DOIA20/21070595

s 9(2)(a)

Dear s 9(2)(a)

Thank you for your email on 12 July 2021 requesting information about rent controls under the Official Information Act 1982 (the Act). On 17 July 2021 you clarified your request as follows:

> *If there's a general position, or source of information, that's usually referred to when the issue of rent controls comes up, I'd like to know it. For example, do policy analysts generally present rent controls as likely to be effective or ineffective, and what do they reference back to when claiming that?*
>
> *Otherwise, please use good faith judgement for determining the time frame: if the last time rent controls were considered in detail was 2019, I'd like to see what was discussed in 2019, but if the 2021 material covers MHUDs thinking on the topic comprehensively then there's no need to go further back. I'd imagine someone in strategic policy will know who this sits with, or who looked at it last.*

I have identified three documents in scope of your request. These documents include two pieces of advice by Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development to Ministers on rent controls or rent indexation. I am also releasing to you a paper authored by the Department of Prime Minister and Cabinet (DPMC).

Some information has been withheld from these papers under the following sections of the Act:

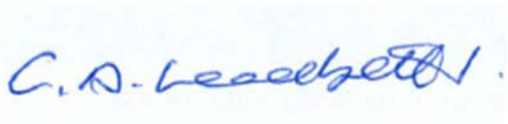
Section of Act	Reason to withhold
9(2)(a)	Protect the privacy of natural persons, including that of deceased natural persons
9(2)(f)(iv)	Maintain the constitutional convention for the time being which protects the confidentiality of advice tendered by Ministers of the Crown and officials
9(2)(g)(i)	Maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty

The above is summarised in the attached document schedule.

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the decision to withhold information under section 9 of the Act is not outweighed by other considerations that render it desirable to make the information available in the public interest.

You have the right to seek an investigation and review of my response by the Ombudsman, in accordance with section 28(3) of the Act. The relevant details can be found on the Ombudsman's website www.ombudsman.parliament.nz.

Yours sincerely



Claire Leadbetter
Manager Tenures and Housing Quality

Document schedule

Date	Tracking number	Title	Sections of the Act applied
21 January 2021	BRF20/21010833	Options for rent indexation and further protection for tenants	9(2)(a) 9(2)(f)(iv) 9(2)(g)(i)
11 February 2021	AMI20/21020448	Speaking points: options for protecting renters from the impacts of demand side measures	9(2)(a) 9(2)(f)(iv) 9(2)(g)(i)
26 February 2021	DPMC-2020/21-583	Findings from a literature scan on rent regulation	9(2)(a) 9(2)(f)(iv)

Te Tūāpapa Kura Kāinga
Ministry of Housing and Urban Development

Briefing

Options for rent indexation and further protections for tenants			
Date:	21 January 2021	**Security level:**	In Confidence
Priority:	Medium	**Report number:**	BRF20/21010833

Action sought

	Action sought	Deadline
Hon Dr Megan Woods **Minister of Housing**	**Note** the recommendations **Indicate** if you wish officials to undertake further analysis	29 January 2021
Hon Poto Williams **Associate Minister of Housing (Public Housing)**	**Discuss** this paper with the Minister of Housing **Note** that the proposals in this paper would require changes to the Residential Tenancies Act 1986	29 January 2021

Contact for discussion

Name	Position	Telephone		1st contact
Claire Leadbetter	Manager, Tenures and Housing Quality	04 832 2431	s 9(2)(a)	✓
Naomi Stephen-Smith	Principal Analyst, Tenures and Housing Quality	04 832 2433	s 9(2)(a)	

Other agencies consulted

Department of Prime Minister and Cabinet, Kāinga Ora, Ministry of Business, Innovation and Employment, Ministry of Social Development, The Treasury

Minister's office to complete

☐ Noted ☐ Seen ☐ Approved ☐ Needs change ☐ Not seen by Minister ☐ Overtaken by events ☐ Declined ☐ Referred to (specify) ____________	**Comments**

Date returned to HUD:

____

Te Tūāpapa Kura Kāinga
Ministry of Housing and Urban Development

Briefing

Options for rent indexation and further protections for tenants

For:	Hon Dr Megan Woods, Minister of Housing Hon Poto Williams, Associate Minister of Housing (Public Housing)		
Date:	21 January 2021	**Security level:**	In Confidence
Priority:	Medium	**Report number:**	BRF20/21010833

Purpose

1. This paper provides advice on options for rent indexation and further protections for tenants, to ensure tenants are protected if the Government takes steps to reduce demand from investors. This paper is a companion paper to BRF20/21010838.

