



# Regulatory Impact Statement: Residential Tenancies Act tenancy termination amendments

## Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the purpose of informing Cabinet decisions
Advising agencies:	Ministry of Housing and Urban Development (HUD)
Proposing Ministers:	Hon Chris Bishop, Minister of Housing
Date finalised:	21 February 2024
Problem Definition	
Rental demand is currently outstripping supply causing a range of issues for the private rental market and those who rely on it, including rental inflation and reduced rental affordability.	
Executive Summary	
<p>The National Party's Manifesto documents and the National Party and ACT Coalition Agreement committed to reversing some of the changes made in 2020 to the Residential Tenancies Act 1986 (RTA). This is part of a broader programme of changes aimed at increasing rental supply – other changes include the reintroduction of interest deductibility for residential properties and changes to the Overseas Investment Act 2005 to enable build-to-rent properties. The RTA changes are:</p> <ul style="list-style-type: none"><li>• Restoring landlords' ability to unilaterally end a fixed-term tenancy by giving notice between 90 and 21 days before the end of the tenancy.</li><li>• Reintroducing landlords' ability to end a periodic tenancy by giving 90 days' notice with no reason stated (commonly referred to as a 'no cause termination').</li><li>• For periodic tenancies, returning tenants' notice period for leaving to 21 days (from 28 days) and landlords' notice period to 42 days (from 90 days) if they wish to sell the property.</li></ul> <p>The measures which will be reversed as per the above changes were introduced in 2020 as part of wider RTA reforms progressed by the previous Government, with the above measures introduced primarily to increase security of tenure for tenants.</p> <p>Some stakeholders (including landlords) report that the above changes have contributed to the supply and demand imbalance and subsequent rental inflation issues seen in the private rental market today (the policy problem). These stakeholders report that the 2020 RTA changes have contributed to the policy problem by reducing their flexibility and</p>	

increasing the risks and costs of offering their properties for longer-term rents, reducing rental supply and, subsequently, pushing up rent prices.

A wide range of complex factors influence rental supply and rent prices, and assessing the impact of individual factors is challenging. It is therefore unclear to what extent the 2020 RTA changes may have contributed to these issues and the policy problem. While the 2020 RTA changes may have played some role, available evidence suggests other factors (e.g. high rates of international migration) are likely to have had a more significant impact in driving rental demand beyond supply and inflating rents in recent years.

This impact analysis considers the Coalition Government preferred options (i.e. the above bulleted commitments) against the status quo.

While the Coalition Government proposals each have their own impacts, costs, and benefits. We consider the main impacts across these proposals are: increased flexibility with reduced costs and risks for landlords and reduced security of tenure, some minor improvements in flexibility, and potential improvements in rental access for some tenants.

Overall, no conclusion has been reached regarding HUD preferred options. This is largely due to a lack of evidence regarding whether the options will be effective in increasing rental supply and taking pressure off further rental inflation. If realised, these benefits could more effectively counterbalance the security of tenure costs tenants may experience as a result of the proposals.

While external stakeholder engagement was not possible within the available timeframe, stakeholder views are well established following comprehensive public consultation in 2018 and submissions to the Residential Tenancies Amendment Bill 2020:<sup>1</sup>

- Tenants and renters' advocate organisations strongly supported change from the status quo in 2018 (which the proposals considered here broadly return to). Changes increasing their decision-making power over whether they stayed or left a rental property were particularly supported.
- In contrast, landlords and property managers expressed comfort with the 2018 status quo and were concerned about changes which reduced their flexibility and control, particularly regarding terminating a tenancy.

Engagement with stakeholder groups and media reports since the changes were made suggest respective stakeholders' current views have not significantly changed. Landlords and property managers have explicitly called for the reversal of changes to no-cause terminations and fixed-term tenancies, as committed to by the Coalition Government and considered in this analysis.

### Limitations and Constraints on Analysis

The proposals considered in this analysis were commitments made through the National Party's manifesto and the National Party and ACT Coalition Agreement. The commissioning was therefore well defined, limiting the range of options considered in our analysis. Ministerial direction on timeframes has also constrained time available for analysis, including consideration of other options, and precluded public consultation or targeted engagement and options testing with non-agency stakeholders.

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<sup>1</sup> (2020) Residential Tenancies Amendment Bill: Officials' Report to the Social Services and Community Committee. [https://www.parliament.nz/resource/en-NZ/52SCSS\\_ADV\\_94841\\_SS7991/b14687440e56fb4245f7575b5be5462befca1dbb](https://www.parliament.nz/resource/en-NZ/52SCSS_ADV_94841_SS7991/b14687440e56fb4245f7575b5be5462befca1dbb)

Our analysis is also constrained by limited evidence regarding the specific impacts the 2020 RTA changes had on the rental market and, as noted in the 2019 Regulatory Impact Statement which assessed the change,<sup>2</sup> the ongoing absence of a Market Analysis Model. That is, HUD does not have, and is not able to readily create, a market analysis model that would enable us to produce quantified estimates of the potential impact of regulatory changes on the operation of the market and intended outcomes. This means that we are not, for example, able to model and quantify:

- The likelihood and size of any rental supply increases/decreases or rental price increases/decreases that might arise from these changes, and the consequent impact of these on tenants' costs and Crown appropriations used to subsidise housing.
- The social and economic impacts of changes which, broadly, increase landlords' flexibility and reduce tenants' security of tenure.
- Distributional impacts on population groups who are overrepresented in the rental market, such as Māori, Pasifika and disabled people.

**Responsible Manager**

Jeremy Steele  
 General Manager  
 Policy and Legislation Design  
 Ministry of Housing and Urban Development



21 February 2024

**Quality Assurance**

Reviewing Agency:	Ministry of Housing and Urban Development Te Tūāpapa Kura Kāinga
Panel Assessment & Comment:	<p>The RIA Panel at the Ministry of Housing and Urban Development Te Tūāpapa Kura Kāinga has reviewed the regulatory impact statement for “Residential Tenancies Act tenancy termination changes” prepared by Tenures and Tenancies and confirmed that it meets RIS requirements.</p> <p>The panel noted that the analysis has substantial prior consultation and engagement, from previous reform to this Act. This informs the analysis but further consultation at other stages of these changes will be required to validate stakeholder views.</p>

<sup>2</sup> Ministry of Housing and Urban Development. (2019) Regulatory Impact Statement: Residential Tenancies Act Reform: Improving fairness in the Act. <https://www.hud.govt.nz/assets/Uploads/Documents/Regulatory-Impact-Assessment-RTA-Reform-Improving-Fairness-in-the-Act-5.pdf>

## Section 1: Diagnosing the policy problem

### What is the context behind the policy problem and how is the status quo expected to develop?

#### Private rental market context

1. Aotearoa New Zealand's private rental market has continued to grow in recent decades, accounting for 27 percent of the total housing stock in 2018, compared to 14 percent in 1986.<sup>3</sup> In 2018, the latest year for which data is available, almost 1 in 3 households rented (31.9 percent), with 83.5 percent of these renting in the private market.<sup>4</sup> Māori, Pacific peoples, and disabled people are overrepresented in the private rental market.<sup>4</sup> The number and proportion of people entering their senior years as renters is also increasing significantly.<sup>5</sup>
2. Broadly, people in rented households experience poorer housing-related outcomes at a higher rate than home-owners, including poorer physical and mental health and lower economic security.<sup>3</sup> Evidence from the 2018 General Social Survey (GSS) found that compared to owner-occupied houses, rentals are more likely to be cold, damp and mouldy, have inefficient or no heating, and need major repair.<sup>6</sup> However, this is likely to be improving as landlords work to comply with the Healthy Homes Standards, introduced in 2019.<sup>7</sup>
3. Renting households experience higher residential mobility than households in other tenures, moving more frequently and staying in place for less time.<sup>4</sup> Analysis of modelled tenure length in August 2023 suggests the average length of tenure for a rented property is just under 2 years, compared to almost 9 years for an owner-occupied property.<sup>8</sup> Higher residential mobility is associated with worse housing, health, employment and educational outcomes.<sup>4,9,10</sup>

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<sup>3</sup> Saville-Smith, K (2021). Housing Stock Ownership Concentration 1986-2018: A Brief Comment on Trends, Transformation and Implications. <https://www.buildingbetter.nz/publication/housing-stock-ownership-concentration-1986-2018-a-brief-comment-on-trends-transformation-and-implications/>

<sup>4</sup> Stats NZ. (2021). Housing in Aotearoa: 2020. <https://www.stats.govt.nz/assets/Uploads/Reports/Housing-in-Aotearoa-2020/Download-data/housing-in-aotearoa-2020.pdf>

<sup>5</sup> Te Tūāpapa Kura Kāinga. (2023). Long-term Insights Briefing: The long-term implications of our ageing population for our housing and urban futures. [Long-term-Insights-Briefing-2023-LARGE-TEXT-FORMAT.pdf](https://www.hud.govt.nz/assets/Uploads/Reports/Long-term-Insights-Briefing-2023-LARGE-TEXT-FORMAT.pdf) ([hud.govt.nz](https://www.hud.govt.nz))

<sup>6</sup> Stats NZ. (2023). Household income and housing-cost statistics: Year ended June 2022. <https://www.stats.govt.nz/information-releases/household-income-and-housing-cost-statistics-year-ended-june-2022/>

<sup>7</sup> Kantar Public. (2022). Healthy Homes Guarantee Act monitoring: Wave 3 research 2022 – Topline report. <https://www.hud.govt.nz/assets/Uploads/Documents/Pulse-survey-reports-published-March-2023/Healthy-Homes-Guarantee-Act-monitoring-Topline-Report-Wave-3-Dec-2022.pdf>

<sup>8</sup> Analysis of tenancy bond data collected by Ministry of Business, Innovation and Employment (MBIE).

