and

- (iv) crisis accommodation providers; and

- (v) the Department of Health and Human Services (Child Protection); and

- (vi) Victoria Police within the meaning of the **Victoria Police Act 2013**; and

- (vii) the Australian Federal Police within the meaning of the Australian Federal Police Act 1979 of the Commonwealth; and

- (viii) a police service (however described) of another State or Territory; and

- (ix) employees of educational institutions and schools; and

- ~~(x) family and friends of the person;~~

- (x) the employer of the person making the objection; and

- (xi) an Australian Legal Practitioner.

Recommendation 4: Proposed Regulations 18, 43, 58 and 79 – Form of condition report

Homeless Law commends DOJCS for the inclusion of the ‘note’ on page one of the sample form condition report, which informs renters that ‘*VCAT may order that they not be held liable for any loss or damage caused by the alleged perpetrator of that [family] violence*’.¹⁸

However, Homeless Law’s view is that the form of condition report does not adequately encourage tenants to respond to allegations about damage made by the RRP or agent. We recommend that ‘Part E’, which relates to the ‘End of rental agreement condition report’, should provide renters with space in the form to respond to each of the RRP or agent’s comments on exiting the property. This will encourage renters to engage with any specific allegations made about the condition of the property after the end of the agreement, and minimise the risk of renters being exploited for damage they may not have caused.

Homeless Law and Domestic Violence Victoria recommend including an additional text box at the end ‘Part E’ of the sample form of condition report for any comments that the renter may want to make about any alleged damage which may have occurred in the context of family violence. Renters should be directed to put the agent or RRP on notice (as soon as possible) that some or all of the damage may have been caused by a third party or perpetrator of family violence, as this has the potential to de-escalate disputes about the condition of a property at the end of a tenancy.

¹⁸ Victoria State Government, Department of Justice and Community Safety, *Sample Form Condition Report* (accessed on 25 November 2019) available at: <https://engage.vic.gov.au/rentingregulations>.

Recommendation 5: Proposed Regulations 37, 53, 72 and 89 – Form of Notice to Vacate

Homeless Law and Victoria Legal Aid (VLA), as major providers of tenancy legal assistance in Victoria, have together identified the changes marked-up in the Notice to Vacate (NTV) document at **Annexure B**. Homeless Law and VLA jointly support these changes on the basis that they increase clarity for recipients of the notice about their rights, obligations and options for obtaining legal assistance.

We understand that Tenants Victoria have also prepared a version of the NTV with the same messaging, and Homeless Law is broadly supportive of Tenants Victoria's version.

Sections 91ZZO, 142ZT, 206AZI and 207ZK of the amended RT Act state that a Notice to Vacate will not be valid unless it is in the prescribed form. The proposed RT Regulations 37, 53, 72 and 89 provide for the prescribed form Notice to Vacate in Forms 6, 11, 16 and 22 of Schedule 1 (**Prescribed NTV Forms**).¹⁹ We note that the 'Sample notice to vacate rented premises' provided on the DOJCS website (**Sample NTV**) differs slightly from Form 6 in the RT Regulations, in that it includes an additional four pages of 'Information for the residential rental provider' that we have consistently stated should not be included in the prescribed form (discussed in greater detail below).²⁰

Homeless Law appreciated some of the language improvements we have seen in the prescribed NTV through our consultations with DOJCS. We believe proposed Forms 6, 11, 16 and 22, represent slight improvements than earlier draft versions we reviewed as part of consultations with DOJCS. These improvements include some more useful information for the intended recipient of the notice (the renter), and this information has now been moved from Part B to Part A of the notice. The notice also has been somewhat rewritten in the first person and is now addressed to the renter directly, and not the RRP. We also note that misleading language that states that renters are 'required to vacate on the termination date' has been amended to more accurately reflect the legal position of renters who receive these notices.²¹

Despite these improvements, Forms 6, 11, 16 and 22 represent a regression in the language we and other services have submitted should be included in the prescribed form of NTV and we cannot and do not, support these notices in their current form. Homeless Law's view is that there are still some substantial changes that need to be made to the Prescribed NTV Forms as they currently stand.

In Homeless Law's view, the current form of the 'Notice to Vacate' still weakens security of tenure for renters by intentionally discouraging them from understanding or exercising their rights and attending VCAT to contest the notice. In a housing market that is imbalanced against renters, it is critical that the documents and processes regarding VCAT proceedings aim to facilitate tenant engagement. Eviction is the main reason for homelessness,²² and long waiting lists for social housing mean homelessness is almost inevitable for low income people after eviction.²³

Homeless Law recommends the following proposed measures be implemented to increase the ability for renters to understand their rights, and to assert these rights through the VCAT process *before* they are evicted to minimise the risk of homelessness.

Amending the misleading title of 'Notice to Vacate' to 'Request to Vacate'

Homeless Law has long been of the view that the terminology of 'notice to vacate' is highly misleading. The term creates the impression of finality, rather than identifying that the receipt of this notice is only the initial first step in an eviction process that, in many cases, is avoidable for a renter. In the context upcoming reforms that will reduce the risk of avoidable evictions,

¹⁹ Note: the 'Sample form: Notice to vacate rented premises' version provided on the Engage.vic.gov website differs from these Prescribed NTV Forms, available at: <https://engage.vic.gov.au/rentingregulations>.

²⁰ Department of Justice and Community Safety, Sample form notice to vacate rented premises, (accessed on 25 November 2019) available at: <https://engage.vic.gov.au/rentingregulations>.

²¹ *Quick v Lam-Ly Pty Ltd* [2019] VSC, [33] (Garde J).

²² Department of Families, Housing, Community Services and Indigenous Affairs, Commonwealth of Australia, *The Road Home, A National Approach to Reducing Homelessness* (Report, December 2008) 6.

²³ Victoria Legal Aid, *Intersections between mental health and the legal system and the impacts for people and communities: Submission to the Productivity Commission's Inquiry into the Economic Impact of Mental Ill-Health* (April 2019), 18 available at: <https://www.legalaid.vic.gov.au/about-us/news/reflecting-on-intersections-between-mental-health-and-legal-issues>.

including the reasonable and proportionate test²⁴ and the changes to the rent arrears provisions,²⁵ it has never been more important for renters to understand their options and to access VCAT.

Homeless Law regularly advises renters who have received a notice to vacate from their RRP and have interpreted it as a finalised order to vacate their home by the specified date. Many of these renters initially believe that failure to comply with the notice will result in penalties being imposed, or additional costs being incurred. For this reason, they are more likely to vacate a premises prematurely and are less likely to attend any subsequent VCAT hearings to present their case or defend the eviction proceedings.

The terminology of ‘notice to vacate’ and ‘termination date’ was also compounded by the previous language included in the notice to vacate that stated:

“Note to Tenant: I require you to vacate on [...] termination date”

This choice of language is plainly incorrect and highly misleading. The correct legal effect of being given a notice to vacate was succinctly summarised by Garde J in *Quick v Lam-Ly Pty Ltd* [2019] VSC:

“The rights of parties to a residential tenancy agreement after service of a notice to vacate are governed by the Act.

Upon receipt of a notice to vacate, a tenant has the right to:

(a) vacate the premises on or after the termination date (s 219(1)(a)); (or)

(b) require the landlord to demonstrate the entitlement to give the notice at a Tribunal hearing (s 330(1)); or

(c) remain in possession of the premises in accordance with the residential tenancy agreement until possession of the premises is delivered up to the landlord (s 342).”

In Homeless Law’s view, by replacing the term ‘notice to vacate’ with something that more accurately reflects the legal status of the notice, such as a ‘request to vacate’, fewer renters would be likely to prematurely vacate their premises and would be more likely to attend relevant VCAT hearings without fear of penalties being imposed for failure to comply with a request.

Homeless Law is supportive of the efforts taken to amend the language of “landlord”, “tenant” and “tenancy agreement” under the RT Amendment Act to the more neutral expressions of “residential rental provider”, “renter” and “residential rental agreement”. We think it would be extremely unfortunate however if these symbolic changes in language and reforms intended to keep renters housed were undone by retention of words ‘notice to vacate,’ which misleads many people into voluntarily terminating their own RR Agreements under s 219 of the RTA.

Homeless Law have been advised that changing the terminology of ‘notice to vacate’ and ‘termination date’ is outside the scope of the RT Regulations review and would require amendment to the RT Act (which remains feasible and appropriate in our view).²⁶ If however the title of the notice to vacate must remain, Homeless Law recommends substantially amending the surrounding language in the document to reflect the correct legal status of a NTV.

The Prescribed NTV Forms should clearly identify renters’ legal rights and options

As discussed, it is critical that the form of document provided to renters correctly and clearly identifies their legal rights and options, in order to encourage early engagement with RRP and ensure that renters attend VCAT. Most renters do not understand what a ‘notice to vacate’ means or what their rights are. This results in a high rate of non-attendance at VCAT hearings by renters.²⁷ Changes to the draft standard form notice to vacate would significantly increase renter attendance at VCAT hearings, leading to more equitable outcomes and a better balance between RRP and renters, which is a key intention of the rental reforms process.

²⁴ s 331A, RT Amendment Act.

²⁵ ss 91ZM and 331(1A), RT Amendment Act.

²⁶ See *Consumer Legislation Amendment Bill 2019* (Vic).

²⁷ The Hon Justice Ian Ross, ‘Transforming VCAT’ (Discussion Paper, VCAT 2010), 9.

A copy of Homeless Law and VLA's suggested amendments to the Sample NTV is included at **Annexure B.1 (clean)** and **Annexure B.2 (mark-up)**. These amendments include the following recommendations:

Increased clarity about renters' rights

The 'Challenging a Notice to Vacate' section of the Sample NTV should have the same information that is included in the current draft 'Notice to Leave' form for rooming house residents (see below for further discussion on the Notice to Leave).²⁸ Specifically, the Sample NTV should state that VCAT cannot make an order terminating a residential rental agreement unless it determines that it is reasonable and proportionate to do so, having regard to all of the circumstances that are now provided by the reasonable and proportionate test in s 330A of the amended RT Act. We understand this may be a drafting oversight, but would like to draw DOJCS's attention to this point, as it is an essential requirement for VCAT's consideration of the reasonable and proportionate test for both notices to vacate and notices to leave.

The notice should also clearly state all of the potential grounds under which a notice to vacate can be challenged that are included in Homeless Law and VLA's joint draft NTV, and state that a tenant may be able to challenge a notice if:

- They believe they have been asked to vacate due to unlawful discrimination; or
- They believe the notice was not served on them properly; or
- They disagree with the reason given or the information contained in this notice; or
- The reason specified in their notice, relates to the conduct of a person who had subjected the renter to family violence or personal violence (for certain notices); or
- They believe that it would not be reasonable and proportionate to be compelled to leave; or
- They believe this notice is not in the required form including that it may not:
 - be in the relevant prescribed form; or
 - be correctly addressed to the renter; or
 - be signed by the rental provider, mortgagee or their agent; or
 - contain enough information about why you are being asked to leave; or
 - be accompanied by required documentary evidence; or
 - specify a correct termination date; and
- For certain types of notice to vacate, if they believe you were given this notice because they tried to exercise your rights as a renter (for example, you may have requested the owner or their agent to carry out repairs to the rented premises); and
- If the renter has been asked to vacate because they owe rent, the notice to vacate may become invalid if specified in Clause 4 of Part B of the notice.

Information for the Residential Rental Provider to be removed

Homeless Law's view is that the 'Information for Residential Rental Providers' included at pages 6 – 9 of the Sample NTV is excessive and risks overwhelming the renter. Renters do not need to be provided with this information (which as the title suggests, is for the benefit of the RRP). The notice to vacate is a form that is directed to renters, and therefore no information for RRP's should be included.

Homeless Law's clients often feel oppressed by excessive content, and lengthy, detailed legal forms. In our experience, clients are more likely to disengage with legal processes, including for example in relation to the receipt of fines or debt collection notices, because they are intimidated and overwhelmed by the sheer volume of information confronting them.

Homeless Law recommends removing the 'Information for Residential Rental Providers' pages from the Sample NTV entirely, and instead suggests that this information be provided to RRP's in an external and separate guide. This guide should also include a notation in the header which explicitly directs RRP's not to give this document to the renter.

²⁸ See Form 24, Schedule 1, 'Notice to Leave to Resident of Managed Premises or Resident's Visitor', RT Regulations.