Executive summary

2. On 22 December 2020, we provided advice to Minister Woods on the potential impacts on the rental market of proposals to dampen demand for housing (particularly demand from investors) (AMI20-21120425 refers).

3. That paper noted that while the proposals may potentially reduce the rate of property price increases and benefit some first home buyers, they may not necessarily increase new supply and could have a negative impact on renters (particularly those on lower incomes) who are forced to move due to the sale of a property, or face higher rents due to additional costs to property investors.

4. The Government may wish to take action to reduce any potential negative impact on renters from demand side measures, such as indexing rents or prohibiting landlords from terminating tenancies when they sell a property.

5. You have asked for advice on:

   a. indexing rents so that investors cannot impose large rent increases on renters as a result of increased costs from demand side measures[1] or because tenants are competing with others to secure a property due to constrained housing supply, and

   b. further protections for renters through the Residential Tenancies Act 1986 (RTA), in response to possible responses by investors to demand side measures.

Rent indexation

6. Rent indexation is a form of rent control and would be a substantial change to how our rental market currently operates. Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (HUD) has previously advised against rent controls, as evidence from overseas shows that there are significant adverse consequences in the housing market, such as disincentivising supply, driving up prices in parts of the market where rents are not controlled, and reducing incentives for landlords to maintain their properties.

7. However, if the Government chose to introduce rent indexation, we would recommend that the index be:

[1] Recent data demonstrates that rents have been increasing more than incomes for some regions.

a. s 9(2)(f)(iv) [redacted]

b. [redacted]

c. [redacted]

d. [redacted]

8. An initial analysis has identified possible tools for indexation including the consumer price index (CPI), a modified CPI (less rent costs), wage growth index, or developing a new index based on a “basket of goods” that reflect landlord costs.

9. Further work would be required to advise on:

   a. the impact on Kāinga Ora and social and community housing tenancies;

   b. the implementation implications of the preferred option

Other amendments to the RTA that could be considered

10. If large numbers of landlords sell properties in response to the demand side measures, there will be increased “churn” in the market. The most effective measure to reduce this type of churn would be to amend the RTA so that landlords cannot evict tenants if they are intending to sell or have sold the property.

11. This change was considered as part of the recent RTA reforms but ruled out as landlords were strongly concerned that it would reduce the sale price, and it was considered that it would unreasonably infringe on the rights of the new owners.

12. While this option would assist with short term churn, any increase to security of tenure is likely to lead to more stringent vetting on tenants. Consequently, there could be negative impacts on security of tenure for some tenants and, at the margin, a potential increased need for public housing.

13. Two other options for strengthening protections in the RTA have been identified but are not recommended for progressing at this stage:

   a. s 9(2)(f)(iv) [redacted]

   b. [redacted]

14. [redacted]

Recommended actions

15. It is recommended that you:

1. **Note** the options in this paper seek to address the potential negative impact on renters of the demand side measures being considered by the Minister of Finance. *Noted*

2. **Note** that HUD recommends that any rent indexation be:

   s 9(2)(f)(iv) [redacted] *Noted*

3. **Indicate** if you wish officials to undertake further analysis on the rent indexation including tools for indexation, the impact on Kāinga Ora and community housing providers, and implementation and financial implications. *Agree / Disagree*

4. s 9(2)(f)(iv) [redacted] *Noted*

5. **Indicate** if you wish officials to provide further advice on amending the Residential Tenancies Act 1986 so that landlords cannot evict tenants if they are intending to sell or have sold the property. *Agree / Disagree*

C.D. Leadbetter.

Claire Leadbetter
Manager, Tenures and Housing Quality

21/01/2021

Hon Dr Megan Woods
Minister of Housing

..... / ...... / ......

Background

16. We understand that Minister of Finance is considering some options to moderate house price growth, especially that driven by speculative investors (demand side measures).