<sup>9</sup> Nathan K, Robertson O, Atatoa Carr P, Howden-Chapman P, Piers N. (2019). Residential mobility and socioemotional and behavioural difficulties in a preschool population cohort of New Zealand children. Journal of Epidemiology and Community Health 2019;0:1-7. <https://www.healthyhousing.org.nz/sites/default/files/2022-02/Moving-house-related-to-behavioural-difficulties-in-four-year-olds.pdf>

<sup>10</sup> Lai H, Prickett K, Renker-Darby A, Paine SJ, Atatoa Carr P. (2023). Growing Up in New Zealand. Now We Are Twelve: Life in early adolescence, Snapshot 4 of 9. [https://assets-global.website-files.com/63b7328effdf4238ae0d82b/646db73766c5a1a9cf40ad1b\\_NWA12\\_4\\_Housing%2BHomelessness%20FINALv2.pdf](https://assets-global.website-files.com/63b7328effdf4238ae0d82b/646db73766c5a1a9cf40ad1b_NWA12_4_Housing%2BHomelessness%20FINALv2.pdf)

4. Nationally rents grew by 7.0 percent in the year to December 2023.<sup>11</sup> This is significantly higher than the 5-year average of 3.6% percent per annum.<sup>12</sup> In 2022, around 45 percent of renting households experience housing stress or unaffordability (30 percent or more of net income spent on housing costs), compared to 25 percent of homeowners.<sup>6</sup>
5. Evidence suggests rent prices have primarily been driven by income growth and new housing supply relative to population growth in recent years.<sup>13</sup> While supply has continued to grow, including rental supply, it has not kept pace with demand, causing rents to increase and rental affordability to fall. The population was growing at a faster rate than dwellings during 2015 – 2020 and despite curtailed population growth over the following two years as a result of the COVID-19 pandemic the population/dwelling mismatch remained. More recently, high rates of migration post-COVID are likely to be a key factor in driving the continued strong rental price inflation, particularly in areas like Auckland and Canterbury which have seen strong population growth.
6. Compared to the general population, Māori and Pacific peoples are more likely to report unaffordable housing costs, to live in homes that are crowded or affected by housing habitability issues (cold, mould, damp), and to experience greater residential mobility.<sup>14,15</sup> Disabled people also report a range of housing issues such as challenges in finding accessible housing and getting necessary modifications made.<sup>16,17</sup> These population groups are also more likely to experience discrimination in the market.<sup>14,15,16</sup>
7. Anecdotally, most private rentals are believed to be provided by individuals who own 1 – 2 properties. A smaller proportion of landlords are believed to own larger portfolios of rental properties. Landlords report being motivated to invest in rental properties mainly as an investment for the future (72 percent) or as an additional supplementary source of income (35 percent).<sup>18</sup>

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<sup>11</sup> Stats NZ (2023) Selected price indexes. <https://www.stats.govt.nz/information-releases/selected-price-indexes-december-2023/>

<sup>12</sup> Stats NZ, Actual rentals for housing - flow measure, 5-year average annual change from January 2019 to December 2023.

<sup>13</sup> Housing Technical Working Group, Ministry of Housing and Urban Development, Reserve Bank of New Zealand, The Treasury. (2023). What Drives Rents in New Zealand? National and Regional Analysis. <https://www.treasury.govt.nz/publications/jp/what-drives-rents-new-zealand-national-and-regional-analysis>

<sup>14</sup> Stats NZ. (2021). Te Pā Harakeke: Māori housing and wellbeing 2021. <https://www.stats.govt.nz/reports/te-pa-harakeke-maori-housing-and-wellbeing-2021/>

<sup>15</sup> Stats NZ. (2023). Pacific housing: People, place, and wellbeing in Aotearoa New Zealand. <https://www.stats.govt.nz/reports/pacific-housing-people-place-and-wellbeing-in-aotearoa-new-zealand/>

<sup>16</sup> Donald Beasley Institute. (2020). My Experiences, My Rights: A Monitoring Report on Disabled Person's Experience of Housing in Aotearoa New Zealand. [Easy Read Monitoring Report]. New Zealand Disabled People's Organisation Coalition <https://www.donaldbeasley.org.nz/assets/projects/UNCRPD/My-Experiences-My-Rights-A-Monitoring-Report-on-Disabled-Persons-Experience-of-Housing-in-Aotearoa-New-Zealand/My-Experiences-My-Rights-A-Monitoring-Report-on-Disabled-Persons-Experience-of-Housing-in-Aotearoa-New-Zealand.pdf>

<sup>17</sup> Noting that Māori and Pacific peoples have higher rates of disability, evidencing one of the ways these groups are likely to experience compounding disadvantage in their experience of the private rental market.

<sup>18</sup> HUD has commissioned Kantar Public to undertake 'pulse' surveys of renters and landlords to help inform its understanding of the impacts of legislative changes on the residential rental market. Five surveys have been conducted to date (April 2021, October 2021, May 2022, November 2022, May 2023). The survey is conducted online, nationwide. Topline reports of the survey results are available online at <https://www.hud.govt.nz/>

## Context of proposals being assessed

8. The RTA is the principal act governing the private rental market. It regulates residential tenancies, the contractual relationship between a landlord and tenant, establishes the Tenancy Tribunal and defines the Ministry of Business, Innovation and Employment's (MBIE) roles and powers as the regulator for the market. The RTA went through substantial reforms between 2018 and 2020. This included the establishment of the Healthy Homes Standards (HHS) and significant changes to improve tenants' security of tenure and modernise compliance and enforcement provisions, amongst other amendments.
9. These reforms also included the introduction of provisions being assessed in this analysis. These were:
  - a) The removal of 90-day no-cause terminations for periodic tenancies.
  - b) Removing landlords' ability to unilaterally give notice to end a fixed-term tenancy at the end of term without specified grounds.
  - c) Extending tenants' notice period for leaving a periodic tenancy from 21 days to 28 days and landlords' notice for certain grounds from 63 – 90 days to 42 days.
10. These measures were all identified as preferred options or options delivering benefits compared to the status quo in the 2019 Regulatory Impact Statement (RIS),<sup>2</sup> prepared ahead of 2020 RTA changes. The 2019 RIS and the context within which these changes were made and assessed are therefore relevant for consideration here.
11. The above changes (paragraph 9, a – c) were part of a package of measures designed to improve tenants' security of tenure, as part of the previous Government's plan. Describing the policy problem/opportunity at the time, the 2019 RIS noted that "compared to other jurisdictions, New Zealand has minimal tenure security provisions."<sup>2</sup> The 2019 RIS noted a wide range of problems linked with insecure tenure, for example to tenants' socioeconomic and mental wellbeing, as well as problems insecure tenure poses for population groups who are increasingly reliant the private rental market, such as older people.
12. Evidence in 2018 also suggested a significant proportion of tenancies in New Zealand were being terminated involuntarily. The 2018 GSS showed that renters had substantially higher residential mobility and that the most common reason for moving was because the tenancy was ended by the landlord (responsible for 1 in 4 moves).<sup>3</sup>

### *Importance of security of tenure*

13. Security of tenure holds many benefits that impact multiple areas of life. The potential benefits span a range of different categories including health, employment, crime,

welfare and education.<sup>19,20,21</sup> The positive welfare implications that come from security of tenure are of the most common findings recognised through multiple studies and surveys which include reduced levels of stress<sup>22</sup> and depression.<sup>23</sup> These benefits are important throughout the life course. Reduced stress alone can assist with the ability for parents and children to focus on longer term goals such as personal relationships long term employment and education.<sup>22</sup> Children benefit significantly from secure tenure, with a stable living environment being a crucial element to maintaining schooling and friendships, frequent contact with health professionals and participating in their communities.<sup>24</sup> Similarly, for older people tenure security can make a significant contribution to health and wellbeing, supporting ageing in place.<sup>25,26,27</sup>

14. Insecure tenure undermines these benefits, with negative impacts on health, wellbeing, and socioeconomic outcomes. For example, evidence from the latest wave of the Growing Up in New Zealand study found that young people who had to move from their previous home for reasons outside of their control (for example, due to their rental property being sold, tenancy termination or increased rent) were more likely to have lived in social housing or private rentals, experienced homelessness and lived in higher levels of material hardship and area deprivation.<sup>10</sup> Around 1 in 5 young people in the study had experienced an involuntary move. This group was also more likely to identify as Māori and/or Pacific.<sup>10</sup>
15. Similarly, a 2023 survey of residents across public rental, private rental and owner-occupied housing in Wellington found that public rental tenants had higher subjective

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<sup>19</sup> (2018). Welfare and Housing Interface Evidence and Policy Options. Welfare Expert Advisory Group. Pg 15. <https://www.weag.govt.nz/assets/documents/WEAG-report/background-documents/5327c4530e/Welfare-housing-interface-evidence-010419.pdf>