We consider that there would be an easy technological solution to this problem, so that when an individual obtains the NTV form from Consumer Affairs website or VCAT Online, it would simultaneously initiate separate downloads of the NTV and the RRP guide. The RRP guide should have a bolded heading, which confirms with RRP's that the guide is intended for their use rather than the renters.

Additional Referral Information

Homeless Law strongly supports the inclusion of the 'Seeking Advice' section in the Prescribed NTV Forms.²⁹ Referring renters to the "*community legal organisations listed on the Consumer Affairs Victoria's website*", and to CAV's website and contact phone number, encourages renters to engage with their rights and subsequent VCAT processes. It is important that this section specifically direct people to organisations that will be able to provide legal advice or ongoing legal representation to renters. In Homeless Law's view, the prescribed form of a notice to vacate could also be further amended, so that the contact details of Victoria Legal Aid are included.

As discussed, it is very important that renters are aware of their legal rights and options, and how and where they can access the most appropriate services. These changes would increase a renter's ability to understand their options and to obtain legal advice and specialist representation at the earliest stage in the eviction process. This has significant potential to increase the number of negotiated outcomes, avoid the need for VCAT proceedings entirely, and reduce the risk of evictions into homelessness.

In Homeless Law's view, the Prescribed NTV Forms do not include sufficient referral information for renters about potential referral avenues for seeking emergency housing. There should be a separate heading included after the Seeking Advice section, which refers renters to contact Opening Doors for immediate support with accessing this type of accommodation. This simple change could make a real difference for the most vulnerable Victorian renters who are facing an immediate risk of homelessness.

Removing the postage table of minimum days

Homeless Law recommends removing the postage table in Part 6 of the Sample NTV (**Postage Table**). In addition to being excess to renters' requirements, the Postage Table has the potential to mislead RRP's into providing invalid notices to vacate in some cases. This Postage Table refers only to the minimum number of days that a renter can be asked to vacate after receiving a notice to vacate for metropolitan Melbourne locations and is based on s 49(2) of the *Interpretation of Legislation Act 1984* (Vic) (**ILA**)³⁰ and Australia Post's Standard Delivery Tables.³¹ Section 49(2) of the ILA is at best a 'deeming provision' and can be disproven with evidence to the contrary.³² In this context, overreliance on tables formulated using it, runs the risk of confusion for both parties.

Homeless Law recommends that instead of the postage table, a text box be provided in which RRP's must record the registered post tracking number. That way renters could actually check the tracking information, determine when the article was delivered, or the first attempted delivery was made and then calculate whether the termination date provided was correct using that actual delivery date.

If DOJCS insists on the inclusion of the Postage Table, we suggest including it in the separate guide to RRP's and not in the notice to vacate given to the renter.

²⁹ Section 6, Forms 6, 11, 16 and 22 of Schedule 1 (**Prescribed NTV Forms**).

³⁰ *Interpretation of Legislation Act 1984* (Vic), s 49(2).

³¹ Australis Post, *Standard Delivery Tables*, (accessed on 16 December 2019) available at: <https://auspost.com.au/sending/send-within-australia/delivery-speeds-and-coverage>.

³² See *Fancourt v Mercantile Credits Ltd* [1983] HCA 25 and *Perioris v Asiodu* [2003] VCAT 146.

Recommendation 6: Proposed Regulation 91 – Form of Notice to Leave

As with the Sample NTV, Homeless Law and Victoria Legal Aid (VLA) have together identified the changes marked-up in the Notice to Leave (NTL) document at **Annexure C**. Similarly, we understand that Tenants Victoria have also prepared a version of the NTL with the same messaging, and Homeless Law is broadly supportive of Tenants Victoria's version.

Section 368(3) of the amended RT Act provides that a manager may give a person a notice to leave in relation to serious acts of violence, which must be in the prescribed form. Regulation 91 provides that the prescribed form for giving the Notice to Leave is in Form 24 in Schedule 1 of the RT Regulations (**Form 24**).³³

Homeless Law is generally pleased with proposed Form 24 and note that it picks up much of VLA and Homeless Law's proposed language as provided through earlier consultations with DOJCS. Despite this, further changes are still needed to clarify that a notice to leave only imposes a *temporary* suspension of a person's right to be on the premises, and clearer information about residents' rights is required.

Notices to Leave for serious act of violence require renters to vacate the property immediately for a period of 2 business days, and it is an offence to remain on the property after being given a notice to leave.³⁴ However, it is also an offence for a manager to give a notice to leave or purported notice to leave without reasonable grounds, and this should be clearly set out for the benefit of all parties on the Form 24.³⁵ This information is essential to ensure that managers of accommodation are aware that they can be penalised for giving a notice to leave without reasonable grounds, and to ensure that the rights of residents are adequately balanced with the rights of accommodation providers.

Homeless Law and VLA have jointly made some suggested amendments to the draft Form 24 at **Annexure C.1 (clean)** and **Annexure C.2 (mark-up)**, which include the following recommendations to the notice to leave:

- (a) the notice to leave should be renamed as a 'Temporary Notice to Leave' to ensure that residents are aware that the notice does not have permanent effect and so are more likely to attend their VCAT hearings;
- (b) it should include information about residents' rights to access their goods during the suspension period; and
- (c) the notice to leave should also include referral information for further assistance, including to homelessness and crisis accommodation so that residents are not sleeping rough during the period of their suspension; and
- (d) Should communicate that a resident may arrange for a third person to collect their belonging during the suspension which may include medicines and evidence they need for the VCAT hearing.

³³ There is no sample Notice to Leave form provided on the Engage Victoria website.

³⁴ See s 369, RT Act.

³⁵ See s 368A, RT Act.

Recommendation 7: Proposed Regulations 14, 40, 54, 55 and 75 – Statement of information for rental applications and occupancy forms

Proposed regulations 14, 40, 55 and 75 of the RT Regulations prescribe information statements that must be given to applicants for properties, sites and rooms alongside rental applications and other occupancy application forms (including rooming house, caravan park and site tenant applications) (**Information Statement Forms**).³⁶ Regulation 54 prescribes the form for a notification of prospective caravan park rights.³⁷

The Information Statement Forms provide renters with a definition of discrimination and set out examples of legally protected attributes under s 6 of the *Equal Opportunity Act 2010* (**EOA**).³⁸ The Information Statement Forms are identical, save for the scenarios and examples provided, which are tailored to the relevant type of accommodation.

Homeless Law supports the DOJCS's commitment to prohibiting discrimination against prospective applicants by requiring RRP and other property owners and managers to provide detailed information and practical examples of unlawful discrimination. However, it is our view that this resource will not have the intended positive impact if accommodation providers are not specifically prohibited from requiring applicants to disclose certain discriminatory information when applying for their rental properties or rooms.³⁹

Offering applicants an explanation and examples of unlawful discrimination will not prevent discrimination from occurring throughout the rental application process. RRP, RHO and other providers of accommodation should be prohibited from inquiring about a person's protected characteristics to ensure that vulnerable Victorians are able to access stable housing, and so they are adequately protected from unlawful discrimination.

For these reasons, Homeless Law strongly recommends that RRP and RHO be prohibited from inquiring about the protected characteristics. This would positively impact at-risk Victorians and would assist Homeless Law's clients to obtain accommodation more quickly and to avoid homelessness. Our view is that it is not sufficient to place the onus on the renter or resident to determine whether they have experienced any discrimination and exercise legal remedies under the EOA, which is discussed in further detail in Recommendation 8 below.

³⁶ See Forms 3, 8, 13 and 18 in Schedule 1 of the RT Regulations.

³⁷ See Form 12 in Schedule 1 of the RT Regulations.

³⁸ See also section 2 of the Information Statement Forms.

³⁹ Unless it is for the purpose of promoting or realising substantive equality for members of a group with a particular attribute in accordance with s 12 of the EO Act. Exemptions also relate to: section 6(c) of the EO Act, which provides that discrimination is prohibited in relation to 'employment activity'; and sub-regulation (e) of rrs 15, 56 and 77 of the RT Regulations, which carves out 'nationality or residency status' for the purpose of assessing eligibility for public or community housing.

Recommendation 8: Proposed Regulations 15, 41, 56 and 76 – Information that a RRP or RHO must not require a rental applicant or resident to disclose⁴⁰

The proposed section 30C of the RT Act provides that a RRP or agent must not request prescribed information from applicants:

“A residential rental provider or that person’s agent must not request a person who applies to enter into a residential rental agreement to disclose the prescribed information”.

The new Divisions 1A and 1B of Part 4 of the amended RT Act address discrimination in relation to RR Agreements and the disclosures and representations made prior to entering into RR Agreements respectively. There is currently a chronic shortage of affordable housing in Victoria (considered in further detail in Recommendation 13 below). In April 2019, there were only two private rental properties in Australia that were affordable and appropriate for a single person on Newstart.⁴¹ In this current housing environment, it is more important than ever to ensure that renters are not exposed to any unlawful discrimination when applying for housing. This is particularly in relation to vulnerable or minority groups, including those who depend on the bond loan scheme provided through the Director of Housing, or pay their rent directly through Centrelink’s Centrepay system.

The proposed Regulations 15, 41, 56 and 77 of the RT Regulations prescribe the information that prospective renters and rooming house residents must not be required to disclose as part of their application.

Regulations 15, 56 and 77:

- Regulations 15, 56 and 77 prescribe the following information which RRP and RHOs cannot require applicants to disclose:

“(a) whether the applicant has previously taken legal action or has had a dispute with a residential rental provider, rooming house operator, caravan owner, caravan park owner, site owner or SDA provider;

(b) the applicant’s rental bond history, including whether the applicant has ever had a claim made on their bond;

(c) a passport, if alternative proof of identification is provided;

(d) a statement from a credit or bank account which has not been redacted;

(e) details of the applicant’s nationality or residency status, if this information is not required to assess eligibility for public housing or community housing.”

Regulation 41:

- Regulation 41 also prescribes that rooming house operators must not require applicants to disclose their income in certain circumstances:

“the income of the applicant if the proposed rent has not yet been disclosed to the applicant by the rooming house operator, unless the rooming house operator is the Director of Housing or a registered housing agency.”

Non-disclosure of protected attributes

Homeless Law’s view is that the material contained in the Information Statements Forms prescribed in the RT Regulations (see Recommendation 7 above) is insufficient to deter RRP and other accommodation providers from discriminating against people’s protected attributes and on the basis of how the renter intends to pay their rent or bond. It is also very difficult to prove whether or not rental providers and operators have been discriminatory in their decision not to accept

⁴⁰ This also applies to sections Part 3: 94h, Part 4: 145D and Part 4A: 206JE of the *Residential Tenancies Act 1997* (Vic) (**RT Act**).

⁴¹ Anglicare Australia, *Anglicare Australia Rental Affordability Snapshot* (April 2019) (**Anglicare Snapshot**) 7, (accessed on 16 December 2019) available at: <https://www.anglicare.asn.au/docs/default-source/default-document-library/final---rental-affordability-snapshota302da309d6962baacc1ff0000899bca.pdf?sfvrsn=4>.

certain applications and as such, the information provided by applicants should be kept to a minimum and offer only the personal details which are necessary.

We appreciate however that the Director of Housing and registered community housing providers often do require this information to assess an individual's eligibility for their housing and so believe that both the Director of Housing and registered community housing providers should be exempt from this prohibition.⁴² We note that the Charter plays a critical role in this context, and that all public and community housing landlords are obliged to act compatibly with, and give proper consideration to, the applicable human rights under the Charter.

Non-disclosure of DHHS bond loans and Centrepay arrangements

Furthermore, the prescribed information in the application form should not enable a RRP to require prospective renters to disclose whether:

- (i) their bond will be paid as a 'bond loan' from the Director of Housing; or
- (ii) their rent will be paid through Centrelink's 'Centrepay' facility.

Department of Health and Human Services Bond Loans

The Department of Health and Human Services (DHHS) operates a 'bond loan scheme' which aims to assist low-income people who have difficulty meeting the upfront costs required to access accommodation in the private rental market.⁴³ The fact that a renter has obtained their bond under this scheme should not act as a barrier to accessing safe and secure housing.