We have provided advice that dampening demand could help first home buyers, but may negatively impact renters

17. On 22 December, we provided advice to Minister Woods on the potential impacts on the rental market of proposals to dampen demand for housing (particularly demand from investors) (AMI20-21120425 refers).

18. The potential impacts of demand side measures noted in that paper were:

    a. rental stock at the lower end of the market may be reduced, as first home buye s are more likely to buy homes in the bottom half of the market

    b. where existing landlords choose to sell, the existing tenants are likely to be displaced, either immediately if the landlord gives notice prior to the sale, or subsequently if the sale is to an owner occupier

    c. where tenants are displaced due to the sale of a property, they face substantial direct costs (e.g. moving costs, new bond, rent in advance) and may face ndirect costs such as impacts on wellbeing

    d. at the lower end of the market, the “churn” ncreases the risk tha households may need to rely on transitional housing or emergency housing specia needs grants, or increase the numbers on the public housing register.

19. In the paper we noted that it is unlikely that investors will be abl to fully pass on additional costs through increased rents. At a national level, median rents generally track in line with median wage increases. However, in some regions, rents are increasing faster than incomes.

20. Where renters are already in rent stress, they are already at the limit of what they can pay and may respond through sharing housing costs and crowding. Rising rents can also lead to more well-off renters opting to buy subject to being ab e to raise a deposit, or paying higher rent to secure properties. At a national level, these factors limit the extent to which rents can be increased, however we acknowledge there is variation in some regions or segments of the rental market.

You have asked for advice on indexing rents and improving protections for renters through the RTA

21. You have asked for advice on:

    a. indexing rents so that investors cannot impose large rent increases on renters as a result of increased costs from demand side measures or because tenants are competing with others to secure a property due to a housing shortage

    b. further protections for renters through the Residential Tenancies Act 1986 (RTA), in response to possible responses by investors to demand side measures.

22. This paper presents options for you to consider.

Context

23. Existing provisions under the RTA limit the level of rent landlords can charge as well as the frequency of rent increases. Since August 2020, as part of the recent reforms to the RTA, rent increases are limited to once every 12 months.

24. Section 25 of the RTA allows tenants to challenge the rent they pay at the Tenancy Tribunal. f the amount of rent payable substantially exceeds market rent, the Tribunal will make an order reducing rent to an amount that is in line with market rent. The RTA describes market rent as the amount a landlord might reasonably expect to receive, and a willing tenant might

reasonably expect to pay with reference given to comparable prices in the same or similar locality.[2]

Recent reforms to rental legislation

25. Any options proposed need to be considered in the context of the current RTA reforms. These reforms will mostly take effect from 11 Feb 2021 and will significantly improve security of tenure for renters.

26. The impact on the rental market of these reforms will be progressively evaluated. We note that those reforms may lead to some investor exit, but that there are other strong incentives for investors to retain rental properties, such as low interest rates and capital gains. '

27. Despite the provisions in place under the RTA, supply of rental properties continues to be constrained, leaving the rental market to be dictated by what tenants can pay rather than he cost of provision.

Options for rent indexation

Definition of rent indexation

28. One option to further regulate rent increases is rent indexation. Rent indexation is when rent price increases are limited by law to be no more than a cer ain amount or percent per year. For example, rent increases could be required to n t exceed the linked to an economic index such as the Consumer Price Index (CPI).

29. Indexing rent would reduce uncertainty for tenants while at the same time providing assurance to landlords that rents could continue to increase if hey needed to pass on increasing costs.

Rent indexation design should take into account the adverse consequences observed overseas

30. HUD has previously advised against rent controls as evidence from overseas indicates that they have significant adverse consequences on the housing market. These include:

    a. loss of potential housing supply to other uses such as Airbnb

    b. the allocation of accommodation through non price methods (more potential for discrimination) and incentives for tenants to offer and landlords to accept illegal payments to secure a tenancy (e g. offering to pay bond or rent in advance that is higher that the legal limit or a fee o secure a property. These behaviours have been observed in New York)

    c. significant fiscal costs in implementing, administering and maintaining rent control systems (e.g. the estimated costs to administer the rent control in Cambridge, Navarro totalled $40 per dwelling subject to the control)[3]

    d. landlords not investing in maintenance because they cannot recoup their investment by raising rents[4]

    e. significant rent increases once rent controls have been removed.[5]

31. Where rent control has been applied regionally overseas, the following consequences have been observed:

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[2] In the last th ee years, 20 out of 102 tenants challenging rent increases in the Tenancy Tribunal under the market rent provisions o the RTA (section 25) were successful.