<sup>20</sup> BRANZ (2017) The New Zealand Rental Sector. ER22 The New Zealand Rental Sector (d39d3mj7qio96p.cloudfront.net) Accessed Via Auckland Regional Public Health Service Submission on Reform of the Residential Tenancies Act 1986: Discussion document. <https://www.arphs.health.nz/assets/Uploads/Resources/Submissions/RTA-20181019.pdf>

<sup>21</sup> Howden-Chapman, P., Fyfe, C., Nathan, K., Keall, M., Riggs, L., & Pierse, N. (2021). The effects of housing on health and well-being in Aotearoa New Zealand. *New Zealand Population Review*, 47, 16-32. [https://www.healthyhousing.org.nz/sites/default/files/2021-11/HowdenChapman\\_etal\\_Housing\\_Health\\_Wellbeing.pdf](https://www.healthyhousing.org.nz/sites/default/files/2021-11/HowdenChapman_etal_Housing_Health_Wellbeing.pdf)

<sup>22</sup> (2021). Housing-related experiences of families with young children in contemporary Aotearoa New Zealand. Auckland. University of Auckland. Page 99 <https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/research/housing-related-experiences/housing-related-experiences-of-families-with-young-children-in-contemporary-aotearoa-new-zealand.pdf>

<sup>23</sup> Waldegrave, Urbanova. (2016). Social and Economic Impacts of Housing Tenure. New Zealand. Family Centre Social Policy Research Unit. Page 5. [https://familycentre.org.nz/wp-content/uploads/2019/04/Social\\_and\\_Economic\\_Impacts\\_of\\_Housing\\_Tenure-1.pdf](https://familycentre.org.nz/wp-content/uploads/2019/04/Social_and_Economic_Impacts_of_Housing_Tenure-1.pdf)

<sup>24</sup> (2015) Exploring security of tenure through co-design. New Zealand. Ministry of Business, Innovation and Employment. Page 8 <https://www.mbie.govt.nz/dmsdocument/1091-exploring-security-tenure-codesign-pdf>

<sup>25</sup> James B, Saville-Smith N. (2018) Tenure insecurity and exclusion: older people in New Zealand's rental market. [https://renting.goodhomes.co.nz/wp-content/uploads/2018/08/James\\_Saville-Smith\\_2018\\_tenure\\_insecurity\\_exclusion.pdf](https://renting.goodhomes.co.nz/wp-content/uploads/2018/08/James_Saville-Smith_2018_tenure_insecurity_exclusion.pdf)

<sup>26</sup> Pledger M, McDonald J, Dunn P, Cumming J, Saville-Smith K. (2019) The health of older New Zealanders in relation to housing tenure: analysis of pooled data from three consecutive, annual New Zealand Health Surveys. <https://renting.goodhomes.co.nz/wp-content/uploads/2019/02/Pledger-et-al-2019-The-health-of-older-New-Zealanders-in-relation-to-tenure-FINAL-PRINT-version.pdf>

<sup>27</sup> Bates J, Wiles J, Kearns R, Coleman T. (2019) Precariously place: Home, housing and wellbeing for older renters. <https://renting.goodhomes.co.nz/wp-content/uploads/2019/09/precariously-placed-abstract.pdf>

wellbeing than private rental tenants and similar wellbeing to owner-occupiers.<sup>28,29</sup> The researchers linked this difference with housing and neighbourhood suitability and tenure security, noting that public housing tenants had much stronger security of tenure than private tenants. Wellbeing differences were associated with tenure length (a measure of tenure security) – when private tenants had been in the same house for a long period (one to two decades), they had similar wellbeing to public tenants.<sup>28</sup>

16. In addition to producing significant costs for individuals, tenure insecurity can also produce costs to society and government, for example by increasing demand for healthcare services and government housing support.<sup>30</sup>
17. New Zealand has international obligations to progressive realisation and non-regression regarding the right to adequate housing, within available resources. These obligations are set out in the International Bill of Rights, the Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and other international conventions committed to by successive governments in New Zealand. However, like all international treaties, international obligations are not binding in domestic law unless they are incorporated into legislation. To date, New Zealand has not incorporated the right to adequate housing into domestic law. Reversing measures to improve security of tenure could nevertheless be seen as a regressive measure under the ICESCR.
18. Te Kāhui Tika Tangata, the Human Rights Commission, conducted an Inquiry into the Right to a Decent Home between 2021 and 2023. This included assessing the private rental sector against seven principles set out by the United Nations that help to determine whether housing is adequate. Of these seven principles, progressive realisation was being met for one, security of tenure. Outlining the rationale for the finding, the Commission noted that the RTA changes in 2020 to improve security of tenure were a sign of progress.

#### *Stakeholder views on the 2020 RTA changes*

19. Stakeholder views on the changes are well established. Comprehensive public consultation about reforms to the RTA had been undertaken from August to October 2018. Overall, HUD received views from almost 5,000 tenants, landlords/homeowners, property managers, social housing providers and others. The 2019 RIS noted that these submissions evidenced comfort with the status quo among landlords and property managers and dissatisfaction with the status quo among renters. There was a strong push from renters to rebalance tenancy laws so that decisions around whether to stay or leave the property are more in tenant's control. Landlords and property managers were concerned to keep flexibility for terminating tenancies.
20. These broad positions have remained consistent over time, captured through submissions on the Residential Tenancies Amendment Bill in 2020,<sup>1</sup> and since then

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<sup>28</sup> Grimes A, Smith C, O'Sullivan K, Howden-Chapman P, Le Gros L, Kowalchuk Dohig R. Motu Economic & Public Policy Research (2023). Motu Working Paper 23-08: Micro-geography and public housing tenant wellbeing. <https://www.motu.nz/assets/Uploads/Micro-geography-and-public-tenant-wellbeing.pdf>

<sup>29</sup> The research used five separate measures relating to subjective wellbeing of residents, with the main focus being on the WHO-5 mental wellbeing scale and on an evaluative measure of life satisfaction. Three other wellbeing metrics relate to whānau wellbeing, perceived control over one's life, and loneliness.

<sup>30</sup> Housing Foundation. (2017) Research Bulletin: From social renting to housing independence – the social and economic impacts of housing tenure. <https://www.productivity.govt.nz/assets/Submission-Documents/a-fair-chance-for-all/Sub-027-Housing-Foundation.pdf>



through HUD's regular engagement with stakeholders. Stakeholder views on each of the proposals considered here are set out below.

#### *Removal of 90-day no cause terminations*

21. Landlords' ability to terminate a periodic tenancy 'in any other case' (a no-cause termination) was considered to negatively impact tenant wellbeing and disincentivise them from exercising rights and raising concerns in the 2019 RIS.<sup>2</sup>
22. The RIS noted that although the RTA enables tenants to challenge terminations they suspect have been issued in response to them exercising their rights, tenants may not feel empowered to do so as it may be difficult to prove this if no reason is provided. The RIS also noted the consequences of a terminated tenancy for a tenant, including moving costs, difficulties in successfully securing a new tenancy (particularly in a tight rental market) and poorer health, employment and educational outcomes associated with higher residential mobility.
23. Removing 90 day no-cause terminations was the preferred option following analysis of issue 1 in the 2019 RIS (*what grounds should be available to landlords to terminate a periodic tenancy?*) and was enacted through the 2020 RTA changes. Other options considered were only allowing no cause terminations with Tenancy Tribunal involvement or allowing no-cause terminations so long as the landlord provided the tenant with an explanation, these options either delivered no significant benefit compared to the status quo, or fewer benefits than the preferred option.
24. A range of new termination grounds were introduced for periodic tenancies to support landlords across a range of situations where it would be reasonable to end a tenancy and a 90-day no-cause notice would have previously been used. These include where the landlord intends to carry out extensive works or refurbishment, where they intend to change the use of the property (e.g. from residential to commercial) and in the case of anti-social behaviour by the tenant or rent arrears, among other reasons.
25. In the 2019 RIS, HUD considered that the security of tenure changes could affect landlord willingness to rent, the amount of rent charged, and could lead to more stringent vetting of tenants. The likelihood of these risks being realised was uncertain due to the complexity of measuring them and isolating individual causes. The risk of rental supply contracting was also noted; however, the likelihood of this occurring was considered low.

#### *Stakeholder views*

26. Landlords, property managers, property investors and organisations representing them were strongly opposed to the removal of 90-day no cause terminations. Their position has remained consistent since the proposals were consulted on in 2018.
27. During the 2018 consultation, these stakeholders explained that no cause terminations are essential to property management and part of the rights of property ownership which should not be interfered with. Without them, many landlords say they are unable to manage problematic and anti-social tenant behaviour. While termination grounds for anti-social behaviour were introduced alongside the removal of 90-day no cause terminations, these stakeholders report finding them impractical and there is a widespread perception that it has become very difficult to terminate tenancies.
28. Consequently, landlords report this change has reduced their willingness to rent, causing them to leave the market, or has made them unwilling to rent to tenants they consider 'too risky'.

29. In contrast, tenants and organisations representing their interests strongly supported, and continue to support, the removal of no cause terminations as key measure for improving security of tenure.