As mentioned above, Homeless Law is fortunate to have access to some brokerage through various streams of funding to sustain or access private rental properties, especially for women experiencing family violence. Through the management of this brokerage, we see just how difficult it is for low-income people to establish new tenancies in Victoria. This often includes renters having to find several thousands of dollars in savings for 4 weeks rent in advance at a new property in addition to a 4 weeks' worth of rent for a bond (often while several thousands of dollars of the tenant's money is held up in bond disputation at a previous rental property).

By way of example, between 1 July 2018 and 30 June 2019, Homeless Law used approximately \$8,069.60 of our brokerage to help 13 women set up new tenancies.⁴⁴ These women were generally required to leave their existing properties for a range of reasons, including family violence or because they had been evicted because a previous property was no longer affordable (or a combination of both). Without access to bond loans, it is highly unlikely that these women and their children would have been able to access housing and it is probable that they would have entered or re-entered homelessness.

Unfortunately, it is our experience however that real estate agents will often discriminate against renters who require the assistance of the DHHS bond loan scheme, and wrongly view this as a 'red flag' about whether the applicant's ability to meet their obligations under the RR Agreement. Homeless Law's clients often report rental discrimination and agents withdrawing offers of housing when applicants disclose that the Director of Housing will be paying their bond as a loan. Accordingly, this should not be information that is requested by RRP's on applications for RR Agreements.

Centrepay

Homeless Law is extremely supportive of the amendments to the RT Act introducing new sections 42(5), 99A(3), 150A(3) and 206TA(3) of the RT Amendment Act, requiring RRP's and other providers of accommodation to accept payment of rent through Centrepay. We are concerned however that this positive development will be undermined if RRP's and their agents will still be able to screen prospective renters during the application process by requiring the disclosure of the renter's intention to pay rent through Centrepay. If this information is not explicitly prescribed as non-disclosable in the rental

⁴² For example, public and community housing RRP's such as Aboriginal Housing Victoria Limited, Women's Housing Ltd and Wintringham Housing Ltd play important roles in ensuring that certain disadvantaged groups in society obtain access to adequate housing.

⁴³ Department of Health and Human Services, Bond Loan Manual, 7 July 2018, (accessed on 16 December 2019) available at: <https://providers.dhhs.vic.gov.au/bond-loan-scheme-policy-and-procedures-word>.

⁴⁴ As noted, Homeless Law also utilises financial brokerage for a range of other tenancy sustainment purposes. Over the past 5 years, Homeless Law has provided over \$130,000 in brokerage to vulnerable Victorians.

application process, private RRP's and other providers will continue to reject applications from prospective renters on the grounds of Centrepay.

Many of Homeless Law's clients who have received a notice to vacate due to rental arrears have often been able to sustain their tenancies through negotiations with RRP's and a commitment to pay their rent via the Centrepay facility moving forward. Chris' story set out below, demonstrates how the availability of Centrepay payments had a significant and positive impact on his ability to maintain his tenancy. As this case study highlights, Centrepay can be the simple but critical difference between a RRP regularly and reliably receiving their rent and a tenancy failing.

The use of Centrepay, rather than being a reason to avoid entering into a RR Agreement with a prospective tenant, encourages stability and security and is a mechanism which provides benefits to both RRP's and renters. As such this information should not form a basis for discriminating against a prospective renter's rental application.

Centrepay facility used as an effective tool to sustain long-term tenancies for vulnerable renters

Chris* suffers from bipolar, has undergone periods of incarceration and has difficulty organising his finances. Homeless Law represented Chris at VCAT where his RRP sought possession of the property due to rental arrears. Through Homeless Law's advocacy, Chris entered into a payment plan with the real estate agent (REA) whereby he made his fortnightly payments automatically through Centrelink's Centrepay system.

Through the Centrepay system, Chris was up-to-date with rental payments for the remainder of that year and into the next year. A few months later, a new REA took over the management of the property. The new REA did not accept Centrepay payments, so Chris was required to manually make fortnightly rental payments.

Chris struggled to make manual payments and quickly accrued rental arrears. The new REA applied for a possession order, but agreed to enter into a new payment plan with an upfront lump-sum payment. However, Chris soon missed another payment and was subsequently evicted from the property.

Had the new REA accepted Centrepay payments, it is very likely Chris would have continued to regularly make his rental repayments. Instead, the RRP now has the time and expense of finding a new tenant and Chris has re-entered homelessness and is experiencing the detriment to his mental health and wellbeing that homelessness brings with it.

**Name has been changed.*

Recommendation 9: Proposed Regulation 92 – Goods left behind

The proposed section 384(2) of the RT Act provides that the owner of premises must not remove and destroy or dispose of goods that have been left behind if those goods are prescribed goods.⁴⁵ The owner of the premises must then take reasonable steps to give the renter a notice that the goods have been left behind (in the form approved by the Director), and is then obliged to store the goods for a period of at least 14 days.⁴⁶ Regulation 92 provides that the prescribed goods are:

- (a) labelled containers or labelled urns containing human remains; and
- (b) specialised medical devices, equipment and goods including prostheses and prescription medication; and
- (c) medals and trophies.

Homeless Law's clients are often extremely concerned about certain possessions they have left behind after being evicted, or in some circumstances if they have been incarcerated or admitted to hospital or another health facility. As such, our clients are often going through particularly traumatic periods or changes in circumstances after being required to vacate their property, and the threat of losing sentimental belongings can be an added stressor in many cases.

Subsection (a) refers to human remains, but we note that Homeless Law's clients are often have significant personal attachment to their household pets who may have passed away. Our clients are frequently concerned about what will happen to their pets after they are evicted and many people with complex vulnerabilities have pets which they consider as family. As such, we recommend expanding subsection (a) to include labelled animal remains and animal taxidermy, as well as human remains.

Homeless Law is not aware whether or not all human remains are required under the *Cemeteries and Crematoria Act 2003* (Vic) or the *Cemeteries and Crematoria Regulations 2015* (Vic) to be labelled by law. People can potentially choose whether or not to remove labelling or transfer remains into their own vessels or containers which may not be labelled. As such, RRP's and property owners should be cautious not to dispose of non-labelled human or animal remains and should be respectful and dignified in their treatment of any cremated remains (whether labelled or not). We would recommend that RRP's be required to transfer unlabelled cremated remains to the cemetery trust and require the trust to store the unlabelled cremated remains for at least 12 months and then only dispose of those cremated remains by way of burial as required by r 31(3) of the *Cemeteries and Crematoria Regulations 2015* (Vic) for uncollected cremated remains.

Further, the RT Act requires that personal documents be stored by property owners, including official documents, photographs, correspondence or any other document which it would be reasonable to expect that a person would want to keep.⁴⁷ However, it is more common in the digital age for people to store personal photographs on computers, portable hard-drives or other electronic devices. Many of our clients have indicated their concern about losing their electronic devices because of the sentimental nature of the files within.

Homeless Law's view is that the relative hardship that the property owner has to go through to store certain belongings which have sentimental value for already vulnerable renters is not overly onerous or disproportionate, given the significant benefits that retrieving important personal items can have for a person's mental health. Jason's case study below shows the significance and level of attachment that people have to certain personal items, and the importance of ensuring that such goods are not arbitrarily or unnecessarily destroyed. This can avoid further traumatising already vulnerable renters.

Whilst Homeless Law is also interested in providing our views on the form that is to be approved by the Director (specifically in relation to the timeframe that goods are required to be stored for), we recommend that Regulation 92 be expanded to include additional items which our clients have communicated their personal attachment to.

⁴⁶ See s 268, RT Amendment Act.

⁴⁷ definition of 'personal documents' s 3, RT Act.

Suggested Drafting:

Regulation 92 – Goods left behind

For the purposes of section 384(2) of the Act, the prescribed goods are—

- (a) labelled containers or labelled urns containing human or animal remains and animal taxidermy; and
- (b) specialised medical devices, equipment and goods including prostheses and prescription medication; and
- (c) medals and trophies; and
- (d) any electronic device which could reasonably be assumed to store photographs or other personal documents, including but not limited to, computer hard-drives, computers, laptops, tablets, USBs and mobile telephones.

Holistic and collaborative support provided to vulnerable renter to ensure sentimental goods left behind not destroyed after eviction

Jason* became homeless after experiencing serious assaults at his public housing property. Jason's PTSD was triggered, and he often had panic attacks when he returned to his property. As a result, Jason was forced to sleep rough for three months because he felt safer on the streets than at his home. During this time, Jason's mental health declined (largely due to the fact that this experience was limiting his ability to see his young daughter) and his drug use increased. Thankfully Jason was able to attend an in-house rehabilitation centre and was compensated through Victims of Crime Assistance Tribunal (VOCAT) to organise motel accommodation soon after.

Jason was referred to Justice Connect Homeless Law through his support worker at the Magistrates' Court, as DHHS had applied for a possession order due to Jason being in rental arrears. Jason advised that he had stopped paying his rent due to his traumatic experiences at the property and he was ultimately evicted. However, Jason was very distressed about what this would mean for his belongings if he was evicted, as his PTSD meant that he was highly distressed about having to return to the property to claim his possessions. Jason advised that photos of him and his daughter which he had stored on a computer hard-drive, and also a mug that she had made for him, were the most important things he cared about at the property.

Through the collaborative efforts of Homeless Law's pro bono lawyers and a social worker, and with the cooperation of DHHS and a removalist, we were able to organise for the storage and collection of Jason's sentimental belongings after his eviction, including the hard-drive and mug, to be removed from the property without Jason having to attend. Jason was very thankful for this support as his treasured belongings were able to be retrieved and his anxiety reduced greatly. The social worker was also able to work with Jason to make referrals for ongoing housing support to ensure that Jason did not enter into homelessness again while waiting to be offered a new public housing property.

Recommendation 10: Proposed Regulation 12 – Professional Cleaning

Regulation 12 of the proposed RT Regulations prescribes for the purposes of s 27C(1) of the RT Amendment Act, the agreement terms that a RRP can include in a standard form residential rental agreement relating to when a renter can be required to undertake professional cleaning of rented premises. In particular, the prescribed term created by r 12(1) provides that professional cleaning must not be required by RRP unless it is needed to restore the property to the condition it was in before the commencement of the tenancy and provides that:

“The residential rental provider must not require the renter to arrange professional cleaning unless this is needed to restore the rented premises to the condition they were in at the start of the tenancy, allowing for fair wear and tear”.⁴⁸

Similarly, r 12(2) of the proposed RT Regulations provides that a further additional term can be included in a residential rental agreement that states:

“If professional cleaning is necessary—the renter must have all or part of the rented premises professionally cleaned; or the renter must pay the cost of having all or part of the rented premises professionally cleaned.”⁴⁹

When read together, the agreement terms effectively state the prerequisite circumstances for a renter being compelled to undertake professional cleaning and require a renter to undertake professional cleaning, mandating that cleaning must be undertaken by a ‘professional’ and setting out who must pay for the cleaning. Homeless Law notes that professional cleaning is not mandatory under the current RT Act with the standard imposed on tenants to keep the rented premises in a ‘reasonably clean condition’.⁵⁰ Homeless Law often sees through our day to day work however, that RRP frequently demand a higher standard of cleaning than is required under the RT Act. This is highlighted by Caitlin’s story below.

Vulnerable renter unable to sustain tenancy throughout period of incarceration due to excessive cleaning costs requested by RRP

After a period of homelessness, Caitlin* managed to secure accommodation in a community housing property. Unfortunately, Caitlin also suffered from mental health issues and substance addiction, and was subsequently incarcerated for a short period of time. Whilst in prison she received a notice to vacate for rental arrears, and a breach of duty notice due to the untidy condition of the property. Caitlin’s complex vulnerabilities meant that she was unable to maintain the property in a tidy condition for consistent periods of time.

Caitlin was referred to the social worker to determine if financial brokerage could be obtained for both professional cleaning of the property and her rental arrears. Upon getting quotes from two different industrial cleaners, the social worker had to advise that due to finite brokerage available, Homeless Law was unable to pay for the expensive cleaning job. Given that Caitlin’s property was unlikely to be sustainable if the brokerage could not cover both the professional cleaning and rental arrears amounts, the social worker had to prioritise the limited brokerage available to help sustain tenancies for other clients.

If the community housing provider had agreed to negotiate with Caitlin’s pro bono lawyers to waive or reduce the excessive amounts requested for professional cleaning (in light of Caitlin’s mental health and substance abuse issues) Homeless Law may have been able to provide her with brokerage for her rental arrears, and assist to sustain her tenancy and ensure that she had a safe and secure home to return to upon her release from incarceration.