[3] https://www.nmhc.org/research-insight/research-report/the-impacts-of-rent-control-a-research-review-and-synthesis/

[4] https://www.brookings.edu/research/what-does-economic-evidence-tell-us-about-the-effects-of-rent-control/

[5] ibid

a. gentrification of previously predominantly rental areas and displacement of renters as landlords sell rent-controlled properties in favour of non-rent controlled properties[6]

b. generally higher rents in the uncontrolled portion of the market[7]

c. a ‘mis-match’ between tenants and rental units (as tenants choose to ‘stay put’ to retain their rent control, even if their housing needs change, or if the property is poor quality). [8]

Market consequences of indexation

32. Price signals can be useful in certain circumstances where demand exceeds supply. When housing gets tight, rents may need to rise so that the market will address the underlying problem of undersupply (not just by building, but also renting out vacant houses, rooms and so on). Rent controls, such as rent indexation may suppress this.

If rent indexation is introduced, it should be designed to moderate the potential adverse consequences

33. Given what we know about rent controls from overseas, we recommend that any rent indexation introduced in Aotearoa New Zealand be designed to minimise the adverse impacts seen overseas.

s 9(2)(f)(iv)

[redacted]

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[6] ibid

[7] ibid

[8] ibid

[9] ibid

[10] https://www.gsb.stanford.edu/insights/rent-controls-winners-losers

s 9(2)(f)(iv)

[redacted]

Further work will be required on detailed design and implementation implications

45. Further detailed policy work will be required to determine other key design elements of rent indexation including the tool for indexation, the impact on Kāinga Ora and community housing providers, and implementation implications.

s 9(2)(f)(iv)

[redacted]

s 9(2)(f)(iv)

[redacted]

Impact on Kāinga Ora, and social and community housing tenants

55. In the time available, we have not been able to undertake a full consultation with Kāinga Ora and the Ministry of Social Development on the rent index proposals and to consider the impact and possible unintended consequences of the proposals on social and community housing tenants.

56. Rent indexation could reduce forecast demand for the Accommodation Supplement, Temporary Additional Support, and other housing-related emergency grants, given unaffordability is a driver of homelessness. It could also lower the forecast cost of the Income Related Rent Subsidy.

57. However, the different options would have a range of potentially significant operational, systems and financial implications for Kāinga Ora and MSD and an estimation of the financial implications would depend on a fu l cost-benefit analysis of a particular option.

Mitigations to the risk that annual rent increases become standard practice

58. Many landlords do not increase rents annually as a matter of practice and keep the rent constant for years where they have a good relationship with a tenant. Some may only increase the ren when a new tenancy begins. Indexing rents to CPI (or other measure) risks creating a standa d expectation f regular rent increases and make annual rent increases common practice

59. Additionall consideration should be given as to what the rent indexation rules should be in a situation where CPI was negative.

Potential mpact on rental supply (new builds and build to rent developments)

60. We would need to consider the impact of rent indexation on build to rent developments and new rentals generally. L mits on future rental returns and the ability to control those returns for build to rent developments could add to an already complex and uncertain regulatory and investment environment, further reducing the attractiveness of what is already a marginal investment class Similarly, applying rent indexation to new build rentals could disincentivise investment in much needed stock of rentals generally.

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11 https://www.stats.govt.nz/information-releases/household-income-and-housing-cost-statistics-year-ended-june-2019

12 https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/monitoring/household-incomes/household-incomes-1982-to-2018.html

61. The costs and benefits of an exemption of the rent index proposals for build to rent developments and new rentals generally could be assessed.