*Removing landlords' ability to unilaterally give notice to end a tenancy at the end of a fixed term agreement without a specific reason*

30. There are two main types of tenancy agreement under the RTA: periodic and fixed-term. Prior to the 2020 changes, the key features of these were:
- a) Periodic agreements have no specified end date, continuing until either the tenant or the landlords gives written notice to end it in accordance with prescribed grounds in the RTA.
  - b) Fixed-term agreements run for the period specified in the agreement. At the end of the fixed-term:
    - i. The tenancy would end if either the landlord or tenant has given notice between 90 and 21 days before the end of the term to say they do not want a periodic tenancy.
    - ii. The tenancy will automatically roll over to a periodic tenancy.
    - iii. The parties can agree to renew or extend the tenancy for a further fixed-term.
31. The 2019 RIS noted that these settings may not be providing tenants meeting their obligations with security of tenure, as:
- a) Tenants meeting obligations could still be moved on solely because the fixed-term expired was ending even if the property would still be rented out.
  - b) Anecdotal evidence showed most fixed-term tenancies were set for a period of one year, meaning some tenants could find themselves locked into a cycle where the fixed-term tenancy ends during peak times of year when it is more difficult to find new accommodation.
  - c) Tenant choices may be restricted by the types of agreement a landlord will offer in a tight market, meaning tenants could be signing up to agreements not best suited to their needs.
32. Amending existing fixed-term tenancies was the preferred option following analysis of issue 5 in the 2019 RIS (*should changes be made to the types of tenancy agreements available in the market?*) and was enacted through the 2020 RTA changes. These preferred amendments involved:
- a) Limiting landlords notice grounds so that they can only end a fixed-term tenancy at the end of term with 90 days' notice, using limited and specific reasons set out in the RTA, and
  - b) extending tenants' notice period from 21 to 28 days (in line with the change discussed below).
33. This option was considered in the context of 90-day no cause terminations being removed, following which it was anticipated that landlords may shift to mostly offering fixed-term tenancies (using the fixed-term as an effective trial period for vetting the tenant).

34. In this context, this option was found to deliver net benefits to the status quo, addressing many of the issues described above (paragraph 31), increasing security for tenants and flexibility for both regulated parties. Other options considered were only offering periodic tenancies, found to deliver less benefit than the status quo, and introducing a third type of longer-term tenancy agreement,<sup>1</sup> which was considered to deliver some additional benefit compared to the status quo, but not as much as the preferred option.
35. As outlined in paragraph 25, the 2019 RIS noted some risks with the preferred option, including that landlords may raise rents or increase tenant vetting as a result.

#### *Stakeholder views*

36. Landlords, property managers and organisations representing them continue to oppose this provision. Many landlords submitted to the Residential Tenancies Amendment Bill in 2020 opposing the provision.
37. The changes to fixed-term tenancies mean landlords no longer have certainty regarding when a fixed-term tenancy will end. This is concerning generally for many landlords and can be a particular issue in some markets which rely more heavily on predictable terms.
38. For example, in year-round tourist destinations like Queenstown, landlords would offer a fixed-term tenancy for part of the year, with the knowledge that they would be able to occupy the property themselves for the rest of the year. Following the changes, they may not be able to repossess the property at the end of term if the tenants preferred to stay on in a periodic tenancy. Although there are options they could use (e.g. short fixed-term tenancies), anecdotal evidence suggests this has caused many landlords to shift to short-term rental options instead, such as Airbnb, reducing the supply of longer-term rental properties in the area.
39. In student markets like Dunedin, landlords were accustomed to offering one-year fixed-term tenancies and<sup>31</sup> in order to guarantee continuity in rental income, advertising for the next year's tenancy in May-September and agreeing tenancy agreements for the next year's tenants before the current tenants leave.
40. The Otago University Students' Association (OUSA) supported the amendments and is concerned that landlords are pressuring tenants to re-sign tenancy agreements early. A range of student unions also supported the amendments at select committee in 2020.
41. In contrast, the Otago Property Investors Association (OPIA) conclude the amendment makes it difficult for the Dunedin market to continue operating on one year fixed-term basis, with the risk that students on periodic tenancies will leave over the summer period. The issue of student markets was specifically considered at select committee in 2020 and HUD's advice was not to provide students with fewer protections than other tenants.<sup>1</sup>
42. The changes to fixed-term tenancies have caused confusion in some cases, where tenants have not realised they are required to give formal notice to end the tenancy and, as the landlord is not able to unilaterally end the tenancy, been liable for ongoing

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<sup>31</sup> In 2019, 90% of Dunedin tenancies were estimated to be on a one-year fixed-term basis, according to OPIA's submission on the Residential Tenancies Amendment Bill 2019.

rent for the tenancy when they believed it had ended by virtue of the fixed-term expiring.

#### *Extending tenants' and landlords' notice periods for ending a periodic tenancy*

43. Prior to the 2020 changes, tenants could leave a periodic tenancy with 21 days' notice and landlords could give tenants 42 days' written notice to end a period tenancy where:
  - a) The owner of the premises required the premises as the principal place of residence for themselves or any member of their family,
  - b) The landlord customarily uses the premises, or has acquired the premises, for occupation by employees of the landlord, and the premises are required for occupation by such an employee,
  - c) The owner is required under an unconditional agreement for the sale of the premises, to give the purchaser vacant possession.
44. Providing tenants with only 42 days' notice to leave their tenancy was considered to limit control and choice over future housing, increase the likelihood of being forced to settle for options that would not suit their needs or risk tenants being unable to secure new housing in time.
45. Extending these notice periods to 90 days was the preferred option following analysis of issue 3 in the 2019 RIS (how much notice should landlords need to give when terminating a periodic tenancy under current termination grounds?). This option was considered to provide tenants with more control and choice over future housing. However, this option was not taken forward.
46. Instead, notice periods for moving into the property (grounds described in para 19 a and b) were extended to 63 days, and notice periods for sale of the property with vacant possession to 90 days. This option was considered to deliver some benefit compared to the status quo by providing tenants with more time to secure new accommodation. However, the 2019 RIS noted that this option could cause confusion about which termination notice period applies.
47. Regarding tenants' notice periods, the RIS noted that tenants only being required to provide 21 days' notice (the status quo at the time) may not provide landlords with enough time to find replacement tenants, exposing them to periods of lost rent.
48. Extending tenants' notice period for periodic tenancies to 28 days was the preferred option following analysis of issue 4 in the 2019 RIS: "how much notice should tenants need to give to leave a periodic tenancy?". This option was considered to deliver net benefits to the status quo. It was also considered appropriate in light of the security of tenure benefits tenants would receive from the broader package of changes being proposed at the time. The other option considered, requiring less than 21 days' notice, was considered to deliver less benefit than the status quo. While it increased flexibility for tenants, this was more than offset by costs to landlords.

#### *Stakeholder views*

49. Stakeholders' level of concern with these changes to date appears lower than changes to remove no cause terminations and amend landlords' termination grounds for fixed-term tenancies.
50. Concern that exists around these extensions has primarily focused on landlords' notice period for selling a property (extended from 42 days to 90 days in 2020). Landlords and

property investors report that this has made selling more difficult and increased costs for them. Landlords were broadly opposed to these changes at the time of the 2018 consultation also.

51. During the 2018 consultation, tenants and organisations representing them were broadly in favour of extending notice periods for landlords, noting that it better reflected the time required to find a new tenancy, reduced stress, and reduced costs for them (e.g. from paying double rent). These submitters felt the benefits to them outweighed any cost or burden for landlords. This position is unlikely to have changed.
52. During the 2018 consultation, a majority of all submitters agreed that tenants should provide more than 21 days' notice for ending a periodic tenancy.

### **How the status quo would develop without further intervention**

53. In light of landlords concerns with the 2020 law changes, there could be a reduction in rental supply at the margins without further government intervention. Supply reductions are likely to be more marked in markets which rely more heavily on fixed-term tenancies e.g. Queenstown and Dunedin, as described above. Any significant supply reductions would place upward pressure on rents.
54. However, as discussed below, it is very difficult to say with certainty what impact the 2020 tenancy law reforms have had on rental supply. Regulatory settings in the residential tenancies system are also not the only influence on the private rental market. This is especially true regarding the balance of supply and demand.
55. The private rented market is expected to continue to grow as high and rising house prices and limits on access to credit (such as Loan to Value Ratios) constrain potential first-home buyers, driving declining home-ownership rates and increased rental demand. Demand is also expected to be driven further by sharp population growth from inward net migration, while the supply response will be constrained by declining construction sector activity. This will see rent price inflation continuing to increase, or at least remain high, in the short- to medium-term.
56. A combination of slowing wage growth, rising rents and high cost of living will further reduce rental affordability and increase financial strain for some households, especially those on low incomes, who may become dependent on government and other support services. Financial stress will intensify if unemployment rises as forecast.
57. Similarly, property investor market activity is likely to be significantly impacted by wider regulatory and market developments. In the medium-term, we expect to see stronger interest from property investors as regulatory changes, such as the reintroduction of interest deductibility for residential property investments, combined with rising rents, make rental yields more attractive. This could be balanced by constraints on access to credit and investors' ability to expand property portfolios ahead of the introduction of Debt to Income (DTI) restrictions.
58. These expected developments (paras 55 – 57) are likely to have a much more significant impact on the overall balance of supply and demand in the private rental market than the 2020 tenancy law reforms and are likely to worsen the mismatch in the short- to medium-term.
59. For example, in a tight rental market where demand significantly outstrips supply there are fewer incentives to comply with (or competitively exceed) quality standards, as many tenants will prioritise securing housing over ensuring it is good quality.

