**Directorate: Justice and Community Safety**

**17/718 - Residential Tenancies Amendment Bill 2018 – policy approval**

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| **Summary of Impacts** |
| The *Residential Tenancies Amendment Bill 2018* proposes the following amendments to the conditional termination and possession order (CTPO) provisions of the *Residential Tenancies Act 1997* (RTA):* remove the self-executing component of the CTPO provisions so that a breach of the CTPO does not automatically end a tenancy
* give the lessor the right to apply for a termination and possession order and a warrant for eviction within a specified number of days if a breach of a CTPO occurs
* provide that if the lessor does not pursue a breach of a CTPO within the specified days of the breach occurring, the tenancy continues and the debt remains with the tenancy, and that this rule also applies to future breaches of the CTPO
* allow ACAT to ‘convert’ a CTPO to an order made with the new conditions outlined above. The provision would allow applications for such an order to be made by either party to the agreement, and
* allow ACAT to ‘convert’ a CTPO if a termination order is sought because a condition of a CTPO has been met.
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*Key to impacts: Red – negative, Blue - neutral and Green - positive.*

**Social**

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| **Justice and rights** | * The CTPO provisions are often used in social housing tenancies where the lessor is the Housing Commissioner. Key stakeholders have raised concerns about the impact of the self-executing CTPO provisions on security of tenure for vulnerable social housing tenants. Under the RTA, if a CTPO is made, a tenancy automatically terminates if the tenant fails to pay rent, even if this occurs due to circumstances beyond the tenant’s control such as Centrelink processing delays. The proposed amendments remove the self-executing component so that a breach of the CTPO does not automatically end a tenancy.
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| **Disadvantaged and vulnerable** | * Removing the self-executing component of the CTPO provisions will improve security of tenure for tenants, including vulnerable social housing tenants.
* The proposed amendments will give tenants and lessors the opportunity to negotiate any delays to rental payments before taking action in the ACT Civil and Administrative Tribunal (ACAT) to end the tenancy.
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| **Housing and affordable housing** | * The proposed amendments will improve security of tenure for tenants.
* The proposed amendments will help resolve a situation that has disproportionately affected vulnerable social housing tenants. In situations where the lessor is the Housing Commissioner, there will be more opportunities for the lessor and tenant to negotiate how to address delays in paying rent, and for the Housing Commissioner to provide support to tenants experiencing financial difficulties.
* The changes to the CTPO provisions will also resolve legislative and procedural uncertainty for lessors wishing to take action to recover rental arrears following the breach of the CTPO.
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**Economic**

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| **ACT Government Budget** | * The proposed amendments have no financial implications for Government.
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| **Productivity** | * The proposed amendments clarify aspects of the CTPO provisions that have been subject to different legal interpretations in ACAT and the ACT Supreme Court. There have been questions about the nature of the agreement between the parties if the tenancy automatically ends and the lessor does not take any action against the tenant and continues to accept rent. There have also been questions about whether a new ‘implied tenancy’ is created, and whether this includes the rental arrears from the previous tenancy. The proposed amendments clarify that if the lessor does not take any action against the tenant for a breach of a CTPO within the specified number of days, the tenancy continues. The rental debt also remains with the tenancy, so the lessor can still take action to recover it. The proposed amendments will remove the need for further litigation on these issues, and provide a more efficient process for the use of CTPOs.
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**Environmental**

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| **Energy** | * Climate change impacts have been considered and no impacts have been identified.
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