**Name has been changed.*

⁴⁸ For the purposes of section 27C(1)(a), RT Act.

⁴⁹ For the purposes of section 27C(1)(b), RT Act.

⁵⁰ s 63, RT Act.

In this context, Homeless Law somewhat supports the default position in the RT Regulations which confirms that professional cleaning is only required at the end of a tenancy if the property needs to be returned to the condition at the start of the tenancy allowing for fair wear and tear. However, we believe it can be further amended to clarify this position so that it is not open for exploitation by RRP's and their agents.

We note that Homeless Law often assists clients by providing financial brokerage for people who are at risk of homelessness, to assist them to sustain their tenancies. Though the majority of this brokerage is used to help people stay housed and avoid evictions into homelessness, Homeless Law is often asked to provide brokerage for our clients to pay for professional cleaning (as part of compensation claims made by RRP's for damage or other repairs issues) even in scenarios where the property had not been professionally cleaned at the commencement of the tenancy by the RRP.

As noted above, these requests frequently require a higher level of cleaning from renters than what is legally required under the RT Act.⁵¹ Since 2015, Homeless Law has spent \$7,841.13 on brokerage for ancillary requests made by RRP's at the end of a tenancy, including on costs for professional cleaning, steam cleaning of carpets, skip hire and lawn mowing services. Subsidising gratuitous 'bond guarantee cleaning services' and similar professional cleaning services, is not an effective use of Homeless Law's brokerage funds (nor other charitable services) and we would prefer to put this funding towards measures that sustain a renter's housing and prevent avoidable evictions.

For the above reasoning, Homeless Law supports the submission of both Tenants Victoria and Victoria Legal Aid. Both submissions acknowledge the ambiguity of the language 'fair wear and tear', and provide clarity and harmony with s 61 of the RTA by asserting that professional cleaning is not an entitlement of landlords as a matter of course and should only be required where it is clearly and demonstrably necessary.

⁵¹ s 48, RT Amendment Act.

Recommendation 11: Proposed Regulation 29 – Rental Minimum Standards

The proposed Regulation 29 prescribes the rental minimum standards which relate to (amongst other things):

- (a) the cleanliness and state of repair of rented premises;
- (b) the privacy, security and amenity of rented premises; and
- (c) prescribing or requiring compliance with any other standards prescribed under any other Act or law in relation to, or applicable to, the condition of any residential premises, including energy and water efficiency standards.⁵²

If the rented premises do not comply with a rental minimum standard on the day that the renter enters into occupation of the premises, then the renter is entitled to request an 'urgent repair' to trigger compliance with the standard.⁵³

Homeless Law commends the DOJCS for its inclusion of a number of positive prescribed minimum standards, which will significantly improve the quality of living for many of our clients. Homeless Law supports the submission of Tenants Victoria, Victoria Legal Aid (**VLA**), Housing for the Aged Action Group (**HAAG**) and the Victorian Public Tenants Association (**VPTA**). Specifically, we agree that the minimum standards: should apply to tenancies commenced prior to 1 July 2020, should prescribe for functioning cooling systems (not merely heating systems); and that certain urgent repairs in common areas at Part 4A Parks should be prescribed as 'urgent site repairs'.

Homeless Law supports Tenants Victoria's submission that all of the transitional provisions in relation to the minimum standards should require compliance in respect of all property types by 1 July 2023.

⁵² See the proposed section 511(1)(ac), Schedule 1A, RT Amendment Act.

⁵³ Victoria State Government, Department of Justice and Community Safety, Regulatory Impact Statement - Residential Tenancies Regulations 2020 (accessed on 25 November 2019) 113 (**Regulatory Impact Statement**) available at: <https://engage.vic.gov.au/rentingregulations>.

Recommendation 12: Proposed Regulations 17 and 78 – Amount of rent for which the maximum bond does not apply

Homeless Law commends DOJCS on the monetary limits set out in Regulations 17 and 18 of the Proposed RT Regulations. These amendments recognise the cost of living changes that have occurred since the passage of the RT Act in back in 1997, and the fact that in recent years (between 2003 - 2017) average rents have increased 64%.⁵⁴ These regulations provide that bonds will now be limited to 4 weeks' rent except where the rent exceeds \$900 per week. We are further supportive that maximum figure will now be set be clearly set by the RT Regulations rather than a legislated figure.⁵⁵

We note however that what will be critical is that over the life of this regulation, DOJCS regularly reassess and amend the figures in regulations 17 and 78 to reflect changes in the rental market, CPI and costs of living to ensure that it only ever applies to the most high-end rental properties. We further note that it has always been open to DOJCS to prescribe a higher amount than \$350 per week in rent under s 31(3)(b) of the RT Act. This power has never been utilised despite average rental property prices being \$420 per week in Melbourne Metropolitan areas, \$320 per week in regional areas and \$400 per week in Victoria as a whole.⁵⁶ These statistics reflect the fact that currently, there is no limit on how much bond can be demanded for the majority of Victorian renters.

Similarly, this has placed pressure on DHHS in delivering its 'bond loan scheme', which is based on the actual size of the rented property, as DHHS has had to cap its maximum bond loan amounts to rents that exceed the \$350 per week threshold.⁵⁷ This has resulted in many vulnerable Victorians having to use personal savings to establish their new rentals and cover the bond.

In light of these observations, Homeless Law recommends that this \$900 figure: be reviewed and amended every year on the 30 June 2019; be informed by the Department of Health and Human Services' 'Quarterly Rental Reports'; and be adjusted relative to changes in the private rental market.

⁵⁴ Anglicare Snapshot, above n 41, 13.

⁵⁵ As is presently the case due to s 31(3)(a) of the RT Act and the absence of a prescribed higher amount in the former *Residential Tenancies Regulations 2008* (Vic) and the current *Residential Tenancies Regulations 2019* (Vic).

⁵⁶ Department of Health and Human Services, *Rental Report September Quarter 2019*, 4 (accessed on 16 December 2019) available at: www.dhhs.vic.gov.au/sites/default/files/documents/201911/DHHS%20Rental%20Report%20September%20quarter%202019.docx.

⁵⁷ By way of example, the current bond loan limits for 1 bedroom, 2 bedroom and 3 bedroom properties reflect equivalent weekly rents of \$412.50/week, \$475/week and \$525/week respectively. See Department of Health and Human Services, *Bond Loan – How much can I borrow?* (accessed on 14 December 2019) available at: <https://www.housing.vic.gov.au/how-much-can-i-borrow>.

Recommendation 13: Proposed Regulation 6 – Temporary Crisis Accommodation definition

Temporary crisis accommodation (TCA) is a type of emergency accommodation provided for people who are homeless or at risk of homelessness, who are escaping family violence or who require accommodation following another emergency.⁵⁸ The TCA is a model of onsite support through short term, non-permanent accommodation, and is typically provided for periods from a few days up to several months depending on the complexity and duration of client needs.⁵⁹ Many of Homeless Law's clients have at one point in their life needed to access some form of crisis accommodation during periods of extreme distress. From a snapshot of 10 women surveyed as part of the WHPP who were in crisis accommodation or women's refuges, 100% of these women had experienced family violence.

The proposed Regulation 6 of the RT Regulations prescribes limbs (a) and (d) the definition of 'Temporary Crisis Accommodation' under s 3(1) of the Amended RTA. In particular it (a) prescribes the period of time that a person can stay in temporary crisis accommodation without falling under the provisions of the RTA and (d) prescribes descriptive attributes of TCA providers. The proposed regulation 6 in respect of each of these has provided that:

- (a) The prescribed period to be "*not more than 6 months*"; and
- (b) The prescribed attributes of TCA providers to be accommodation *provided by a service agency accredited by the Department of Health and Human Services for the purpose of delivering support services to a client who is—experiencing homelessness or at risk of experiencing homelessness; or being subjected to family violence or at risk of being subjected to family violence*"

The DOJCS has requested feedback from stakeholders in its Guiding Questions⁶⁰ on these definitions.

Prescribed Period of 6-8 weeks

In relation to (a), Homeless Law's view is that the prescribed period should be **6-8 weeks**. Given Consumer Affairs Victoria's (CAV) own research has shown that the average person stays in TCA for approximately 45 to 52 days,⁶¹ it is Homeless Law's view that the proposed prescribed period of 6 months is too long.

Victoria's extreme shortage of housing

As there is a severe shortage of affordable long term accommodation in Victoria,⁶² the homelessness sector often seeks to find short term, emergency accommodation options for vulnerable Victorians in these situations.⁶³ However, currently there are only 423 government-funded beds available for this cohort of people across the state.⁶⁴ When beds cannot be found, it is not uncommon for people (often women and children) to be accommodated by homelessness services in other forms of short term accommodation such as private motels, rooming houses or short term tenancy agreements of 3-6 months.⁶⁵ This is in part a symptom of the larger problem of the state if Victoria's chronic underinvestment in new social and affordable housing options over a number of decades causing social housing waitlists and wait times to increase exponentially.⁶⁶ In Homeless Law's view the prescribed period of 6 months allows DHHS to continue to underinvest in the

⁵⁸ Regulatory Impact Statement, above n 53, 45.

⁵⁹ Ibid.

⁶⁰ Guiding Questions, above n 11.

⁶¹ Regulatory Impact Statement, above n 53, 116.

⁶² In 2017-18 Victoria spent less than half the national average on social housing stock. See: Australian Government, Productivity Commission, Report on Government Services 2019, Housing Data Tables (22 January 2019), Table 18A.1, available at: <https://www.pc.gov.au/research/ongoing/report-on-government-services/2019/housing-and-homelessness/housing#downloads>.

⁶³ See e.g.: Northern and Western Homelessness Networks, *A Crisis in Crisis: The appalling state of emergency accommodation in Melbourne's north and west*, (February 2019) 3 (**A Crisis in Crisis**) available at: http://www.nwhn.net.au/admin/file/content2/c7/A%20crisis%20in%20crisis%20doc%20final%20040219_1550142202053.pdf.

⁶⁴ Ibid, 3.

⁶⁵ *A Crisis in Crisis*, above n 63, 4.

⁶⁶ There are over 82,000 people, including more than 24,000 children, on the waiting list for public and community housing in Victoria. At 3.5%, Victoria also has the lowest proportion of public and community housing stock per capita in Australia. See: Parliament of Victoria, Legislative Council – Legal and Social Issues Committee, *'Inquiry into the Public Housing Renewal Program'* (June 2018) available at: https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Public_Housing_Renewal_Program/LSIC_58-11_PHRP_Text_WEB.pdf.

development of more crisis accommodation and social housing and to further allow social housing wait lists and wait times to rise.

Lengthy stays in TCA reduce clarity about legal rights for providers and residents

Despite the intended short-term nature of TCA, chronic shortages in transitional and longer-term social housing often mean that people are staying in TCA for particularly lengthy periods of time.⁶⁷ Homeless Law has been advised that stays in TCA, in extraordinary cases, can exceed 6 months.⁶⁸

Importantly, the provisions of the RTA do not apply to people living in temporary crisis accommodation. This means that both providers of TCA and residents have minimal clarity of their respective rights and obligations. Homeless Law's view is that by excluding TCA residents from the RTA for stays as long as 6 months, this will have unintended consequences and will lead TCA residents to consider using alternative legal remedies to prevent their eviction back into homelessness, including under the *Australian Consumer Law and Fair Trading Act 2010* (Vic) (**ACLFTA**)⁶⁹ or the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (**Charter**).⁷⁰

Homeless Law is concerned that by excluding people from the protections of the RTA, all that will be achieved is to move disputes out of the Residential Tenancies List of VCAT (where rights and responsibilities for both parties are clearly defined), into the Civil Claims List of VCAT or even the Supreme Court (where those rights are not). Neither the Civil Claims List at VCAT nor the Supreme Court are considered appropriate venues for resolving disputes between residents and TCA providers.

Ultimately, this shortage of affordable housing can sometimes mean that TCA providers are forced to move residents on from their TCA, including forcibly evicting them back into homelessness and other states of crisis. This invariably can lead to disputes between the TCA provider and the resident. Homeless Law acknowledges the extremely challenging position TCA providers are in. However, we believe there needs to be an appropriate balance between the rights of the provider and their residents during lengthy stays in TCA, especially around evictions from TCA.