60. Similarly, tenants' autonomy over their housing is limited in a tight market, as:
- a) People may find themselves unable to secure a tenancy at all, increasing demand for emergency, transitional and social housing.
  - b) In order to secure housing, people will be forced to settle for properties and tenancies which do not meet their needs.
  - c) The costs/risks of enforcing their rights within a tenancy can be perceived to, or do, outweigh the benefits.
61. This is supported by tenants' experience in the current market, where rental demand outstrips supply. In May 2023, when tenants were asked the reason for choosing their rental property, cost was the most common motivator (46 percent) and 'I had no other choice (no other properties available)' was also commonly reported (16 percent).<sup>18</sup>

### What is the policy problem or opportunity?

62. As outlined above, rental demand is currently outstripping supply, with this mismatch expected to grow in the medium term. This causes a range of issues for the private rental market and those who rely on it, including rental inflation, reduced rental affordability, and restricted housing autonomy for households in the private rental market. Population groups overrepresented among tenants, such as Māori, Pacific peoples, and disabled people, will disproportionately experience these impacts. Over time, this will also be true for older people as they become increasingly present in the private rental market.<sup>5</sup>
63. Landlords, property managers, property investors and organisations representing these stakeholders report that the 2020 RTA changes have played a significant role in reducing rental supply and are now acting as a barrier to it, contributing to the policy problem. This is a key assumption underlying this understanding of the policy problem.
64. As outlined above, this is because they consider the changes made renting properties too difficult and risky, by reducing their ability to terminate a tenancy if they need to and regain control of their property. As a result, they report the changes have forced them to:
- a) exit the market or shift their properties to short-term rental accommodation,
  - b) increase rents, and
  - c) increase tenant vetting.
65. Stakeholders' concern is primarily focused on the removal of 90-day no cause terminations and changes made to limit landlords' ability to end a fixed-term tenancy at the end of term. While landlords and property managers were also opposed to the extension of notice periods for periodic tenancies, these changes are not frequently cited as having driven rental supply losses and are not considered to have significantly contributed to the policy problem.

### The impact of the 2020 RTA changes on the policy problem is unclear

66. Evidence regarding the impact of the 2020 tenancy law reforms on rental supply, rent increases and tenant vetting is limited, and insufficient to establish a causal relationship. There are many factors affecting these issues (for example the COVID-19 pandemic, wider regulatory settings, housing market conditions etc.) and isolating the impact of individual changes is difficult. As outlined above, HUD lacks a Market

Analysis Model that would enable us to produce quantified estimates of the potential impact of regulatory changes on the operation of the market.

67. Considering the lack of evidence and complexity of factors influencing the policy problem, it is very difficult to say with any certainty to what extent the 2020 RTA changes have contributed to it. By extension, it is therefore unclear to what extent reversing them will address it.

#### *Impact on supply*

68. Since the 2020 RTA changes were enacted, rental supply has increased, with the number of tenancies (measured by the number of active bonds) increasing by 7.7 percent to October 2023.<sup>32</sup> This trend can also be observed in Queenstown and Dunedin, where the number of tenancies has increased by 13.0% and 4.2% respectively.
69. However, as outlined above, supply increases have not kept pace with demand, resulting in a mismatch. Nationally, demand has been outpacing supply for some time, with people per dwelling having increased from 2.59 to 2.64 between 2013 and 2020,<sup>13</sup> with the population (demand) growing at a much faster rate than dwellings (supply) over this period. While this trend has reversed slightly since then, with people per dwelling falling to 2.54 in 2023,<sup>33</sup> this estimate is likely based on an over-optimistic dwelling estimate (as construction activity is declining) and nevertheless remains high while household size is getting smaller.
70. Similarly, while Queenstown appears to have experienced significant growth in tenancies, it also has one of the fastest growing populations in the country, with the population growing by 9.1% between 2021 and 2023 (compared to national growth of 2.2%).<sup>34</sup>
71. In addition to anecdotal evidence provided by stakeholders, Kantar Public's 'pulse' surveys of landlords and tenants (commissioned by HUD)<sup>18</sup> supports landlords' reports that they are motivated to sell as a result of tenancy law changes. In May 2023, among landlords who had sold a property in the last 6 months, 16 percent reported changes to tenancy laws as a reason for sale.
72. However, it is important to note that the proportion of landlords who have sold a property in the last six months has remained stable across the survey waves (between April 2021 and May 2023) and relatively small, with just 3 percent of landlords having sold a rental property in the last six months.<sup>18</sup> The primary reason for selling has also remained stable, with most landlords who have sold doing so to improve their own financial situation.

#### *Impact on rents*

73. As outlined above, rents have increased significantly in the year to 2023 with this trend expected to continue. Evidence suggests the main drivers of rents are income growth and housing supply relative to demand, not regulatory changes.<sup>13</sup> While regulatory

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<sup>32</sup> Analysis of tenancy bond data collected by Ministry of Business, Innovation and Employment (MBIE).

<sup>33</sup> Analysis of Stats NZ population and dwelling estimates to year ended 2023.

<sup>34</sup> Stats NZ. Subnational population component changes and median age (RC, TA), at 30 June 2018-2023 [https://nzdotstat.stats.govt.nz/wbos/Index.aspx?DataSetCode=TABLECODE7979&\\_ga=2.178425319.2107596962.1706223181-457735459.1691539355](https://nzdotstat.stats.govt.nz/wbos/Index.aspx?DataSetCode=TABLECODE7979&_ga=2.178425319.2107596962.1706223181-457735459.1691539355)

changes can have an impact on rents, their contribution is considered less significant than these main drivers.

74. It's possible that regulatory changes could have increased costs and risks or perceived costs and risks for landlords, incentivising them to increase rents where they would have otherwise left them alone. However, we lack available evidence to test this.

#### *Impact on vetting*

75. Since the 2020 tenancy law reforms were enacted, public and emergency housing demand has increased, which could be a sign of more stringent tenant vetting and people struggling to access the private rental market.
76. However, there are a range of factors driving emergency and social housing demand, such as the overall balance of supply and demand in the housing market, housing affordability and rent levels in the private market, and wider socioeconomic conditions which influence incomes and job market performance. Tenant vetting and prejudicial treatment is also likely to remain present where demand outstrips supply, as landlords will have greater confidence that they won't have to 'settle' for tenants they consider to be unsuitable.

#### *Impact on security of tenure*

77. As noted above (para 12), the 2018 GSS showed that the most common reason for tenants moving was because their tenancy was ended by the landlord (responsible for 1 in 4 moves, noting that the GSS does not include information on the grounds for the tenancy ending).
78. At the time of writing, there has not been a more recent GSS wave to compare against. However, insights from Kantar Public's 'pulse' survey of landlords and renters suggests that since April 2021, after the tenancy law changes had come into effect, the majority of moves have been initiated by tenants.
79. In May 2023, landlords who had had a tenancy end in the last 12 months reported that 79% of these were because the 'tenant chose to end it'.<sup>18</sup> Among renters who had moved in the last 6 months, the most common reasons reported also suggest moves initiated by themselves, rather than the landlord. However, some commonly reported reasons could also evidence involuntary moves, such as 'not satisfied with the quality of the rental property', which was cited by 16 percent of renters.
80. Other available indicators are average tenure length, which shows the average private rental tenancy has increased in length by over 6.5 months in the last decade, up to almost 2 years in July 2023.<sup>35</sup>
81. However, we can't identify singular causes of the above observations. Many factors affect tenure length and why tenancies end, and many were shifting in this period. For example, COVID-19 and broader market conditions at the time could have encouraged tenants to stay in their tenancy or prevented landlords from ending tenancies when they otherwise might have.

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<sup>35</sup> Analysis of tenancy bond data collected by Ministry of Business, Innovation and Employment (MBIE).



## What objectives are sought in relation to the policy problem?

82. The National Party and ACT Party Coalition Agreement commits to the changes assessed here as part of a package of measures designed “to lift New Zealand’s productivity and economic growth to increase opportunities and prosperity for all”.
83. Previously, when discussing the tenancy law changes specifically, Coalition Government parties have stated the objectives for these changes are to better support landlords by reducing their business risks so that they are encouraged to offer properties for rent and, overall, increase rental supply. Therefore, the stated objectives are:
- To increase rental supply.
84. Which will be achieved by delivering on a second order objective:
- To incentivise landlords into the private rental market by addressing their concerns with existing regulatory settings.
85. As noted above, it is unclear that achieving the second objective will result in significant and observable supply increases, thereby delivering on the first objective. As discussed in the constraints sections above and below in section 2, additional options for achieving the objectives have not been explored as these options have been committed to by the Coalition Government.

## Section 2: Deciding upon an option to address the policy problem

### What criteria will be used to compare options to the status quo?

86. The options have been assessed against the following criteria:
- **Effectiveness** (landlords): Will the option address landlords’ concerns and increase control over their property?
  - **Effectiveness** (supply): Will the option increase rental supply?
  - **Efficiency**: Does the option minimise costs to impacted parties, including tenants, landlords, the Regulator and courts?
  - **Fairness**: Is the option fair and reasonable in the way it treats regulated parties? Where benefits are accrued by one party at cost to the other, is this trade proportionate?
87. For the purposes of assessing the options against the criteria, we have assigned the criteria equal weighting. We consider this appropriate as the assessment is qualitative, rather than quantitative.
88. There will be some tension between effectiveness and fairness, given the proposals are intended to address landlords’ concerns and reverse changes which were made to improve tenants’ security of tenure.