Potential financial implications

62. While we have not had time to assess these implications thoroughly or estimate the scale of financial impacts, the following impacts would need to be explored in further advice:

s 9(2)(f)(iv)

[redacted]

s 9(2)(f)(iv)

[redacted]

s 9(2)(f)(iv)

s 9(2)(f)(iv)

Timing and implementation

94. All the options in this paper would require primary legislative change. In general, we recommend consultation on any substantive changes to landlords' or tenants' rights, to ensure the range of perspectives and expertise can be incorporated into policy decisions.

95. s 9(2)(f)(iv)

96. The timing of any legislative changes would, however, depend on Government legislative priorities.

97. We also note that HUD and MBIE are currently in the process of:

   a. implementing the 2020 RTA reforms (due to be fully implemented by mid-August 2021)

   b. progressing regulations of methamphetamine following the 2019 RTA reform

   c. progressively implementing the Healthy Homes Standards 2019 (final compliance deadline of July 2024)

   d. working towards introducing Property Managers regulation

e. working towards a reform of the Unit Titles Act.

98. s 9(2)(g)(i) [redacted]

Risks

99. The risks associated with the individual options in this paper have been outlined throughout the paper.

Communications risk

100. The introduction of rent indexation would be highly controversial and would get a high level of media coverage. Property owners, investors, and the real estate industry are likely to consider such regulation to be a draconian intervention in the market. Property owners and investors are likely to comment on the cumulative impact that recent reforms are having on costs and risk of running their businesses. Tenant groups and social sector commentators are likely to be positive about rental indexation and other increases in tenant rights.

101. s 9(2)(g)(i) [redacted]

Consultation

102. The Department of Prime Minister and Cabinet, Kāinga Ora, Ministry of Business, Innovation and Employment, Ministry of Social Development, and the Treasury have been consulted on this paper. HUD notes that the agencies consulted had a very limited time to comment on the proposals in this paper.

Next steps

103. Officials are available to meet with you to discuss this advice and receive your feedback on whether you would like further work on the options explored in this paper. Further detailed analysis and legal drafting would be required before the options explored in this paper could be implemented.

Annexes

104. Annex A: comparative assessment of rent indexation options

Annex A: Comparative assessment of rent indexation options

s 9(2)(f)(iv)

Te Tūāpapa Kura Kāinga
Ministry of Housing and Urban Development

Aide-memoire

Speaking points: options for protecting renters from the impacts of demand side measures			
Date:	11 February 2021	**Security level:**	Sensitive
Priority:	High	**Report number:**	AMI20/21020448

Information for Minister(s)	
Hon Dr Megan Woods **Minister of Housing**	For information
Hon Poto Williams **Associate Minister of Housing (Public Housing)**	For information

Contact for discussion				
Name	**Position**	**Telephone**		**1st contact**
Brad Ward	Deputy Chief Executive, Place-based policy and programmes	04 831 6035	s 9(2)(a) [redacted]	
Claire Leadbetter	Manager, Tenures and Housing Quality, Housing and Urban Systems	04 832 2431		✓

Other agencies consulted
N/A

Minister's office to complete

☐ Noted ☐ Seen ☐ See Minister's notes ☐ Needs change ☐ Overtaken by events ☐ Declined ☐ Referred to (specify)	**Comments**

Date returned to HUD:

Te Tūāpapa Kura Kāinga
Ministry of Housing and Urban Development

Aide-memoire

Speaking points: options for protecting renters from the impacts of demand side measures

For:	Hon Dr Megan Woods, Minister of Housing Hon Poto Williams, Associate Minister of Housing (Public Housing)		
Date:	11 February 2021	**Security level:**	Sensitive
Priority:	High	**Report number:**	AMI20/21020448

Purpose

1. This aide memoire provides you with further information on how best to protect renters from the potential negative impacts of the proposed demand side measure to moderate house price growth, and includes speaking points (**Annex A**) for Cabinet on Monday 15 February to assist you with the discussion.

Executive Summary

2. We have undertaken further analysis of the impacts of the proposed demand side measures on renters. We expect the bright line test extension will have minimal direct impacts on existing renters in the short term, if only applied to future purchases ("grandparented") as recommended.

3. The impact of the interest deductibility changes on renters will depend on which option is progressed. If these changes are grandparented, then the impacts on existing renters will be minimal. If the changes are phased in for existing housing stock, landlords who have significant debt may increase rents to cover costs, reduce other outgoings such as maintenance, or sell their investment properties.