Definition of 'Prescribed Accommodation'

Homeless Law is neutral on the proposed r 6(2) of the RT Regulations and the matters prescribed there for the purposes of paragraph (d) of the definition of temporary crisis accommodation in s 3 of the Act. We however acknowledge some of the challenges of defining TCA in this way as discussed in the RIS and in submissions of other services.⁷¹

Homeless Law's view is that there is a need to ensure that TCA is managed in accordance with DHHS standards. However, we note that TCA providers require the flexibility to move people into hotels, hostels or locations at short notice when there is a shortage of beds. Homeless Law supports the creation of a mechanism that specifies certain 'accredited' TCA providers, but we also note the mechanism to ensure that these addresses are not publicly listed in light of safety concerns particularly in cases of family violence.

⁶⁷ People are requiring financial support for longer periods of time to pay for emergency accommodation, due to a lack of longer term accommodation options. See: A Crisis in Crisis, above n 63, 4.

⁶⁸ Anecdotal evidence provided by DHHS and Consumer Affairs Victoria at a 12 September 2019 meeting of stakeholders.

⁶⁹ For example, by seeking an injunction under s 201 of the ACLFTA to enforce various consumer guarantees, the terms of a TCA agreement or to use the unfair contract terms provisions in s 25 of the Australian Consumer Law to void certain terms in TCA agreements.

⁷⁰ This is particularly noting that r 6(2) of the proposed *Residential Tenancies Regulations* will now expressly provide that TCA providers are arguably functional public authorities under s 4(1)(c) of the *Charter of Human Rights and Responsibilities Act 2006* (Vic) by prescribing that TCA providers be both 'accredited' by the Department of Health and Human Services and be performing this public function on behalf of DHHS (See ss 4(1)(c), (2), (3), (4) and (5) Charter).

⁷¹ Regulatory Impact Statement, above n 53, 32.

Recommendation 14: Referrals to Financial Counselling Services

Section 331(1A)(a) of the amended RT Act provides that, for the purpose of considering whether satisfactory arrangements have been or can be made to avoid financial loss to the RRP or other accommodation providers, VCAT may adjourn the application and refer the renter to a financial counselling service or other prescribed service:

“For the purposes of subsection (1)(b), the Tribunal may adjourn the application and— refer the renter to a financial counselling service or other prescribed services”

Homeless Law acknowledges that this is a positive development. Under the RT Amendment Act, VCAT (when hearing rent arrears matters) will be able to refer renters to financial counselling services for the purpose of preparing reports and budgets for clients, which state whether the tenancy can be sustained on a payment plan. However, the financial counselling sector is chronically underfunded and the wait times for appointments can be extremely long. There will need to be a significant funding increase for the financial counselling sector in light of s 331(1A)(a) of the amended RT Act.

Further, Homeless Law would also like to commend the DOJCS for its decision not to prescribe services *other than* financial counselling services as part of the RT Regulations. If the RT Regulations were to prescribe bodies who may be ill-equipped to prepare reports, or who are already under-resourced, there is a risk that such services may make hasty recommendations to VCAT that a tenancy cannot be sustained on a payment plan without adequate consideration of all relevant circumstances.

Homeless Law recommends that the RT Regulations should not prescribe services other than financial counsellors. Rather, there should be an increase in funding provided to financial counselling services and not-for-profit organisations such as CLCs, to enable integrated services (such as financial counsellors) to be embedded with lawyers, TAAP and Tenancy Plus services.

Bianca’s case study below emphasises the importance of providing qualified and adequately resourced financial counsellors for people who may have fallen behind in their rental payments.

Rental arrears eviction of single mother prevented through legal and financial counselling support

Bianca*, a single mother who had experienced family violence, lived in a private rental property with her two children. Bianca had a steady job when she entered into the tenancy agreement, but after suffering debilitating mental health issues was forced to stop work and became reliant on the Newstart Allowance and Family Tax Benefit payments.

As a result of her reduced income, Bianca fell behind in the \$270 weekly rental payments, and quickly accrued rental arrears. The real estate agent issued a Notice to Vacate and then applied to VCAT for a possession order, putting Bianca and her children’s housing at risk.

Homeless Law’s social worker connected Bianca with a financial counsellor. Bianca’s pro bono lawyers were then able to successfully negotiate a payment plan with the real estate agent, including by offering an upfront payment of \$1400 toward the arrears, \$1000 of which was provided through the Launch Housing/REA Group brokerage fund for women who have experienced family violence and the other \$400 through Bianca’s financial counsellor.

The RRP agreed to withdraw their application for a possession order, which meant both parties avoided the stress and inconvenience of a VCAT hearing.

The availability of brokerage, access to a financial counsellor and the willingness of the real estate agent to negotiate ultimately led to a successful outcome for both the RRP and Bianca. Bianca and her children could maintain their housing and the RRP was saved the hassle and costs of finding a new tenant.

**Name has been changed.*

Recommendation 15: Proposed Regulation 34 – Compensation for sales inspections

If a RRP decides to sell their property, renters are required to keep the premises in a reasonably clean condition for the purposes of sales inspections, also known as ‘open house’ inspections. The proposed Regulation 35 provides that the compensation provided to renters (by RRP) for each occasion that a property is to be made available for a sales inspection is one half of a days’ rent.⁷²

Prior to the introduction of the RT Amendment Act,⁷³ VCAT had a practice of awarding compensation to renters for continual sales inspections, due to the loss of quiet enjoyment and privacy, and the general inconvenience suffered as a result of these inspections.⁷⁴ The amount of compensation awarded by VCAT was generally in the amount of one day’s rent per inspection.

Regulatory Impact Statement – compensation amount for sales inspections

Homeless Law notes that the purpose of the Regulatory Impact Statement (RIS) is to ‘assess the impact of the proposed [RT] Regulations on the community, including the costs and benefits of any alternative options’, and that prescribes a dollar amount for compensation for sales inspections.⁷⁵ As directed in the RIS, Homeless Law wishes to provide reasons why a different amount should be preferred.⁷⁶

In this regard, Homeless Law submits that:

- (a) Sales inspections can impose a significant financial and personal cost on renters. Renters are required to be absent from their property for a period of at least 1 hour for a sales inspection to occur.⁷⁷ In addition, renters are required to spend time cleaning the property and rearranging their belongings after the sales inspection has been completed.⁷⁸
- (b) Sales inspections often happen on Saturday mornings, which is a highly important time of the week for most renters and their families.
- (c) Properties are often on the market for lengthy periods of time before being sold (particularly in regional Victoria), requiring renters to be absent from the property on numerous occasions over many months.
- (d) Renters also risk their goods being stolen or damaged during sales inspections, including sentimental belongings which monetary compensation cannot replace.
- (e) Sales inspections can create security concerns, particularly for victims of family violence where there is a risk of perpetrators entering the property during public sales inspections and inflicting further violence on a them or their family. Whilst the RT Amendment Act provides that ‘*it is not unreasonable for a protected person residing at the premises to require that any inspections be by appointment*’,⁷⁹ this does not prevent the stress and anxiety caused for family violence victims who are required to let strangers into their homes.

Homeless Law’s view is that the financial impact costed in the RIS for half a day’s rent does not accurately capture the stress, inconvenience and intrusion into renters’ rights that sales inspections cause. Specifically, the RIS figures, which provide for a predicted cost of around \$5–7 million per year to RRP and the economy for the prescribed amount of 0.5 days, conceals the amount that RRP would continue to receive during the life of the Regulation through continuing to receive 6.5/7% of the weekly rent.⁸⁰ That is, using the modelling and figures contained in the RIS that state that 0.5 days rent would equate to \$5 –7 million each year, 6.5/7% of the weekly rent would reflect \$60–84 million dollars each year and

⁷² RT Act, s 86(2A)(c).

⁷³ RT Amendment Act, s 75.

⁷⁴ See: *Higgerson v Ricco (Residential Tenancies)* [2014] VCAT 1214; *Hossein v Rizzo (Residential Tenancies)* [2015] VCAT 2052; *Hargans v Ronchetti (Residential Tenancies)* [2015] VCAT 1779.

⁷⁵ Regulatory Impact Statement, above n 53, 32.

⁷⁶ *Ibid*, section 6.1.

⁷⁷ See the proposed s 86(2)(a)(ii) of the RT Act.

⁷⁸ See e.g. *Hargans v Ronchetti (Residential Tenancies)* [2015] VCAT 1779 at [61].

⁷⁹ See s 75, RT Amendment Act; s 86(2)(b) of the RT Act.

⁸⁰ Regulatory Impact Statement, above n 53, 73-74.

would be the amounts the RRP's would continue to receive for the right to seriously intrude on renters quiet enjoyment (notwithstanding the windfall of capital gains they would likely receive through a higher sales price). Whilst we acknowledge the difficulty for the DOJCS in quantifying the precise cost impact of this proposed compensation arrangement, this half day figure does not take into account that sales inspections mostly occur on Saturdays and Sundays, when a renter's need for quiet enjoyment is arguably at its highest and when families are able to be together in the family home.

Homeless Law supports Tenants Victoria's submission and recommends that compensation for sales inspections be kept at a minimum of one day's rent per sales inspection as VCAT is already currently awarding. This provides a fairer basis for compensation without imposing a significant additional regulatory burden for RRP's.

3. Support for additional recommendations made by Tenants Victoria

As discussed, Homeless Law has collaborated and consulted with cross-sector colleagues to inform this submission. As part of that process, we would like to specifically note our support of Tenants Victoria's recommendations regarding the following proposed regulations, which may also affect Homeless Law's clients:

- Regulation 10 and 38 - Prescribed forms for standard form residential rental agreements and fixed term rooming house agreements;⁸¹
- Regulation 11 – Prohibited terms;
- Regulation 13 – Safety-related activities;
- Regulation 16 – Information which residential rental provider must disclose to rental applicant;
- Regulation 22 – Utility charges;
- Regulation 23 – Efficiency rating systems;
- Regulation 30 – Requirements for gas and electrical safety check record keeping;
- Regulation 39 – Prohibited terms; and
- Regulation 42 – Information which rooming house operator must disclose to applicant.

⁸¹ Homeless Law supports Tenant's Victoria's submission in full on both the changes needed to Prescribed Forms 1, 2 and 7 in the proposed regulations.

Annexure A: Seniors Law contribution on the *Residential Tenancies Regulations 2020 (Vic)*

Justice Connect Seniors Law

For over 10 years, Justice Connect's Seniors Law program has provided specialist legal help to older Australians. In the past five years, we have intensified and targeted our services, through health justice partnerships with health organisations across Melbourne and Sydney; and the majority of our casework now relates to elder financial abuse. Our longstanding partnerships with health organisations have provided the supported environment in which health professionals feel confident to identify the signs of elder abuse, and work with us to provide a coordinated and sensitive multi-disciplinary response. As a result, we are preventing the escalation of legal problems and family conflict; and, ultimately, promoting the economic security and independence of older people, as well as their control in decision-making and choice in care.

Section 64 – Modifications to rented premises

Many older people want to remain living at home for as long as possible. However, older people in private rentals can face barriers to staying safely in their homes when requests for necessary, basic modifications are not agreed to by their landlord. This is illustrated by Susan's story below.

Older woman with significant health complexities placed further at-risk after being refused essential modifications

Susan* is a 75-year-old woman who lives in a private rental. She has rented for many years, since separating from her husband. She is settled in her home and feels comfortable accessing the shops and other amenities in her local area. Susan wants desperately to remain in this property. In recent years, Susan's physical health has deteriorated, and her mobility declined. She has fallen many times, resulting in multiple hospitalisations. She has had a full knee reconstruction and experiences chronic pain in her knee, back and shoulder.

The rental property has a shower over the bath. Susan is no longer physically able to use the bath because there are no grab rails to assist her to get in or out of the bath. She is wary of using the shower as she needs to step over the bath onto a slippery shower floor and there are no grab rails to assist her. This has led to Susan showering less than she otherwise would. Susan likes to take care of her appearance and personal hygiene, and this is upsetting to her.

Since her most recent hospitalisation, Susan has worked with a community nurse, occupational therapist and physiotherapist. These practitioners have strongly recommended that she install grab rails in the bathroom and a non-stick surface on the shower floor to reduce the risk of further falls. These practitioners have also recommended that the bathroom door be changed to swing outward so that ambulance officers can access Susan more easily if she falls in her bathroom.