### What scope will options be considered within?

89. The options considered were committed to in the National Party’s Manifesto documents and the National Party and ACT Coalition Agreement. These options are considered against the status quo only.

90. Timeframes and clear commissioning on desired options has limited our ability to consider additional options, including non-regulatory options. However, it is not clear that non-regulatory approaches to the options would be appropriate in this case, as the Coalition Government's direction and commitments relate directly and specifically to regulatory settings in the RTA.

### What options are being considered?

91. For each of the three proposals, one option (the Coalition Government preferred option) is considered in addition to the status quo.

#### Restoring landlords' ability to issue 90-day no cause terminations

##### Option one: The status quo, maintain the removal of 90-day no cause terminations for periodic tenancies, and retain additional termination grounds introduced in 2020

92. There is no 90-day no cause termination ground available in the RTA. Landlords are only able to terminate a periodic tenancy using a specified reason in the RTA.
93. Additional reasons a periodic tenancy could be terminated with 90 days' notice, which were introduced in 2020 alongside the removal of 90-day no cause terminations, would be retained. These are where:
- a) The premises are to be put on the market.
  - b) There is an unconditional sale agreement for the premises requiring vacant possession.
  - c) The landlord is not the owner and their interest in the premises is due to end.
  - d) The premises are required to facilitate the use of nearby land for a business activity.
  - e) The premises are to be converted into commercial premises.
  - f) Extensive renovations are to occur and it would not be reasonably practicable for the tenant to remain in occupation while the work is undertaken.
  - g) The premises are to be demolished.
  - h) The tenants have committed anti-social behaviour.
  - i) The tenant owes 21 days of rent or more or doesn't remedy the overdue rent.
94. Additional reasons a social housing tenancy could be terminated with 90 days' notice, which were introduced in 2020 alongside the removal of 90-day no cause terminations would also be retained. These are where:
- a) the tenant is no longer eligible for social housing,
  - b) if a community housing provider (CHP) is no longer registered as a CHP, or
  - c) if a public landlord needs to transfer a tenant to a different property.

##### Option two: Reintroduce 90-day no cause terminations for periodic tenancies and amend additional termination grounds

95. Landlords would be able to terminate a periodic tenancy with 90 days' notice, without giving a specified reason.

96. The termination grounds described in paragraphs 93 and 94, would be removed, as they would no longer be necessary with the exception of 93 (h) and (i). These grounds would be retained as social housing providers report that they are useful and important tools for managing and sustaining tenancies.

### **Restoring landlords' ability to unilaterally end a fixed-term tenancy at the end of term**

#### **Option one: The status quo, only allow a landlord to end a fixed-term tenancy at the end of term using specified grounds set out in the RTA**

97. At the end of a fixed-term tenancy, the tenancy will automatically convert to a periodic tenancy, unless:
- a) The landlord gives notice of at least 90 days for the reasons specified in the RTA in relation to ending periodic tenancies.
  - b) The tenant gives notice of at least 28 days (with no reason required).
  - c) Both parties agree to extend, renew, or end the fixed-term before it expires.

#### **Option two: Reintroduce landlords' ability to unilaterally end a fixed-term tenancy at the end of term**

98. At the end of a fixed term tenancy, the tenancy will automatically convert to a periodic tenancy, unless:
- a) The landlord gives notice between 90 and 21 days before the fixed-term expires with no reason required.
  - b) The tenant gives notice of at least 21 days' (with no reason required).
  - c) Both parties agree to extend, renew, or end the fixed-term before it expires.

### **Returning landlords' and tenants' notice periods for periodic tenancies to previous lengths**

#### **Option one: The status quo, maintain longer notice periods for landlords and tenants**

99. Landlords' notice period for terminating a periodic tenancy would remain at 63 days where:
- a) The owner of the premises requires the premises as the principal place of residence for the owner or any member of that owner's family;
  - b) The landlord customarily uses the premises, or has acquired the premises, for occupation by employees of the landlord, that fact being clearly stated in the tenancy agreement, and the premises are required for occupation by such an employee.
100. Landlords notice period for terminating a periodic tenancy would remain at 90 days where the owner is required, under unconditional agreement for the sale of the premises to give the purchaser vacant possession.
101. Tenants would be required to give at least 28 days' notice to end a periodic tenancy, unless the landlord agrees to a shorter timeframe.

#### **Option two: Reduce landlords' and tenants' notice periods**

102. Landlords' notice period for terminating a periodic tenancy would reduce to 42 days where:

- a) The owner of the premises requires the premises as the principal place of residence for the owner or any member of that owner's family;
- b) The landlord customarily uses the premises, or has acquired the premises, for occupation by employees of the landlord, that fact being clearly stated in the tenancy agreement, and the premises are required for occupation by such an employee.
- c) The owner is required, under unconditional agreement for the sale of the premises to give the purchaser vacant possession.

103. Tenants would be required to give at least 21 days' notice to end a periodic tenancy, unless the landlord agrees to a shorter timeframe.

### **Stakeholder views**

104. Stakeholder's views are outlined in section 1. As outlined there, stakeholders' views are well established on these proposals and have remained consistent over time. Broadly, landlords, property managers, property investors and organisations representing their interests were opposed to the status quo options above (i.e. the changes made through the 2020 tenancy law reforms) and supportive of the alternative options set out above (i.e. the status quo prior to the 2020 tenancy law reforms). In contrast, tenants and organisations representing their interests were more supportive of the status quo options outlined above and oppose the alternative options (which return to pre-2020 status quo).

## How do the options compare to the status quo/counterfactual?

### Restoring landlords' ability to issue 90-day no cause terminations

Option One – Status Quo	Option Two – Reintroduce 90-day no cause terminations for periodic tenancies and amend additional termination grounds
<b>Effectiveness (landlords)</b>	
0	<p style="text-align: center;">++</p> <p>Directly addresses landlords call for 90-day no cause terminations to be reintroduced. Provides reassurance to them that they will be able to regain control of their property when they want to (when rented via a periodic tenancy) and returns what they regard as an essential tool for property management, particularly for dealing with anti-social behaviour.</p> <p>Simplifies legislation and likely makes it easier to use for landlords and property managers.</p>
<b>Effectiveness (supply)</b>	
0	<p style="text-align: center;">0</p> <p>Directly addresses an issue which landlords report is causing them to leave the market, or consider leaving, which would reduce rental supply. This option could therefore incentivise these landlords to stay in the market, maintaining supply, and incentivise landlords who may have left or new landlords to enter the market, which could increase rental supply. Depending on the magnitude of this effect, this could reduce pressure on further rent rises or put downward pressure on rents.</p> <p>However, it's unclear whether the removal of no cause terminations resulted in any significant supply reductions. Therefore, any supply increases may be marginal or insufficient to deliver benefit amidst growing demand, driven by external factors such as high migration and population growth.</p>
<b>Efficiency</b>	
0	<p style="text-align: center;">--</p> <p>This may reduce pressure on the Tribunal and reduce costs and delays for landlords when terminating a tenancy. Tribunal involvement would no longer be required in many situations and disputes regarding the termination of tenancies would likely be less common (as tenants will likely be disincentivised from disputing a termination issued with no cause).</p> <p>Some tenants may experience improved access to the private rental market as landlords feel less need to stringently vet tenants. This is likely to benefit marginalised and socioeconomically disadvantaged households (e.g. low-income households), who are more likely to be discriminated against by landlords.</p> <p>This option may reduce costs (actual or perceived) for landlords. This may also translate into reduced pressure on future rent rises, which would benefit tenants.</p> <p>This option would reduce actual and perceived security of tenure for tenants:</p> <p><i>Actual</i></p> <p>There may be more churn in the market and higher residential mobility among renters. Higher residential mobility is associated with lower education, employment, health and wellbeing outcomes. Moving more frequently would also impose increased moving costs on tenants. Higher tenancy turnover could also drive higher demand for hardship and housing support payments (e.g. rent in</p>

	<p>advance, bond grants, whiteware and furnishings), increasing costs to government at the margins.</p> <p>In a tight rental market, some people will be unable to find a new housing option which suits their needs, and some people will be unable to secure new housing in the private rental market. This could increase demand for government housing support, social housing, and costs to government at the margins. This would likely impact marginalised and socioeconomically disadvantaged households (e.g. low-income households), who are more likely to be discriminated against.</p> <p>Landlords may be incentivised to use 90-day no cause terminations to raise rents more frequently than every 12 months. This risk increases in a tight rental market and could result in further upward pressure on rents.</p> <p>It is unclear whether the introduction of no cause terminations would result in more frequent or higher rates of termination, meaning it is unclear what the magnitude of these costs would be.</p> <p><i>Perceived</i></p> <p>Tenants are likely to be more reluctant to enforce their rights and raise issues in periodic tenancies, due to concern that this may result in them losing their housing. While the ability to challenge terminations which are suspected to be retaliatory will mitigate this cost to an extent, it is highly unlikely to fully mitigate this cost. As above, tenants will also be less likely to dispute the grounds for termination when no grounds are provided.</p> <p>Reduced predictability over the future stability of housing can reduce tenants' wellbeing and disincentive participation in communities.</p>
<b>Fairness</b>	
0	-
	<p>This option delivers clear benefit to landlords while delivering uncertain benefit and significant cost to tenants in terms of tenure security. Treatment of the regulated parties may not therefore be well balanced, and it is not clear that the benefits are proportionate to the costs.</p>
<b>Overall assessment</b>	
0	0/-
	<p>Finely balanced with status quo or possible net cost. While the benefit to landlords is clear, the degree to which this option will improve rental supply is uncertain. This option will also significantly reduce tenants actual and perceived security of tenure. While these impacts are difficult to quantify and measure, the outcomes are exacerbated in a tight rental market where securing new housing is challenging.</p>

