



Attorney-General  
Minister for the Arts and Cultural Events  
Minister for Building Quality Improvement  
Minister for Business and Regulatory Services  
Minister for Seniors and Veterans  
Member for Ginninderra

Mrs Giulia Jones MLA  
Chair  
Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)  
ACT Legislative Assembly  
CANBERRA ACT 2601

Dear Mrs Jones

I write in relation to comments made by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) in its Scrutiny Report 24 published on 20 November 2018 in relation to the Residential Tenancies Amendment Bill 2018 (No 2) (the Bill).

I thank the Committee for its comments on the Bill. I note that the Committee's report draws the Assembly's attention to the proposed amendment to the *Residential Tenancies Act 1997* which will require the lessor to seek the approval of the ACT Civil and Administrative Tribunal for rental increases above a prescribed amount, unless the tenant has agreed to the increase. The amount has been prescribed in a proposed amendment to the *Residential Tenancies Regulation 1998*.

I note that the Committee has asked if this proposed amendment is an inappropriate delegation of legislative powers. The Committee has expressed the view that it would generally be appropriate to include the limiting amount in the primary Act and asked for further explanation of why the amount should be prescribed in regulations. The Committee has advised that it is 'not clear what circumstances are intended to be included in "changes to the market" so as to be appropriately reflected in a change to the regulations, particularly in the context of other amendments in the Bill which increase the restrictions placed on landlords to increase rent beyond the limiting amount.'

I confirm that the proposed amendment does move the limiting threshold for excessive rent from the principal Act to the regulations. As noted by the Committee and outlined in the explanatory statement, this policy decision has been made to allow the amount to be adjusted in accordance with changes in the rental market. The limiting threshold has been in the regulation at 10% greater than the rents component of the housing group of the Consumer Price Index (CPI) for Canberra. I confirm that this amount has been included in a regulation to provide flexibility.

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### ACT Legislative assembly

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Gordon Ramsay MLA



Financial markets are subject to change. The rents component of the housing group of the CPI may increase or reduce. It is not possible to anticipate all situations where the threshold of excessive rent may need to be changed. Including a regulation-making power in the principal Act to adjust the threshold will provide a mechanism for the Government to respond to changes in the rental market more quickly than setting a threshold in the principal Act. This is of particular importance when considering the percentage above CPI where a rental increase could be considered excessive. There may be a need to adjust the percentage quickly in response to changes in the market that would not already be accommodated by the CPI.

It is important to have a mechanism where changes to the percentage above CPI can be made relatively quickly to adjust the limiting threshold, while still maintaining vital Legislative Assembly scrutiny. It is open for the Assembly to disallow any regulations made under the regulation-making power if the Assembly is of the view that the power has been improperly exercised. The Committee would also review these regulations.

Thank you again for raising this issue with me. I trust that this response addresses the Committee's comments on the Bill.

Yours sincerely

Gordon Ramsay MLA  
Attorney-General