Susan says that a few years ago she asked her landlord if she could install grab rails, but the landlord refused. Susan agreed that her workers could approach her landlord to raise the issue again. Her community nurse spoke to the landlord who refused point blank to consider any of the suggested alterations and instead stated that she was thinking of selling the property. The worker also spoke to the real estate agent who backed the landlord's position.

Susan does not want to push the issue as she is terrified of upsetting her landlord and being evicted. She dreads the thought of finding another private rental, especially when she has been so unwell.

Susan is able to afford her rent and is adamant that she does not want to go into residential aged care. Basic modifications, such as grab rails and a non-slip surface in the bath/shower, would enable Susan to remain living independently in her home, with the comfort of her community supports, for as long as possible.

**Name has been changed.*

Suggested prescribed modifications

Seniors Law requests that DOJCS consider including, as prescribed modifications in the RT Regulations, the following types of basic alterations that will support older people to live safely at home:

- installation or repositioning of:
 - grab rails;
 - hand rails;
 - bannister rails;
 - night lights;
 - handheld shower hose or unit;
 - small ramps;
 - slip resistant applications (e.g. paint, grip strips);
 - platform steps;
 - level-style taps;
 - shower base insert;
 - bidet attachments;
 - light switches;
 - power outlets;
 - door fittings (e.g. safety hinges);
 - shelving where it facilitates wheel chair access;
- removal of a shower screen and installation of a shower curtain; and
- reorienting doors to swing in the opposite direction.

Andrea Main

Lawyer

Justice Connect Seniors Law

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Annexure B.1: Homeless Law and VLA's Sample Form NTV (clean)

Notice to vacate a rented premises



Residential Tenancies Act 1997 Section 91ZZO(a)

Residential Tenancies Regulations 2019 Regulation 37 – Schedule 1 Form 6

Your residential rental provider (rental provider) must use this form to let you know that they would like to request to end your residential rental agreement (your agreement).

Part A – Important information for the renter

This is a notice to vacate. It tells you that the rental provider wants you to move out on a certain date ('the vacate date'). You can find details of the vacate date at **Section Four** of this form.

Please take the time to read this notice. It contains important information about your rights and responsibilities. It also contains contact information for organisations which may be able to assist you (see **Seeking advice**).

This notice does not terminate your agreement

This notice to vacate does not terminate your residential rental agreement/residency/site tenant agreement. In order to require you to leave the rented premises, the rental provider must now apply to the Victorian Civil and Administrative Tribunal (VCAT) for a 'possession order'. VCAT will then schedule a hearing of the rental provider's application.

You should attend the VCAT hearing. You will usually get a better outcome if you attend. If you do not go to the hearing, the matter will be determined in your absence. VCAT may make an order that you be evicted.

You may be able to challenge this notice to vacate at a VCAT hearing. Further information about this process is provided, below.

If you want to find out if the rental provider or their agent has applied to VCAT, you can contact VCAT on **1300 018 228**.

Challenging this notice to vacate

You may be able to challenge this notice if:

- You believe you have been asked to vacate due to unlawful discrimination; or
- You believe this notice was not served on you properly; or
- You disagree with the reason given or the information contained in this notice; or
- The reason specified in this notice, relates to the conduct of a person who has subjected you to family violence or personal violence (for certain notices); or
- You believe that it would not be reasonable and proportionate for you be compelled to leave; or
- You believe this notice is not in the required form including that it may not:
 - be in the relevant prescribed form; or
 - be correctly addressed to you; or
 - be signed by the rental provider, mortgagee or their agent; or
 - contain enough information about why you are being asked to leave; or
 - be accompanied by required documentary evidence; or
 - specify a correct termination date; and
- For certain types of notice to vacate, if you believe you were given this notice because you tried to exercise your rights as a renter (for example, you may have requested the rental provider or their agent to carry out repairs to the rented premises);
- If you have been asked to vacate because you owe rent, your notice to vacate may become invalid if you pay your rent before the proposed vacate date specified in Clause 4 of Part B of this notice

Applications to pre-emptively challenge a notice to vacate

You can apply to VCAT to pre-emptively challenge this notice to vacate. However, you can also wait until the rental provider applies to VCAT for a possession order hearing and challenge the notice at that hearing.

If you do decide to apply to VCAT in order to pre-emptively challenge this notice, please be advised that there are deadlines for doing so. The deadlines vary from 21 to 30 days. You should get advice about the relevant time limits for pre-emptively challenging notices (see Seeking Advice).

Possession orders and warrants

Rental providers and mortgagees can apply to VCAT for a possession order only after giving you the appropriate notice to vacate. VCAT can only make a possession order if it is satisfied that the person who gave you the notice to vacate was entitled to give it to you. VCAT must also be satisfied that it is reasonable and proportionate to order you to leave, having regard to all the circumstances. VCAT may also consider any of the other grounds listed under "Challenging this notice to vacate".

If VCAT makes a possession order over the rented premises, and you fail to comply with the possession order (that is, you fail to vacate the property) the rental provider can apply for a warrant of possession. A warrant of possession is a document that enables the police to forcibly remove you from the rented premises. It is important to note that rental providers and their agents are not allowed to use force to remove you from the rented premises. Only Victoria Police can use force to remove you from the rented premises, and then only when they have a warrant of possession issued by VCAT.

If you are experiencing hardship, you may ask VCAT to postpone the warrant of possession. However, please note that VCAT may only postpone the issuing of a warrant of possession in relation to some types of notices to vacate. You should not assume that VCAT will postpone a warrant of possession. For further information about the eviction process, you should seek legal advice.

Seeking advice

If you want to challenge a notice to vacate (either pre-emptively, or at a VCAT hearing) you should immediately contact a community legal organisation. Community legal organisations are listed on Consumer Affairs Victoria's website. For further information, visit the Renting section of the Consumer Affairs website at consumer.vic.gov.au/renting or call 1300 55 81 81. Renters can seek free legal advice, via telephone, from Victoria Legal Aid 1300 792 387, Monday to Friday from 8 am to 6 pm.

Crisis Accommodation

If you require accommodation in Victoria you can contact the Opening Doors' 24-hour toll free hotline on 1800 825 955 to speak with a housing and support worker who will direct you to an appropriate service.

Part B – Notice

1 Address of rented premises

	Postcode
--	----------

2 Renter's details

Full name of renter 1	
Full name of renter 2	
Full name of renter 3	
Full name of renter 4	

Note: If there are more than four renters, include details on an extra page

3 Rental provider's/mortgagee's details

I am giving you this notice as:

- ☐ the rental provider
☐ the mortgagee (bank)

Full name of rental provider or mortgagee (this cannot be the agent's name)

--

Rental provider's or mortgagee's address for serving documents (this can be the agent's address)

	Postcode
--	----------

Contact phone numbers

Business hours

After hours

Email address

4 Proposed vacate date

The proposed vacate date must allow for:

- the minimum notice required under the *Residential Tenancies Act 1997* (the Act), and
- the proposed method of delivery and the date the renter is expected to receive the notice.

The minimum number of days' notice required under the Act is:

I request that you vacate on or before the following proposed vacate date:

Note: If you want to challenge this notice you should seek legal advice as soon as possible.

5 Reason for notice

- Insert the section number of the Residential Tenancies Act 1997 and the reason for the notice to vacate. This should include information to allow the renter to understand why the notice has been given. If the residential rental provider does not provide enough information, the notice to vacate may be invalid.

The residential rental provider may also need to provide supporting factual information regarding the specific premises to validate the reason given. Please see the guide to issuing a notice to vacate. I am requesting that you vacate for the following reason:



In many cases this notice must be accompanied by documentary evidence.

Is documentary evidence attached?

☐ No

☐ Yes Provide details of the evidence attached

6 Delivery of this notice

This notice has been delivered:

☐ personally, for example by hand ☐ by registered post [Insert Registered Post Reference No. here:]

Delivery time (in days)

☐ by priority registered post Delivery time (in days)

☐ email (if consent has been provided by the renter)

Email address renter 1	
Email address renter 2	
Email address renter 3	
Email address renter 4	

Note: If there are more than four renters, include details on an extra page.

If sending by post, the rental provider must:

- allow for the extra days it takes for the notice to arrive.
- keep evidence of the mail delivery method used to send this notice.

The notice period begins when the renter is estimated to have received the notice and must be included in the termination date.

7 Signature of rental provider, mortgagee or agent

Signature			
Name		Date of request	

Telephone interpreter service

If you have difficulty understanding English, contact the Translating and Interpreting Service (TIS) on 131 450 (for the cost of a local call) and ask to be put through to an Information Officer at Consumer Affairs Victoria on 1300 55 81 81.

Arabic

(إذا كان لديك صعوبة في فهم اللغة الإنكليزية، اتصل بخدمة الترجمة التحريرية والشفوية (TIS) على الرقم 131 450 (بكلفة مكالمات محلية) واطلب أن يوصلوك بموظف معلومات في دائرة شؤون المستهلك في فيكتوريا على الرقم 1300 55 81 81.

Turkish İngilizce anlamakta güçlük çekiyorsanız, 131 450'den (şehir içi konuşma ücretine) Yazılı ve Sözlü Tercümanlık Servisini (TIS) arayarak 1300 55 81 81 numaralı telefondan Victoria Tüketiciler İşleri'ni aramalarını ve sizi bir Danışma Memuru ile görüşmelerini isteyiniz.

Vietnamese Nếu quý vị không hiểu tiếng Anh, xin liên lạc với Dịch Vụ Thông Phiên Dịch (TIS) qua số 131 450 (với giá biểu của cú gọi địa phương) và yêu cầu được nối đường dây tới một Nhân Viên Thông Tin tại Bộ Tiêu Thụ Sự Vụ Victoria (Consumer Affairs Victoria) qua số 1300 55 81 81.

Somali Haddii aad dhibaato ku qabto fahmida Ingiriiska, La xiriir Adeega Tarjuma iyo Afcelinta (TIS) telefoonka 131 450 (qimaha meesha aad joogto) weydiiisuna in lagugu xiro Sarkaalka Macluumaadka ee Arrimaha Macmiilaha Fiktooriya tel: 1300 55 81 81.

Chinese 如果您聽不大懂英語，請打電話給口譯和筆譯服務處，電話：131 450 (紙花費一個普通電話費)，讓他們幫您接達維多利亞消費者事務處 (Consumer Affairs Victoria) 的信息官員，電話：1300 55 81 81。

Serbian Ako vam je teško da razumete engleski, nazovite Službu prevodilača i tumača (Translating and Interpreting Service - TIS) na 131 450 (po cenu lokalnog poziva) i zamolite ih da vas povežu sa Službenikom za informacije (Information Officer) u Viktorijskoj Službi za potrošačka pitanja (Consumer Affairs Victoria) na 1300 55 81 81.

Amharic ከግላገላዎን ጋር ለመረዳት ጥግግ ካለዎ የአስተርጓሚ አገልግሎት (TIS) በአስከፊ ፎኑ 131 450 (በአካባቢ ጥሩ ሂሳብ) በመደወል በአስተርጓሚ ደገፊዎች ጉዳይ ይገኙ በአስከፊ ፎኑ 1300 55 81 81 ደውሎ ከመረጃ አገራዊ ዘራተኛ ጋር ለጥያቄዎ መጠየቅ።

Dari

اگر شما مشکل دانستن زبان انگلیسی دارید، با اداره خدمات ترجمانی تحریری و شفاهی (TIS) به شماره ۱۳۱ ۴۵۰ به قیمت مخابره محلی تماس بگیرید. وبخواهید که شما را به کارمند معلومات دفتر امور مراجعین ویکتوریا به شماره ۱۳۰۰ ۵۵ ۸۱ ۸۱ ارتباط دهد.

Croatian Ako ne razumijete dovoljno engleski, nazovite Službu tumača i prevoditelja (TIS) na 131 450 (po cijeni mjesnog poziva) i zamolite da vas spoje sdjelatnikom za obavijesti u Consumer Affairs Victoria na 1300 55 81 81.

Greek Αν έχετε δυσκολίες στην κατανόηση της αγγλικής γλώσσας, επικοινωνήστε με την Υπηρεσία Μετάφρασης και Διερμηνείας (TIS) στο 131 450 (με το κόστος μιας τοπικής κλήσης) και ζητήστε να σας συνδέσουν με έναν Υπάλληλο Πληροφοριών στην Υπηρεσία Προστασίας Καταναλωτών Βικτώριας (Consumer Affairs Victoria) στον αριθμό 1300 55 81 81.