## Restoring landlords' ability to unilaterally end a fixed-term tenancy at the end of term

<p><b>Option One</b> – Status Quo</p>	<p><b>Option Two – Reintroduce landlords' ability to unilaterally end a fixed-term tenancy at the end of term</b></p> <p><i>Note this analysis assumes 90-day no cause terminations are available for periodic tenancies</i></p>
<p><b>Effectiveness (landlords)</b></p>	
<p>0</p>	<p style="text-align: center;">++</p> <p>Directly addresses landlords concern by restoring certainty that a fixed-term tenancy will end at the end of the fixed-term if they want it to. Supports more landlords to ensure their properties are being rented using tenancy agreements that suit their needs.</p>
<p><b>Effectiveness (supply)</b></p>	
<p>0</p>	<p style="text-align: center;">0/+</p> <p>While we have limited evidence that changes to fixed-term tenancies reduced rental supply (and therefore limited evidence that reversing this change, as proposed by this option, will increase supply), there is greater certainty that the changes had unintended impacts for some rental markets which are more likely to have constrained supply. These are markets with year-round tourist demand, such as Queenstown, and student markets, such as Dunedin. These markets have traditionally relied on fixed-term tenancies and certainty that the tenancy will end at the end of the fixed-term. Reducing this certainty appears more likely than not to have incentivised some landlords to shift their properties to short-term rental accommodation options or take them out of the market.</p> <p>While the overall balance of supply and demand in these markets is influenced by a range of factors and these markets are likely to remain supply constrained following this option, we have moderate certainty that this option will at least remove a barrier to supply in these markets.</p>
<p><b>Efficiency</b></p>	
<p>0</p>	<p style="text-align: center;">-</p> <p>Some tenants may experience improved access to the private rental market as landlords feel less need to stringently vet tenants (as landlords have certainty the tenancy can end). This is likely to benefit marginalised and socioeconomically disadvantaged households (e.g. low-income households), who are more likely to be discriminated against by landlords.</p> <p>This option may reduce costs (actual or perceived) for landlords. This may also translate into reduced pressure on future rent rises, which would benefit tenants.</p> <p>This option would reduce actual and perceived security of tenure for tenants:</p> <p><i>Actual</i></p> <p>This option will likely increase churn and residential mobility in the rental market, as more tenants who would prefer to stay in their property after the end of a fixed-term will no longer be able to if the landlord wants to end the tenancy. Higher residential mobility is associated with lower education, employment, health and wellbeing outcomes. Moving more frequently will also impose increased moving costs. Higher tenancy turnover could also drive higher demand for hardship and</p>

	<p>housing support payments (e.g. rent in advance, bond grants, whiteware and furnishings), increasing costs to government at the margins.</p> <p>In a tight rental market, some people will be unable to find a new housing option which suits their needs and some people will be unable to secure new housing in the private rental market. This could increase demand for government housing support, social housing, and costs to government at the margins. This risk is exacerbated by the short notice tenants could be given (21 days) which may be insufficient to find new housing, particularly in a tight market. This would likely impact marginalised and socioeconomically disadvantaged households (e.g. low-income households), who are more likely to be discriminated against.</p> <p>This option increases the likelihood that tenants will be required to sign up to tenancies which do not meet their needs in order to stay in a property. For example, where a tenant would have preferred to move onto a periodic tenancy at the end of a fixed-term previously, the landlord may require them to sign-up to a further fixed-term or face termination. This may increase churn (if the tenant ends up seeking to move part way through the tenancy), and result in more Tenancy Tribunal cases (as tenant's may be more likely to seek to break a fixed-term).</p> <p>This option would return some markets to yearly cycles of fixed-term tenancies which previously existed in some markets. Over time, this may inflate rental demand and rent prices at particular points of the year.</p> <p>The magnitude of these costs will depend on whether the amendment of fixed-term tenancies results in significantly more tenancies being terminated than there would have been, which is unclear.</p> <p><i>Perceived</i></p> <p>Tenants are likely to be more reluctant to enforce their rights and raise issues, particularly near the end of a fixed-term, due to concern that this may undermine their ability to stay in the property. While the ability to challenge terminations which are suspected to be retaliatory will mitigate this cost to an extent, it is highly unlikely to fully mitigate this cost. Tenants will also be less likely to dispute the grounds for termination when no grounds are required to be provided.</p> <p>Reduced predictability over the future stability of housing can reduce tenants' wellbeing and disincentivise participation in communities.</p>
<b>Fairness</b>	
0	<p style="text-align: center;">-</p> <p>This option delivers clear benefits to landlords. Tenants will bear costs with potential benefit, which may be unevenly distributed between markets. However, tenant benefits are unlikely to exceed costs.</p>
<b>Overall assessment</b>	
0	<p style="text-align: center;">0/-</p> <p>Finely balanced with status quo or possible net cost. This option delivers clear benefits for landlords and appears more likely than not to remove a constraint on supply in some rental markets. If this resulted in significantly increased supply, this would deliver clear benefits for tenants. However, the likelihood of this benefit being realised, and to what extent is uncertain. This option is likely to bring significant costs for tenants' tenure security. However, we do note that security of tenure benefits tenants could accrue under the status quo for this issue would be nullified in the context of no cause terminations being available for periodic tenancies (as a landlord wanting to terminate a tenancy, but prevented from</p>



	doing so at the end of the fixed-term, could issue a 90-day no cause notice as soon as the tenancy converted to periodic).
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### Returning landlords’ and tenants’ notice periods for periodic tenancies to previous lengths

Option One – Status Quo	Option Two – Reduce landlords’ and tenants’ notice periods
<b>Effectiveness (landlords)</b>	
0	+ Addresses a concern raised by some landlords and could reduce costs and challenges which can be faced when selling a property. Increases landlords’ flexibility and ability to quickly regain control of their property under certain conditions.  Landlords may face additional costs as a result of reduced notice periods for tenants if they are unable to re-tenant the property quickly.
<b>Effectiveness (supply)</b>	
0	0 Unclear evidence that this has contributed significantly to supply reductions and that reducing notice periods will deliver significant supply improvements.
<b>Efficiency</b>	
0	- This option may reduce costs (actual or perceived) for landlords. This may also translate into reduced pressure on future rent rises, which would benefit tenants. Significantly reduced notice periods for these grounds, compared to notice periods for other termination grounds, may incentivise landlords to misuse them. This could increase applications to the Tenancy Tribunal through increased disputes about appropriate use of termination grounds.  Tenants will benefit from reduced notice periods in periodic tenancies. This may reduce costs for them by reducing periods in which they are required to pay rent on two properties.  This option could increase costs for tenants and reduce tenure security by reducing the time available for them to secure new housing. This risk is exacerbated in a tight market. People may be forced to pay higher housing costs for short-term accommodation options in between tenancies, more likely to settle for housing options which do not meet their needs, or may be unable to secure housing. This could increase demand for government housing support, social housing, and costs to government at the margins. This would likely impact marginalised and socioeconomically disadvantaged households (e.g. low-income households), who are more likely to be discriminated against.
<b>Fairness</b>	
0	0/- Under this option, both landlords and tenants experience benefits and costs. The costs to tenants likely outweigh the benefits they receive.

Overall assessment	
0	0/- Finely balanced with status quo or possible net cost. While both tenants and landlords are subject to costs and benefits under this option, the costs tenants are likely to experience outweigh both the benefits they receive and the value of the benefits to landlords.

- ++ much better than doing nothing/the status quo/counterfactual
- + better than doing nothing/the status quo/counterfactual
- 0 about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

### Treaty of Waitangi analysis of the termination proposals

105. The proposals may benefit some tenants through improved access to the rental market and potential increase in supply at the margins. Any overall improvements in the rental market should benefit Māori who disproportionately rent over other tenures.
106. However, evidence suggests the proposals will negatively impact on actual and perceived security of tenure for many tenants compared to the status quo. This will be borne more strongly by lower-income households, who are more likely to find it hard to access housing. As a result, the proposals may increase the risk that more households will need emergency housing, and/or social housing. These negative impacts are likely to disproportionately affect Māori, as Māori are more likely to live in rented accommodation, have a lower overall median income than the general population and are more likely to experience discrimination than the general population. Māori also already make up a disproportionate percentage of people receiving Emergency Housing Special Needs Grants and on the Social Housing Register.
107. The Waitangi Tribunal has indicated that where disparities exist, active intervention may be required by the Crown to remove those disparities. It is likely these proposals will raise concerns and criticism from the Waitangi Tribunal, in relation to the risk they result in further inequities (Article 3), the lack of consultation with Māori, and consistency with the principles of partnership, participation, and active protection.
108. Applying a place-based lens, these negative impacts are more likely to be felt in areas with high Māori populations and limited housing supply (such as the Bay of Plenty, Far North, and Te Tairāwhiti). At the margins, any positive impacts on supply from the proposals may be felt in those areas.