4. All these responses by landlords directly impact on renters as they face either increased rent, poorer quality housing, or are forced to move out of their home (which is costly, time consuming, and can affect health and wellbeing). This could also increase spending on the accommodation supplement and homelessness, with a resulting impact on the public housing waiting list.

5. Rent indexation could address the increasing rents, but would not prevent the other impacts, and may, in fact worsen them, such as more landlords exiting the markets and displacing tenants.

6. Te Tūāpapa Kura Kainga Ministry of Housing and Urban Development (HUD) considers the best way of protecting tenants is to grandparent the interest deductibility changes for existing properties and monitor the rental market to consider rent indexation if needed.

7. If Cabinet decides to proceed with rent indexation, we recommend it be:

- s 9(2)(f)(iv)

s 9(2)(f)(iv)

[redacted]

8. [redacted]

9. [redacted]

10. s 9(2)(g)(i) [redacted]

Background

11. On 21 January officials provided you with advice on rent indexation and possible further protections for tenants, to ensure tenants are protected if the Government takes steps to reduce demand from investors [BRF20/21010833 refers].

12. On Monday 15 February you, along with the Ministers of Finance and Revenue are presenting a paper to Cabinet proposing measures aimed to reduce investor demand for houses and thereby support first home buyers to enter the market through moderating price increases.

13. The measures being proposed for consideration by Cabinet are:

- Increasing the bright line test to 20 years for properties bought after the announcement date, with an exclusion for new builds and
- Options for limiting the interest deductions available for income earned from residential property, including an option for an exclusion for new builds.

14. You have asked officials to provide you with:

- speaking points to take to Cabinet, including options for rent indexation
- an indication of what work might need to be reprioritised to enable work on rent indexation to be undertaken
- an outline of an engagement approach, primarily with key tenant advocate stakeholders.

Protecting renters from the (negative) impacts of demand side measures

15. Where property investors are faced with additional costs, they will weigh up the costs against other benefits of the investment. Landlords who face significant costs may increase rents to cover costs, reduce other outgoings such as maintenance, or sell their investment properties.

16. All these responses by landlords directly impact on renters as they face either increased rent, poorer quality housing, or are forced to move out of their home (which is costly, time consuming, and can affect health and wellbeing). This could also increase spending on the accommodation supplement and homelessness, with a resulting impact on the public housing waiting list.

17. We have undertaken further analysis of the likely impacts of the demand side measures which may be useful for your discussion at Cabinet.

We expect the bright line test extension will have minimal impacts on renters in the short term

18. As the extension of the bright line test is proposed for prospective purchases only, and has an exclusion for new builds, existing property investors will not face additional costs on their properties. This means they are unlikely to increase rents or sell those properties in response to the bright line extension. Further, those investors who still wish to grow their portfolios will be able to do so under the existing five year bright line if they purchase new builds.

19. Over time there may be fewer investors entering the rental market or buying additional properties as the reduced incentive to purchase existing houses will not be fully offset by purchases of new houses. Over time this may place upward pressures on rents.

The impact of the interest deductibility changes on renters will depend on which option is progressed

20. The Cabinet paper proposes a series of options for interest deductibility, including an option to exclude existing investment properties. If existing properties are excluded ("grandparented") from the interest deductibility limitations, landlords of existing rental properties would not face additional costs and so would be unlikely to increase rents or sell their rental properties resulting in tenants being displaced or under further rental stress.

21. If interest deductibility limitations are phased in for existing housing stock, landlords who have significant debt may increase rents to cover costs, reduce other outgoings such as maintenance, or sell their investment properties. The greater the level of debt on a property, the greater the increased cost on a landlord and the more likely they will respond in these ways. All these responses by landlords directly impact on renters as they face either increased rent, poorer quality housing, or are forced to move out of their home (which is costly, time consuming, and can affect health and wellbeing). This could also increase the accommodation supplement and homelessness, with a resulting impact on the public housing waiting list.

22. Landlords may be reluctant to pass on costs to existing tenants but are more likely to be willing to increase the rent when advertising for a new tenant. The higher rent for new tenancies will affect tenants where landlords sell properties in response to the demand side changes, and the tenants are unable to buy a home (at least 75% of renters, based on the housing affordability measure).