Italian Se avete difficoltà a comprendere l'inglese, contattate il servizio interpreti e traduttori, cioè il "Translating and Interpreting Service" (TIS) al 131 450 (per il costo di una chiamata locale), e chiedete di essere messi in comunicazione con un operatore addetto alle informazioni del dipartimento "Consumer Affairs Victoria" al numero 1300 55 81 81.

Annexure B.2: Homeless Law and VLA's Sample Form NTV (mark-up)

Notice to vacate a rented premises



Residential Tenancies Act 1997 Section 91ZZO(a)

Residential Tenancies Regulations 2019 Regulation 37 – Schedule 1 Form 6

Your residential rental provider (rental provider) must use this form to let you know that they would like to request to end your residential rental agreement (your agreement).

Part A – Important information for the renter

This is a notice to vacate. It tells you that the ~~owner~~ rental provider wants you to move out on a certain date ('the vacate date'). You can find details of the vacate date at Section Four of this form.

Please take the time to read this notice. It contains important information about your rights and responsibilities. It also contains contact information for organisations which may be able to assist you (see *Seeking advice*).

This notice does not terminate your agreement

This notice to vacate does not terminate your residential rental agreement/residency/site tenant agreement. In order to require you to leave the rented premises, the ~~owner of the rented premises~~ rental provider must now apply to the Victorian Civil and Administrative Tribunal (VCAT) for a "possession order". VCAT will then schedule a hearing of the ~~owner's~~ rental provider's application.

You should attend the VCAT hearing. You will usually get a better outcome if you attend. If you do not go to the hearing, the matter will be determined in your absence. VCAT may make an order that you be evicted.

You may be able to challenge this notice to vacate at a VCAT hearing. Further information about this process is provided below.

If you want to find out if the ~~owner of your property~~ rental provider or their agent has applied to VCAT, you can contact VCAT on 1300 018 228.

Challenging this notice to vacate

~~You can challenge this notice at the Victorian Civil and Administrative Tribunal (VCAT). You might be able to find a lawyer to represent you at the VCAT hearing (see *Seeking Advice*).~~

You may be able to challenge this notice if:

- You believe you have been asked to vacate due to unlawful discrimination; or
- You believe this notice was not served on you properly; or
- You disagree with the reason given or the information contained in this notice; or
- The reason specified in this notice, relates to the conduct of a person who has subjected you to family violence or personal violence (for certain notices); or
- You believe that it would not be reasonable and proportionate for you be compelled to leave; or
- You believe this notice is not in the required form including that it may not:
 - be in the relevant prescribed form; or
 - be correctly addressed to you; or
 - be signed by the rental provider, mortgagee or their agent; or
 - contain enough information about why you are being asked to leave; or
 - be accompanied by required documentary evidence; or
 - specify a correct termination date; and

- For certain types of notice to vacate, if you believe you were given this notice in retaliation to your exercise or proposed exercise of your rights as a renter because you tried to exercise your rights as a renter (for example, you may have requested the owner rental provider or their agent to carry out repairs to the rented premises);
- If you have been asked to vacate because you owe rent, your notice to vacate may become invalid if you pay your rent before the proposed vacate date specified in Clause 4 of Part B of this notice

Applications to pre-emptively challenge a notice to vacate

You can apply to VCAT to pre-emptively challenge this notice to vacate. However, you can also wait until the rental provider applies to VCAT for a possession order hearing and challenge the notice at that hearing.

If you do decide to apply to VCAT in order to pre-emptively challenge this notice, please be advised that different time limits apply varying from 21–30 days there are deadlines for doing so. The deadlines vary from 21 to 30 days. You should get advice about the relevant time limits for pre-emptively challenging notices (see Seeking Advice). can learn more about the relevant time limits for pre-emptively challenging notices at <https://www.consumer.vic.gov.au/housing/renting/>

Possession orders and warrants

Rental providers and mortgagees can apply to VCAT for a possession order only after giving you the appropriate notice to vacate. VCAT can only make a possession order if it is satisfied that the person who gave you the notice to vacate was entitled to give it to you. VCAT must further also be satisfied that it is reasonable and proportionate to order you to leave, having regard to all in all the circumstances. VCAT may also consider any of the other grounds for challenging a notice listed above listed under “Challenging this notice to vacate”.

If you do not comply with a possession order. If VCAT makes a possession order over the rented premises, and you fail to comply with the possession order (that is, you fail to vacate the property) the rental provider can apply for a warrant of possession. A warrant of possession is a document that enables the police to forcibly remove you from the rented premises. It is important to note that rental providers and their agents are not allowed to use force to remove you from your property the rented premises. Only Victoria Police can carry out a forcible eviction use force to remove you from the rented premises, and then only when they are acting in accordance with have a warrant of possession issued by VCAT.

If you are experiencing hardship, you may ask VCAT to postpone the warrant of possession. However, please note that VCAT may only postpone the issuing of a warrant of possession in relation to some types of notices to vacate. You should not assume that VCAT will postpone a warrant of possession. For further information about the eviction process, you should seek legal advice, the issue of the warrant for some types of notices to vacate.

Seeking advice

If you think you have grounds to want to challenge a notice to vacate (either pre-emptively, or at a VCAT hearing) you should immediately should seek legal advice immediately by contacting contact one of the a community legal organisation. Community legal organisations are listed on the Consumer Affairs Victoria's website. For further information, visit the Renting section of the Consumer Affairs website at consumer.vic.gov.au/renting or call 1300 55 81 81.

For free information over the phone about the law, renters Renters can seek free legal advice, via telephone, from Victoria Legal Aid can also contact Victoria Legal Aid on on 1300 792 387, Monday to Friday from 8 am to 6 pm.

Crisis Accommodation

If you require accommodation in Victoria you can contact the Opening Doors’ 24-hour toll free hotline on 1800 825 955 to speak with a housing and support worker who will direct, you to an appropriate service.

Part B – Notice

1 Address of rented premises

	Postcode
--	----------

2 Renter's details

Full name of renter 1	
Full name of renter 2	
Full name of renter 3	
Full name of renter 4	

Note: If there are more than four renters, include details on an extra page

3 Rental provider's/mortgagee's details

I am giving you this notice as:

- ☐ the rental provider
☐ the mortgagee (bank)

Full name of rental provider or mortgagee (this cannot be the agent's name)

Rental provider's or mortgagee's address for serving documents (this can be the agent's address)

Postcode

Contact phone numbers

Business hours

After hours

Email address

4 Proposed vacate date

The proposed vacate date must allow for:

- the minimum notice required under the *Residential Tenancies Act 1997* (the Act), and
- the proposed method of delivery and the date the renter is expected to receive the notice.

The minimum number of days' notice required under the Act is:

I request that you vacate on or before the following proposed vacate date:

Note: If you want to challenge this notice you should seek legal advice as soon as possible.

5 Reason for notice

- Insert the section number of the Residential Tenancies Act 1997 and the reason for the notice to vacate. This should include information to allow the renter to understand why the notice has been given. If the residential rental provider does not provide enough information, the notice to vacate may be invalid.
- ▲ The residential rental provider may also need to provide supporting factual information regarding the specific premises to validate the reason given. Please see the guide to issuing a notice to vacate. The rental provider must select the relevant reason, section number and the minimum notice required under the Act from the attached information sheet and write it in the box below.
- ▲ The rental provider must also explain why they are asking you to vacate. It is not enough to quote from the Act or from the reasons on the information sheet; this must be accompanied by specific details.
- ▲ VCAT may find this notice to vacate invalid where it does not provide enough details or is not accompanied by the required documentary evidence.

I am requesting that you vacate for the following reason:



In many cases this notice must be accompanied by documentary evidence.

Is documentary evidence attached?

☐ No

☐ Yes Provide details of the evidence attached

6 Delivery of this notice

This notice has been delivered:

☐ personally, for example by hand ☐ by registered post [Insert Registered Post Reference No. here:]

☐ by registered post Delivery time (in days)

☐ by priority registered post Delivery time (in days)

☐ email (if consent has been provided by the renter)

Email address renter 1

Email address renter 2

Email address renter 3

Email address renter 4

Note: If there are more than four renters, include details on an extra page.

If sending by post, the rental provider must:

- allow for the extra days it takes for the notice to arrive.
- keep evidence of the mail delivery method used to send this notice.

The notice period begins when the renter is estimated to have received the notice and must be included in the termination date.

7 Signature of rental provider, mortgagee or agent

Signature

Name

Date of request

Telephone interpreter service

If you have difficulty understanding English, contact the Translating and Interpreting Service (TIS) on 131 450 (for the cost of a local call) and ask to be put through to an Information Officer at Consumer Affairs Victoria on 1300 55 81 81.

Arabic

إذا كان لديك صعوبة في فهم اللغة الإنكليزية، اتصل بخدمات الترجمة التحريرية والشفوية (TIS) على الرقم 131 450 (تكلفة مكالمة محلية) واطلب أن يوصلوك بموظف معلومات في دائرة شؤون المستهلك في فيكتوريا على الرقم 1300 55 81 81.

Turkish İngilizce anlamakta güçlük çekiyorsanız, 131 450'den (şehir içi konuşma ücretine) Yazılı ve Sözlü Tercümanlık Servisini (TIS) arayarak 1300 55 81 81 numaralı telefondan Victoria Tüketiciler İşleri'ni aramalarını ve sizi bir Danışma Memuru ile görüşmelerini isteyiniz.

Vietnamese Nếu quý vị không hiểu tiếng Anh, xin liên lạc với Dịch Vụ Thông Phiên Dịch (TIS) qua số 131 450 (với giá biểu của củ gọi địa phương) và yêu cầu được nối đường dây tới một Nhân Viên Thông Tin tại Bộ Tiêu Thụ Sự Vụ Victoria (Consumer Affairs Victoria) qua số 1300 55 81 81.

Somali Haddii aad dhibaato ku qabto fahmida Ingiriiska, La xiriir Adeega Tarjuma iyo Alcelinta (TIS) telefoonka 131 450 (qimaha meesha aad joogto) weydiisuna in lagugu xiro Sarkaalka Macluumaadka ee Arrimaha Macmiilaha Fiktooriya tel: 1300 55 81 81.

Chinese 如果您講不大懂英語，請打電話給口譯和筆譯服務處，電話：131 450 (低花費一個普通電話費)，讓他們幫您接達維多利亞消費者事務處 (Consumer Affairs Victoria) 的信息官員，電話：1300 55 81 81。

Serbian Ako vam je teško da razumete engleski, nazovite Službu prevodilaca i tumača (Translating and Interpreting Service - TIS) na 131 450 (po cenu lokalnog poziva) i zamolite ih da vas povežu sa Službenikom za informacije (Information Officer) u Viktorijskoj Službi za potrošačka pitanja (Consumer Affairs Victoria) na 1300 55 81 81.

Amharic ከሃላጊዎ ልገላ ለመረዳት ጥግር ካልላዎ የሰጠርዎን አገልግሎት (TIS) በስልክ ቁጥር 131 450 (በአገልግሎት ጥሩ ሂሳብ) በመደወል በስልክ ደግሞ ጉዳይ ጽ/ቤት በስልክ ቁጥር 1300 55 81 81 ደውሎ ከመረጃ አገራጪ ሠራተኛ ጋር አጥያቂነት መጠየቅ።

Dari

اگر شما مشکل دانستن زبان انگلیسی دارید، با اداره خدمات ترجمانی تحریری و شفاهی (TIS) به شماره ۱۳۱ ۴۵۰ به قیمت مشاوره محلی تماس بگیرید. وبخواهید که شما را به کارمند معلومات دفتر امور مراجعین ویکتوریا به شماره ۱۳۰۰ ۵۵ ۸۱ ۸۱ ارتباط دهد.

Croatian Ako ne razumijete dovoljno engleski, nazovite Službu tumača i prevoditelja (TIS) na 131 450 (po cijeni mjesnog poziva) i zamolite da vas spoje s djelatnikom za obavijesti u Consumer Affairs Victoria na 1300 55 81 81.