### What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

109. No conclusion has been reached regarding a HUD preferred option from the analysis. This is largely due to a lack of evidence regarding whether the options will increase supply. Increased rental supply would deliver substantial benefits to tenants which could be more capable of counterbalancing the security of tenure costs they are likely to experience as a result of the non-status quo options considered above. Striking an

appropriate balance between supporting flexibility for landlords and tenure security for tenants is particularly important for HUD in light of commitments made to providing stable and secure housing in our strategies, such as the Government Policy Statement on Housing and Urban Development (GPS-HUD),<sup>36</sup> MAIHI Ka Ora – the National Māori Housing Strategy,<sup>37</sup> and Fale mo Aiga – Pacific Housing Strategy 2030.<sup>38</sup>

110. While the analysis suggests the status quo might be preferable to the other options considered, the status quo is not preferred as it does not meet the Coalition Government and Ministerial expectations and direction.

### What are the marginal costs and benefits of the option?

#### Restoring landlords' ability to issue 90-day no cause terminations

Affected groups	Comment	Impact	Evidence Certainty
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups	<i>Tenants</i> Actual and perceived security of tenure costs, with flow-on wellbeing and financial costs. Likely to disproportionately impact population groups who are overrepresented in the rental market.	High	Medium Magnitude of cost depends to an extent on whether this option increases termination numbers (which is more uncertain). Evidence from 2018 suggests landlord-initiated terminations may be more common. <sup>39</sup>
Regulator (MBIE)	Operational costs associated with updating operational policies and procedures, staff training and communicating the changes to key external stakeholders.	Low (absorbed in baselines)	High
Others (eg, wider govt, consumers, etc.)	Risk of increased costs to the Crown at the margins, if increases in government housing support is required for households unable to secure new housing in the private market after their tenancy is ended.	Low	Low As above, depends on whether this option increases termination numbers and what proportion of those terminated are unable to secure housing in the private market.

<sup>36</sup> Te Tūāpapa Kura Kāinga. (2021). Government Policy Statement on Housing and Urban Development (GPS-HUD) <https://www.hud.govt.nz/our-work/government-policy-statement-on-housing-and-urban-development/>

<sup>37</sup> Te Tūāpapa Kura Kāinga. (2022). MAIHI Ka Ora – the National Māori Housing Strategy. <https://www.hud.govt.nz/our-work/maihi-ka-ora-the-national-maori-housing-strategy/>

<sup>38</sup> Te Tūāpapa Kura Kāinga, Kāinga Ora, Ministry for Pacific Peoples. (2022). Fale mo Aiga - Pacific Housing Strategy 2030. [https://www.hud.govt.nz/assets/Uploads/Documents/4208-Fale-mo-Aiga\\_Placemat-6\\_0.pdf](https://www.hud.govt.nz/assets/Uploads/Documents/4208-Fale-mo-Aiga_Placemat-6_0.pdf)

<sup>39</sup> See paragraphs 77 – 81 above.

<b>Total monetised costs</b>		Unclear	Low
<b>Non-monetised costs</b>		Medium – High	Low – Medium
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups	<p><i>Landlords</i> Reduced risk and potential reduced costs from increased certainty and control over when to end tenancy.</p> <p><i>Tenants</i> Possible rental supply increases at margins, improving rental access, and if cost reductions or supply increases translate into downward pressure on rents. Possible benefits for some tenants unable to secure private market housing under status quo, due to vetting.</p>	Medium	<p>Medium – High</p> <p>Low</p> <p>Low</p>
Regulators	None	N/A	N/A
Others (eg, wider govt, consumers, etc.)	<p>Some reduced demand on government housing support if people previously reliant on government housing support are now able to access private rental market.</p> <p>Some reduction in Tenancy Tribunal caseload, as landlords terminating periodic tenancies will not require Tribunal's involvement.</p>	Low	<p>Low</p> <p>Medium</p>
<b>Total monetised benefits</b>		Unclear	Low
<b>Non-monetised benefits</b>		Low – Medium	Low – Medium

### Restoring landlords' ability to unilaterally end a fixed-term tenancy at the end of term

Affected groups	Comment	Impact	Evidence Certainty
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups	<p><i>Tenants</i> Actual and perceived security of tenure costs, with flow-on wellbeing and financial costs. Likely to disproportionately impact</p>	High	<p>Medium Magnitude of cost depends on whether this option increases churn in market and</p>

	population groups who are overrepresented in the rental market.		results in more tenants leaving fixed-term tenancies who would have otherwise stayed on in a periodic tenancy.
Regulators	Operational costs associated with updating operational policies and procedures, staff training and communicating the changes to key external stakeholders.	Low (absorbed in baselines)	High
Others (eg, wider govt, consumers, etc.)	Risk of increased costs to the Crown at the margins, if increases in government housing support is required for households unable to secure new housing in the private market after their tenancy is ended.	Low – Medium	Low – Medium  As above, depends on whether this option increases termination numbers and what proportion of those terminated are unable to secure housing in the private market.
<b>Total monetised costs</b>		Unclear	Low
<b>Non-monetised costs</b>		Medium – High	Low – Medium
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups	<p><i>Landlords</i></p> <p>Reduced risk and potential reduced costs from certainty that fixed-term can mark the end of tenancy if wanted.</p> <p><i>Tenants</i></p> <p>Possible rental supply increases in markets like Queenstown and Dunedin, improving rental access and affordability if translates into downward pressure on rents.</p> <p>Possible rental supply increases at margins nationally, improving rental access.</p> <p>Possible benefits for some tenants unable to secure private market housing under status quo, due to vetting.</p>	Medium	<p>Medium – High</p> <p>Low – Medium</p> <p>Low</p> <p>Low</p>
Regulators	None	N/A	N/A
Others (eg, wider govt, consumers, etc.)	Some reduced demand on government housing support if people previously reliant on government housing support are	Low	Low

	now able to access private rental market.  Some reduction in Tenancy Tribunal caseload, as landlords ending fixed-term tenancies at the end of term will not require Tribunal's involvement.	Low	Medium
<b>Total monetised benefits</b>		Unclear	Low
<b>Non-monetised benefits</b>		Low – Medium	Medium

### Returning landlords' and tenants' notice periods for periodic tenancies to previous lengths

Affected groups	Comment	Impact	Evidence Certainty
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups	<p><i>Landlords</i> May be exposed to lost rent due to short-tenant notice period.</p> <p><i>Tenants</i> Likely to be exposed to increased costs, forced to settle for housing which does not meet their needs, or unable to secure housing as a result of shorter landlord notice periods.</p>	<p>Medium</p> <p>High</p>	<p>Medium</p> <p>Tenant costs depend on whether this option increases termination numbers and what proportion of those terminated are unable to secure housing in the private market.</p>
Regulators	Operational costs associated with updating operational policies and procedures, staff training and communicating the changes to key external stakeholders.	Low (absorbed in baselines)	High
Others (eg, wider govt, consumers, etc.)	Possible higher burden on Tenancy Tribunal, as shorter notice periods may incentivise landlords to misuse these termination grounds, which may be contested by tenants.	Low	Low
<b>Total monetised costs</b>		Unclear	Low
<b>Non-monetised costs</b>		Medium	Medium
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups	<p><i>Landlords</i> Reduced costs in some cases when needing to end a tenancy</p>	Low – Medium	Medium

	<p>for these grounds, following shorter notice period.</p> <p><i>Tenants</i></p> <p>Possible reduced pressure on future rent rises if landlords costs are reduced (actually or perceived to be).</p> <p>Reduced costs in some cases when ending a periodic tenancy, following shorter notice period.</p>		
Regulators	None	N/A	N/A
Others (eg, wider govt, consumers, etc.)	None	N/A	N/A
<b>Total monetised benefits</b>		Unclear	Medium
<b>Non-monetised benefits</b>		Low – Medium	Low – Medium

## Section 3: Delivering an option

### How will the new arrangements be implemented?

111. The proposals will be given effect through a Residential Tenancies Amendment Bill, which is intended to be introduced and referred to select committees s 9(2)(f)(iv)

s 9(2)(f)(iv)

113. MBIE and HUD will develop a legislative implementation plan that ensures:

- the Regulator has the operational policies, processes and systems in place to meet their responsibilities and give effect to the new requirements.
- the Regulator can deliver an effective communications programme that ensures regulated parties and other key stakeholders understand their new rights and responsibilities and have sufficient time to give effect to them.
- The Tenancy Tribunal and the wider Justice sector together with other government agencies with an interest in the reforms are engaged appropriately.
- HUD can meet its regulatory stewardship responsibilities, including monitoring and evaluating the impact of the proposed changes.

114. The Ministry of Justice will update its Tribunal case management system to reflect the RTA changes, if required.

115. MBIE will develop and implement a communications programme to ensure that landlords and tenants and other key stakeholder groups understand the new security of tenure and enforcement provisions.

### How will the new arrangements be monitored, evaluated, and reviewed?

116. HUD and MBIE are the regulatory stewards for the residential tenancy system. We will monitor the implementation of the proposed legislative changes as part of:

- a) Monitoring and evaluation of housing related outcomes and intermediate outcomes as signalled in HUD's Statement of Intent;
- b) Ongoing monitoring and evaluation of the residential tenancy legislation;
- c) Annual regulatory scanning and planning process; and,
- d) Management and monitoring of MBIE's residential tenancy regulatory management functions.

117. In doing so we will draw on the operational data collected by MBIE to fulfil its regulatory management functions and broader macro measures of the system that the System Performance Group at HUD collates, wherever possible.