

Definition of residential premises in Housing Improvement Bill 2015

The definition of residential premises pursuant to the Housing Improvement Bill 2015 includes premises intended to be used or being used as a place of residence. This may include premises such as retirement villages, community housing and public housing. Each of these types of housing is also regulated by other bodies who manage complaints by residents about their residential premises. Housing Improvement Branch would collaborate with these regulators to provide a consistent and streamlined approach to housing regulation.

Scenarios comparing current *Housing Improvement Act 1940* with proposed Housing Improvement Bill 2015

Scenario 1

The Housing Improvement Branch (HIB) receives a complaint from a tenant about a property they are renting. The owner is aware of the issues and is willing to address them. The owner has advised the tenant they are planning on placing the property on the market for sale.

Housing Improvement Act 1940

A Housing Investigation Officer (HIO) arranges a time to inspect the property. The HIO attends the property as arranged and conducts an inspection. The HIO identifies a number of sub-standard and maintenance defects with the property, including the structural integrity of a veranda. The HIO determines that the property should proceed to a Notice of Intention to declare the property sub-standard and obtains approval from the South Australian Housing Trust (SAHT) Board delegate to do so.

HIB writes to the owner and advises of the intention to declare the property substandard. The letter advises the owner that they have one month to submit any matters they wish to be considered prior to declaration. If there is no contact from the owner or their representative by this date, declaration of the property as sub-standard will proceed. If the owner chooses to remedy the defects to the approval of HIB within one month, the notice of intention will be withdrawn and no further action will be taken under the Act.

A copy of the letter is provided to the council and any mortgagee. HIB writes to the tenant and advises of the progress of the matter.

The owner contacts HIB and advises that he is planning on addressing the issues, but it may take two months to arrange trades to have the sub-standard defects addressed. The owner also advises that he is planning on putting the property on the market. HIB agree to defer the declaration of the property as sub-standard for two months to allow the owner time to address the defects. HIB also advises the owner that pursuant to the Act, an owner is obliged to provide notice in writing to any purchaser of the property that this notice has been served.

After six weeks, the owner contacts HIB and requests a re-inspection of the property. HIB undertakes a re-inspection and agrees that the sub-standard defects have been addressed. HIB withdraws the Notice of Intention and no further action is taken under the Act.

Housing Improvement Bill 2015

An Authorised Officer (AO) contacts the tenant and makes a time to inspect the property. The AO attends the property as arranged and conducts an inspection. The AO identifies a number of sub-standard and maintenance defects with the property. The AO contacts the owner to advise that HIB have attended the property and discusses the defects identified.

The AO advises that these matters require rectification and asks the owner of their intention. The owner says they are aware of the issues and are willing to address them over the next two months. The owner also advises the AO they are planning on placing the property on the market for sale.

HIB writes to the owner and advises that on the basis that the defects will be addressed within a two month period, HIB will not issue a Housing Improvement Order or proceed to rent control at this stage but will undertake an inspection within a month to ensure works are progressing. If the defects have not been significantly remedied at this point, HIB will consider whether to issue a Housing Improvement Order and proceed to rent control.

On inspection of the property after one month, the owner has significantly addressed the sub-standard defects. At a re-inspection 2 weeks later, HIB agrees that the sub-standard defects have been addressed. HIB takes no further action under the Act.

Scenario 2

A property has been inspected and a significant number of sub-standard defects have been identified. The owner has advised HIB that they have no intention of addressing the sub-standard defects and is aware that the property will be subject to rent control.

Housing Improvement Act 1940

Following a Notice of Intention to declare the property sub-standard, the property is declared sub-standard and published in the Government Gazette. The owner is advised in writing of the Declaration and that they may appeal the Declaration to the Administrative and Disciplinary division of the District Court. One month after the sub-standard declaration, HIB writes to the owner advising that a notice has been published in the Government Gazette fixing the sum of \$220 as the maximum rent per week payable for this property. The owner is advised they may request a re-inspection at any time to vary the maximum fixed rent and HIB can do so where there is reason to justify a variation. The imposing of rent control will usually occur 8-10 weeks after the Notice of Intention, depending on contact and information provided from the owner.