Greek Αν έχετε δυσκολίες στην κατανόηση της αγγλικής γλώσσας, επικοινωνήστε με την Υπηρεσία Μετάφρασης και Διερμηνείας (TIS) στο 131 450 (με το κόστος μιας τοπικής κλήσης) και ζητήστε να σας συνδέσουν με έναν Υπάλληλο Πληροφοριών στην Υπηρεσία Προστασίας Καταναλωτών Βικτώριας (Consumer Affairs Victoria) στον αριθμό 1300 55 81 81.

Italian Se avete difficoltà a comprendere l'inglese, contattate il servizio interpreti e traduttori, cioè il "Translating and Interpreting Service" (TIS) al 131 450 (per il costo di una chiamata locale), e chiedete di essere messi in comunicazione con un operatore addetto alle informazioni del dipartimento "Consumer Affairs Victoria" al numero 1300 55 81 81.

Annexure C.1: Homeless Law and VLA's Sample Form NTL (clean)

FORM 24

Residential Tenancies Act 1997

(Section 368(3))

(Regulation 91)

NOTICE TO LEAVE TO RESIDENT OF MANAGED PREMISES OR RESIDENT'S VISITOR

A—INFORMATION FOR THE RESIDENT/VISITOR

If you are a resident

1. This notice temporarily suspends your right to live on the managed premises.

After receiving this notice, you must leave the premises immediately.

It is an offence for you or your visitor to fail to leave the property, or return to the property, during the temporary suspension.

It is also an offence for a manager to give you a notice to leave or purported notice to leave without reasonable grounds.
2. The temporary suspension of your right to live on the managed premises lasts until:
 - The end of 2 business days from the date of this notice, which is: _____ [insert date that temporary suspension ends]
This date cannot be more than 2 business days from the date of this form. If the manager of the premises does not apply to the Victorian Civil and Administrative Tribunal (VCAT), you can return after 2 business days; OR
 - If the manager of the premises applies to VCAT for an order to terminate the residency permanently, the temporary suspension lasts until VCAT hears and decides that application.
3. You are required to pay rent for the duration of the temporary suspension unless VCAT finds that you should not have been given this notice. If that happens, any rent you pay during the temporary suspension must be reimbursed to you in addition to reasonable expenses you incur during the temporary suspension.
4. If you receive this notice, you should contact VCAT on 1300 018 228 to determine whether an application to VCAT to terminate your residency has been made.

Attending your VCAT hearing

5. If the manager of the premises applies to VCAT for an order terminating your residency, it is important that you attend your hearing and get legal advice.
6. VCAT cannot make an order terminating your residency unless it determines that it is reasonable and proportionate to do so, having regard to all of the circumstances. You might be able to find a lawyer to represent you at this hearing (see Getting Help).

Crisis Accommodation

7. If you require accommodation you can contact the Opening Doors' 24-hour toll free hotline on 1800 825 955 to speak with a housing and support worker who will direct you to an appropriate service.

Collecting your belongings during the temporary suspension

8. You may arrange with the manager of the premises for someone to collect your personal items from the premises. This includes but is not limited to things you might need during the temporary suspension such as food, clothing, and medicines, or evidence you might need to defend yourself at VCAT.

Getting Help

9. Consumer Affairs Victoria can provide you with more information about protecting your rights by telephoning 1300 55 81 81. You can also seek legal advice and representation from one of the community legal organisations listed on our website www.consumer.vic.gov.au/renting.

For free information over the phone about the law, renters can also contact Victoria Legal Aid on 1300 792 387, Monday to Friday from 8 am to 6 pm.

If you are a visitor

10. It is an offence
 - to remain on or enter the premises after being given a notice to leave; or
 - to re-enter the premises while the temporary suspension is in force.

PART B—INFORMATION FOR THE MANAGER

11. The manager of a rented premises must use this form to instruct the resident of a managed premises or the resident's visitor to leave.
12. The definition of manager includes residential rental provider, rooming house owner, caravan park owner and Part 4A park owner.
13. The manager must only give this form if they have reasonable grounds to believe that the resident or visitor has committed a serious act of violence on the premises or the safety of any person on the managed premises has been endangered or that the resident has caused, counselled or permitted their visitor to do the same. It is a criminal offence to give this notice without reasonable grounds.
14. This form must be given as soon as it is safe to do so.
15. This notice cannot be given if a notice to vacate has already been given under sections 91ZJ, 142ZC, 206AR or 207X of the Residential Tenancies Act 1997 in respect of the same act or omission.
16. The manager must not give the resident this notice in instances of family violence (i.e. where the violence or threat to safety is caused by a family member of the resident).

17. The manager may apply to VCAT for an order to terminate the residency right or site agreement before the end of 2 days after the temporary suspension.

PART C—NOTICE

18. This notice is given to ☐ the resident
☐ the resident's visitor
19. Address of managed premises at *[insert address]*
20. Name of *resident/*visitor *[insert name of resident/visitor]*
21. *Resident/*visitor address (if known) *[insert address—if answer is the same as the managed premises, write "as above"]*
22. Address for service of documents *[insert address for service of documents—if it is the managed premises, write "as above"]*
23. Contact phone numbers
Business hours *[insert business hours phone number of manager]*
After hours *[insert after hours phone number of manager]*
Email address *[insert email address of manager]*
24. Name of manager *[insert name of manager]*
25. Address for service of documents *[insert address for service of documents—if answer is the same as 2, write "as above"]*
26. Contact phone numbers
Business hours *[insert business hours phone number of manager]*
After hours *[insert after hours phone number of manager]*
Email address *[insert email address of manager]*
- Reason to leave**
27. As the manager I give you notice to leave the premises **immediately** because I have reasonable grounds to believe that—
- ☐ you have committed a serious act of violence on these premises;
 - ☐ you have placed another person on the premises in danger;
 - ☐ you have caused, counselled or permitted your visitor to commit a serious act or violence on the premises;
 - ☐ you have caused, counselled or permitted your visitor to commit an act that has placed another person on the premises in danger.
28. Further details *[manager to insert a brief explanation of the reason for giving this notice]*

29. I will give written notice to the principal registrar of VCAT of the fact that I have issued a notice to leave by the end of the next business day after I give you this notice.

Delivery of this notice

30. This notice has been delivered

☐ personally, for example by hand

☐ by registered post Delivery time *[insert delivery time]*

☐ by email (if consent has been provided by the renter)

31. Signature of manager *[insert signature of manager]*

32. Date of notice *[insert date]*

† tick the box which is applicable.

*delete whichever is not applicable

Annexure C.2: Homeless Law and VLA's Sample Form NTL (mark-up)

FORM 24
Residential Tenancies Act 1997
(Section 368(3)) (Regulation 91)

**NOTICE TO LEAVE TO RESIDENT OF MANAGED PREMISES
OR RESIDENT'S VISITOR**

A—INFORMATION FOR THE RESIDENT/VISITOR

If you are a resident

- This notice **temporarily** suspends your right to live on the managed premises.

After receiving this notice, you must leave the premises immediately.

It is an offence for you or your visitor to fail to leave the property, or return to the property, during the **temporary** suspension.

It is also an offence for a manager to give you a notice to leave or purported notice to leave without reasonable grounds.
~~You may arrange with the manager of the premises for someone to collect your personal items from the premises.~~
- The **temporary** suspension of your right to live on the managed premises lasts until:
 - The end of 2 business days from the date of this notice, which is: _____ *[insert date that temporary suspension ends]*
This date cannot be more than 2 business days from the date of this form. If the manager of the premises does not apply to the Victorian Civil and Administrative Tribunal (VCAT), you can return after 2 business days; OR
 - If the manager of the premises applies to VCAT for an order to terminate the residency permanently, the **temporary** suspension lasts until VCAT hears and decides that application.
- You are required to pay rent for the duration of the **temporary** suspension unless VCAT finds that you should not have been given this notice. If that happens, any rent you pay during the **temporary** suspension must be reimbursed to you in addition to reasonable expenses you incur during the **temporary** suspension.
- If you receive this notice, you should contact VCAT on 1300 018 228 to determine whether an application to VCAT to terminate your residency has been made.

Attending your VCAT hearing
- If the manager of the premises applies to VCAT for an order terminating your residency, it is important that you attend your hearing and get legal advice.
- VCAT cannot make an order terminating your residency unless it determines that it is reasonable and proportionate to do so, having regard

to all of the circumstances. You might be able to find a lawyer to represent you at this hearing (see Getting Help).

Crisis Accommodation

7. If you require accommodation you can contact the Opening Doors' 24-hour toll free hotline on 1800 825 955 to speak with a housing and support worker who will direct you to an appropriate service.

Collecting your belongings during the temporary suspension

8. You may arrange with the manager of the premises for someone to collect your personal items from the premises. This includes but is not limited to things you might need during the temporary suspension such as food, clothing, and medicines, or evidence you might need to defend yourself at VCAT.

Getting Help

- 9.7. Consumer Affairs Victoria can provide you with more information about protecting your rights by telephoning 1300 55 81 81. You can also seek legal advice and representation from one of the community legal organisations listed on our website www.consumer.vic.gov.au/renting.

For free information over the phone about the law, renters can also contact Victoria Legal Aid on 1300 792 387, Monday to Friday from 8 am to 6 pm.

If you are a visitor

- 10.8. It is an offence
- to remain on or enter the premises after being given a notice to leave; or
 - to re-enter the premises while the temporary suspension is in force.

PART B—INFORMATION FOR THE MANAGER

- 11.9. The manager of a rented premises must use this form to instruct the resident of a managed premises or the resident's visitor to leave.
- 12.9. The definition of manager includes residential rental provider, rooming house owner, caravan park owner and Part 4A park owner.
- 13.4. The manager must only give this form if they have reasonable grounds to believe that the resident or visitor has committed a serious act of violence on the premises or the safety of any person on the managed premises has been endangered or that the resident has caused, counselled or permitted their visitor to do the same. It is a criminal offence to give this notice without reasonable grounds.
- 14.2. This form must be given as soon as it is safe to do so.
- 15.3. This notice cannot be given if a notice to vacate has already been given under sections 91ZJ, 142ZC, 206AR or 207X of the Residential Tenancies Act 1997 in respect of the same act or omission.

- ~~164.~~ The manager must not give the resident this notice in instances of family violence (i.e. where the violence or threat to safety is caused by a family member of the resident).
- ~~175.~~ The manager may apply to VCAT for an order to terminate the residency right or site agreement before the end of 2 days after the temporary suspension.

PART C—NOTICE

- ~~186.~~ This notice is given to ☐ the resident
☐ the resident's visitor
- ~~197.~~ Address of managed premises at *[insert address]*
- ~~1920.~~ Name of *resident/* visitor *[insert name of resident/visitor]*
- ~~1921.~~ *Resident/* visitor address (if known) *[insert address—if answer is the same as the managed premises, write "as above"]*
- ~~220.~~ Address for service of documents *[insert address for service of documents—if it is the managed premises, write "as above"]*
- ~~234.~~ Contact phone numbers
 Business hours *[insert business hours phone number of manager]*
 After hours *[insert after hours phone number of manager]*
 Email address *[insert email address of manager]*
- ~~244.~~ Name of manager *[insert name of manager]*
- ~~253.~~ Address for service of documents *[insert address for service of documents—if answer is the same as 2, write "as above"]*
- ~~264.~~ Contact phone numbers
 Business hours *[insert business hours phone number of manager]*
 After hours *[insert after hours phone number of manager]*
 Email address *[insert email address of manager]*

Reason to leave

- ~~275.~~ As the manager I give you notice to leave the premises **immediately** because I have reasonable grounds to believe that—
- ☐ you have committed a serious act of violence on these premises;
 - ☐ you have placed another person on the premises in danger;
 - ☐ you have caused, counselled or permitted your visitor to commit a serious act or violence on the premises;
 - ☐ you have caused, counselled or permitted your visitor to commit an act that has placed another person on the premises in danger.

~~286~~ Further details [*manager to insert a brief explanation of the reason for giving this notice*]

~~229~~ I will give written notice to the principal registrar of VCAT of the fact that I have issued a notice to leave by the end of the next business day after I give you this notice.

Delivery of this notice

~~2830~~ This notice has been delivered

☐ personally, for example by hand

☐ by registered post Delivery time [*insert delivery time*]

☐ by email (if consent has been provided by the renter)

~~2931~~ Signature of manager [*insert signature of manager*]

~~302~~ Date of notice [*insert date*]

† tick the box which is applicable.

* delete whichever is not applicable