HUD can monitor rents and other indicators to assess impacts

23. Te Tūāpapa Kura Kainga Ministry of Housing and Urban Development (HUD) can closely monitor rents and other indicators across the rental market to assess impacts. The earliest that any meaningful data would be available is three months after the measures are announced.

24. We note it will be difficult to directly attribute changes in rents or sales of rental properties to the demand side changes as landlords are already facing increased costs due to compliance with the healthy homes standards, and increased risk due to the recent reforms to the Residential Tenancies Act 1986 (RTA).

25. Some of these changes may be already flowing through to rents, particularly for new tenancies:

- Rents for existing tenancies rose on average 3.2% in the year to December 2020[1],
- Median rents for new tenancies[2] rose by 7% nationwide and over 10% in a number of regions in the year to October 2020.

Rent indexation

Indexing would moderate rent increases, but will potentially lead to other adverse consequences

26. Rent indexation could be introduced in response to rising rents. Rent indexation is a form of rent control and would be a substantial change to how our rental market currently operates. Evidence from overseas shows that rent control leads to adverse consequences in the housing market, such as reducing incentives for landlords to maintain their properties.

27. In the New Zealand context, rent indexation would lead to landlords being less able to cover the additional costs, and so we expect this would lead to more properties being sold and renters being displaced. HUD considers grandparenting existing rental properties from the interest deductibility changes would be far more effective than rent indexation at protecting renters from the risk of displacement and the costs they incur.

s 9(2)(f)(iv)

[redacted]

[1] Statistics New Zealand data, referenced in: [Annual inflation almost three times higher for beneficiaries | Stats NZ](#)
[2] MBIE bond data

s 9(2)(f)(iv)

s 9(2)(f)(iv)

s 9(2)(f)(iv)

36. [redacted]

Additional option to protect tenants from displacement

37. If large numbers of landlords sell properties in response to the demand side measures, there will be increased "churn" in the market. Moving house is costly and time consuming for renters, and tenure insecurity is associated with poor health and wellbeing outcomes.

38. To reduce this type of churn, the RTA could be amended so that landlords cannot evict tenants if they are intending to sell or have sold the property. However, if the Government's objective of making more homes available to first home buyers is achieved, renters will still be displaced if their rental home is bought by a first home buyer.

39. This change was considered as part of the recent RTA reforms but ruled out as landlords were strongly concerned that it would reduce the sale price, and it was considered that it would unreasonably infringe on the rights of the new owners.

40. While this option would assist with short term churn, any increase to security of tenure is likely to lead to more stringent vetting on tenants. Consequently, there could be negative impacts on security of tenure for some tenants and, at the margin, a potential increased need for public housing.

41. As noted in paragraph 23, officials will monitor rents and other indicators to identify the impacts of the changes to see if this amendment may be warranted.

s 9(2)(g)(i)

[redacted]

s 9(2)(f)(iv)

[redacted]

Next steps

47. Officials are available to discuss this advice and any feedback you have, once Cabinet has met to discuss the proposed demand-side measures on Monday.

Annexes

Annex A: speaking points for Cabinet

Annex B: s 9(2)(f)(iv) [redacted]

Annex A: Speaking points for Cabinet on Monday 15 February 2021

- The impacts on renters need to be considered when taking these decisions.
- At least 75% of renters are not able to afford mortgage repayments, according to the housing affordability measure. The remaining 25% still need to be able to save a deposit to enter the market.
- Renters in private rentals, especially those at the lower end of the market are the most vulnerable people in our housing system, and have few options when rents rise or landlords end their tenancies if they are selling a property.
- Moving properties is costly for tenants, both one off costs of moving, new bonds and rent in advance, and ongoing costs, with rents for new tenancies sitting on average $50 per week higher than for existing tenancies. Frequent moves are also associated with poorer health and wellbeing outcomes.
- Grandparenting existing investment properties from the interest deductibility measure will provide the greatest protection for current renters as existing investors will not face additional costs.
- Without grandparenting, the investors that will face the greatest costs will be those with high debt. Those who cannot afford those costs will likely either look to pass on costs to renters, or sell.
- Te Tūāpapa Kura Kainga Ministry of Housing and Urban Development (HUD) could monitor rents and other indicators across the rental market to assess impacts, with the earliest data being available three months after any announcement.
- Rent indexation could be introduced to moderate rent increases, but it will potentially lead to other adverse consequences, such as more investors selling and displacing renters, and reduced incentive for landlords to maintain properties.
- Rent indexation is a complex change and would require legislation (amendments to the Residential Tenancies Act 1986 (RTA)).
- s 9(2)(f)(iv)

s 9(2)(f)(iv) [redacted]

