



# Cabinet

## Minute of Decision

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### Family Violence Withdrawal Notices Regulations and Physical Assault Termination Notices Regulations under the Residential Tenancies Act 1986: Policy Decisions

**Portfolio**                      **Housing**

On 29 August 2022, following reference from the Cabinet Social Wellbeing Committee, Cabinet:

#### Background

- 1        **noted** the Residential Tenancies Amendment Act 2020 amended the Residential Tenancies Act 1986 to include changes that:
  - 1.1      enable tenants who are experiencing family violence to withdraw from a tenancy with only two days' notice; and
  - 1.2      enable landlords to terminate a tenancy with 14 days' notice where the tenant physically assaults the landlord/owner, a member of the landlord/owner's family, or the landlord's agent, and the Police file a charge relating to the assault;
- 2        **noted** that the above changes came into force in August 2021 and tenant advocacy groups are eager for the family violence withdrawal notices regulations to be in place so that tenants experiencing family violence can more easily leave unsafe living situations quickly without on-going rent liability;

#### Family violence withdrawal notices regulations

- 3        **agreed** that a family violence withdrawal notice must include the following information:
  - 3.1      the name of the tenant;
  - 3.2      the premises to which the notice relates; and
  - 3.3      the date that the withdrawal will take effect;
- 4        **agreed** that the qualifying evidence can be either:
  - 4.1      a letter, email or statutory declaration from a specified person outlining they have reasonable grounds to believe the tenant is or was a victim of family violence while a tenant of the premises; or

- 4.2 the first page of a Protection Order if the withdrawing tenant is the person at risk and the Protection Order was issued during the time they were a tenant of the premises and it is still in force; or
  - 4.3 the first page of a Protection Order if the withdrawing tenant is the person at risk and the Protection Order was issued prior to the current tenancy and is accompanied by a statement from the victim that they have been a victim of family violence while they were a tenant of the premises (that does not need to be formally witnessed); or
  - 4.4 a Police Safety Order, if the withdrawing tenant is the person at risk and the Police Safety Order was issued during the time they were a tenant of the premises; or
  - 4.5 a charging document relating to family violence against the withdrawing tenant during the time they were a tenant of the premises; or
  - 4.6 a statutory declaration completed by the withdrawing tenant outlining that they have been a victim of family violence while a tenant of the premises;
- 5 **agreed** that the following persons may write a letter/email as evidence of family violence under 4.1 above:
- 5.1 a doctor registered with the New Zealand Medical Council;
  - 5.2 a nurse registered with the Nursing Council of New Zealand;
  - 5.3 a psychologist registered with the New Zealand Psychologists Board;
  - 5.4 a counsellor who is a member of the New Zealand Association of Counsellors or the Christian Counsellors Association;
  - 5.5 a social worker registered with the Social Workers Registration Board;
  - 5.6 Police;
  - 5.7 a person employed by a family violence service provider;
  - 5.8 a school principal or professional leader (as defined in the Education and Training Act 2020);
  - 5.9 a Māori Warden appointed under the Māori Community Development Act 1962;
  - 5.10 a leader of a religious community who has a status within a church or other religious community that requires or calls for that person to provide guidance or service for that community;
  - 5.11 a psychotherapist registered with the Psychotherapists Board of Aotearoa New Zealand;
  - 5.12 a midwife registered with the Midwifery Council of New Zealand;
  - 5.13 an osteopath registered with the Osteopathic Council of New Zealand;
  - 5.14 a person employed by a sexual violence service provider;
  - 5.15 a person employed by a Whānau Ora provider;
  - 5.16 a home support service worker partially or wholly funded by Ministry of Health, Ministry of Social Development, Te Whatu Ora – Health New Zealand, or Accident Compensation Corporation;

- 5.17 the victim's employer;
- 5.18 the victim's landlord/property manager;
- 5.19 a probation officer;
- 5.20 a person employed by a Māori community provider that receives Crown funding;
- 5.21 a lawyer;

- 6 **agreed** that the property manager, landlord and property owner of the tenancy to which the withdrawal notice relates may disclose the withdrawal notice to each other;
- 7 **noted** that the Residential Tenancies Act 1986 stipulates that the rent is not reduced for remaining tenants if the rent payable under the tenancy by the tenants is income-related rent;
- 8 **agreed** to exempt all remaining Public and Community Housing Management Act 1992 tenancies from the two-week rent reduction;

### Termination for physical assault regulations

- 9 **agreed** that physical assault termination notices must include the following information:
  - 9.1 a description of the physical assault and who engaged in it; and
  - 9.2 the date, approximate time and location of the behaviour; and
  - 9.3 advice that if the tenant does make an application to the Tenancy Tribunal challenging the notice before the tenancy terminates, the tenancy will not terminate under the notice but the Tribunal may make an order terminating the tenancy;
- 10 **agreed** the qualifying evidence that a charge has been filed in relation to a physical assault can be either:
  - 10.1 written confirmation by the Police; or
  - 10.2 a charging document;

s 9(2)(h)



### Next steps

- 13 **invited** the Minister of Housing to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions;
- 14 **authorised** the Minister of Housing to make any further minor policy decisions consistent with the proposals in the paper under SWC-22-SUB-0150 as necessary to address any issues which arise during the drafting process;

15 **noted** that it is expected that the regulations will be submitted to the Cabinet Legislation Committee for approval in December 2022.

Rachel Hayward  
Acting Secretary of the Cabinet

*Secretary's Note: This minute replaces SWC-22-MIN-0150. Cabinet agreed to add paragraph 5.21.*

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