Housing Improvement Bill 2015

As negotiations with the owner have indicated no action will be taken, HIB writes to the owner and issues the owner with a Housing Improvement order and a preliminary rent control notice. After 14 days, HIB proceed with issuing a rent control notice which is published in the Government Gazette fixing the sum of \$220 as the maximum rent per week payable for this property. The owner is advised they may request a re-inspection at any time to vary the maximum fixed rent and HIB can do so where there is reason to justify a variation. The Housing Improvement Order and the rent control notice may be appealed to South Australian Civil and Administrative Tribunal (SACAT).

Scenario 3

A property has been declared sub-standard and is the subject of rent control for \$220 per week. The tenant has entered a periodic lease. The tenant contacts HIB and advises that they are still paying \$300 per week and the landlord has served them with an eviction notice.

Housing Improvement Act 1940

HIB contacts the tenant and advises them that a landlord cannot evict a tenant after a property has been declared sub-standard without taking the matter to SACAT and that they can appeal the eviction notice to SACAT.

HIB writes to the property owner advising that it is an offence to charge more than the rent control notice and they can be prosecuted. HIB contacts the tenant two weeks later and the tenant advises that they are now paying \$220 per week in rent. HIB advises the tenant that they can lodge an action with SACAT to recoup the over-charged rent.

Housing Improvement Bill 2015

HIB contacts the tenant and advises them that a landlord cannot evict a tenant after an inspection by HIB without taking the matter to SACAT.

HIB writes to the property owner advising that it is an offence to charge more than the rent control notice and they can be prosecuted. HIB may elect to issue the owner with an expiation fee. HIB contacts the tenant two weeks later and the tenant advises that they are now paying \$220 per week in rent. HIB advises the tenant that they can lodge an action with SACAT to recoup the over-charged rent.

Scenario 4

HIB receives a complaint from a tenant about a property they are renting. The property is a unit in a multi-storey dwelling. The tenant has advised that the property has significant damp and water damage. The tenant believes the source of the water is from an adjoining unit.

Housing Improvement Act 1940

A HIO contacts the tenant and makes a time to inspect the property. The HIO attends the property as arranged and conducts an inspection. The HIO observes that the property is currently sub-standard as the property is not reasonably free from damp and has obvious water damage. The HIO determines that the property should proceed to a Notice of Intention to declare the property sub-standard and obtains approval from the South Australian Housing Trust (SAHT) Board delegate to do so.

The HIO contacts the tenant of the adjoining property suspected of being the source of the water damage and requests an inspection. The HIO observes that this property is currently sub-standard as the property is not reasonably free from damp and has obvious water damage and identifies that the source of the water may be from a pipe contained within this property. The HIO determines that this property should also proceed to a Notice of Intention to declare the property sub-standard and obtains approval from the South Australian Housing Trust (SAHT) Board delegate to do so.

The owner of the adjoining property takes action to repair the water leak. The owner of the original property repairs the damage within their property. The Notice of intention for both properties is withdrawn and no further action is taken under the Act.

Housing Improvement Bill 2015

An AO contacts the tenant and makes a time to inspect the property. The AO attends the property as arranged and conducts an inspection. The AO observes that the property is currently sub-standard as the property is not reasonably free from damp and has obvious water damage. The AO discusses the situation with the owner, who indicates their willingness to repair the water damage once the water issues are resolved.

The AO contacts the tenant of the adjoining property suspected of being the source of the water damage and requests an inspection. The AO observes that this property is currently sub-standard as the property is not reasonably free from damp and has obvious water damage and identifies that the source of the water may be from a pipe contained within this property. HIB writes to the owner and issues them with a housing assessment order to determine if the water issues are emanating from this property and how best to address them.

The Housing Assessment order may be appealed to SACAT. The assessment report indicates the source of the leak is within the adjoining property and the owner of this property takes action to repair the damage.

The AO confirms the repairs on the adjoining property are completed, then contacts the owner of the original property to advise of the repairs, and establish the owners intention to repair their property. The owner repairs the damage in reasonable time, and no further action is taken.