

12 August 2009

The Chair
Social Services Committee
Parliament Buildings
P O Box 18141
WELLINGTON 6160

President
Rt Hon Sir Geoffrey Palmer SC

Commissioners
Dr Warren Young
George Tanner QC
Emeritus Professor John Burrows QC
Val Sim

RESIDENTIAL TENANCIES AMENDMENT BILL

- 1 This submission is made by the Legislation Advisory Committee (LAC).
- 2 The LAC was established to provide advice to the Government on good legislative practice, legislative proposals, and public law issues. The LAC has produced and updates the Legislation Advisory Committee Guidelines: Guidelines on the Process and Content of Legislation (LAC Guidelines) as appropriate benchmarks for legislation. The LAC Guidelines have been adopted by Cabinet.
- 3 The terms of reference of the LAC include:
 - (a) to scrutinise and make submissions to the appropriate body on aspects of Bills introduced into Parliament that affect public law or raise public law issues:
 - (b) to help improve the quality of law-making by attempting to ensure that legislation gives clear effect to government policy, ensuring that legislative proposals conform with the LAC Guidelines, and discouraging the promotion of unnecessary legislation.
- 4 The LAC does not seek to be heard on this submission.
- 5 The LAC Guidelines emphasise the importance of ensuring legislation is able to be understood by those to whom it applies. Paragraph 2.4.2 of the LAC Guidelines includes the following statement:

Legislation is not meant just for lawyers and judges. It is used and applied every day by persons with no legal training.

- 6 The Residential Tenancies Amendment Bill (Bill) amends the Residential Tenancies Act 1986 (Act). The Act is a big Act (144 sections). It is also an important Act that affects a significant number of people both as tenants and landlords. The explanatory note to the Bill refers to the growth in the private rental sector. The Bill will extend the application of the Act to include tenants in boarding houses. The Act is one of the top selling New Zealand statutes. It is referred to frequently by organisations and groups representing tenants and landlords in giving advice.
- 7 The Bill (70 pages) is not that much shorter than the Act (120 pages). The Bill replaces or adds over 60 new sections and amends over 60 existing sections. Previous amendments to the Act have added new sections and repealed existing sections.
- 8 The LAC suggests that the changes the Bill will make to the Act are so extensive that the Act itself should be rewritten with the changes made by the Bill incorporated. This can be done simply and easily without changing the substance of provisions that are not affected by the Bill and without the risk of inadvertently changing settled law. A rewrite would ensure the Act remains accessible and understandable for users. That should be an important parliamentary objective.
- 9 The Weathertight Homes Resolution Services Act 2006 is a good example of what can be achieved. That Act replaced the Weathertight Homes Resolution Services Act 2002 incorporating a large number of amendments in an amending Bill that was just about as big as the Act it would have amended. This was done at the select committee stage with cross-party support in a short timeframe. The result was a single and accessible Act. The LAC recommends that the same be done with the Residential Tenancies Act 1986.

G E Tanner QC
Member: Legislation Advisory Committee