- As noted, rent indexation would also not address any rental "churn" caused by landlords terminating tenancies due to sale. This could be partly addressed by amending the RTA so that landlords cannot evict tenants if they are intending to sell or have sold the property. However, if the Government's objective of making more homes available to first home buyers is achieved, renters will still be displaced if their rental home is bought by a first home buyer.
- s 9(2)(f)(iv) [redacted]
- s 9(2)(g)(i) [redacted]

s 9(2)(f)(iv)

DEPARTMENT OF THE PRIME MINISTER AND CABINET
TE TARI O TE PIRIMIA ME TE KOMITI MATUA

Briefing

FINDINGS FROM A LITERATURE SCAN ON RENT REGULATION

To: Rt Hon Jacinda Ardern
Prime Minister

Date	26/02/2021	**Priority**	Medium
Deadline	12/03/2021	**Briefing Number**	DPMC-2020/21-583

Purpose

This report provides an update on the Strategy Unit's literature scan on rent regulation.

Recommendations

1. **Note** the attached slide pack summarising the Strategy Unit's literature scan on rent regulation.

Anneliese Parkin **Deputy Chief Executive, Policy**	Rt Hon Jacinda Ardern **Prime Minister**
...../...../2021	...../...../2021

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Katrina Quickenden	Advisor, Strategy Unit	s 9(2)(a)	✓
Paul O'Connell	Director, Strategy Unit	s 9(2)(a)	

Minister's office comments:

- ☐ Noted
- ☐ Seen
- ☐ Approved
- ☐ Needs change
- ☐ Withdrawn
- ☐ Not seen by Minister
- ☐ Overtaken by events
- ☐ Referred to

FINDINGS FROM A LITERATURE SCAN ON RENT REGULATION

Purpose

1. This briefing provides you with an update on the Strategy Unit's work on rent regulation.

Background

2. We have carried out a review of international literature on rent regulations, focusing on the different approaches to rent regulation, what can be determined about impact and outcomes, and offering some selected international comparisons. Findings are set out in slides at Attachment A.

3. We shared these findings with officials at the Ministry of Housing and Urban Development, the Treasury, and the Ministry of Social Development on 25 February 2021.

Summary of key findings

4. "Rent control" covers a subset of wider regulation of rental contracts, ranging from rent freezes through to different types of limits on rent increases.

5. Important factors are the distinction between regulation of rent levels and regulation of rent increases, and between regimes that apply to all tenancies or just to sitting tenancies.

6. Approaches that set a ceiling and aim to keep rents below the market rate are associated with significant negative outcomes over the long-term, including a decrease in affordability and quality of housing, lower mobility and less diversity in communities. This form of rent regulation is usually called "rent control" and is less common today. The impact of this type of regulation on the availability of housing and levels of homelessness is ambiguous.

7. Rent regulation and tenure protection need to be closely linked. Without tenure protection, landlords may choose to evict sitting tenants who would be eligible for rent regulation in order to take on a new tenant who is prepared to pay a higher rent.

8. There is limited empirical evidence that softer regulation of rent increases (that still allows for a return on investment and annual increases to rent levels, and exempts new construction) has negative effects. This type of rent regulation is one tool to deal with sharp increases in rent, with less negative effects than price ceiling rent control, and can promote resident stability.

9. Outcomes vary considerably based on the characteristics of individual markets, so any measures would need careful monitoring.

10. Rent regulation is more common in countries with a large private rental sector (compared to countries with higher home ownership rates). As the proportion of the population living in rented accommodation increases, this may increase calls for rent regulation.

Next Steps

11. No further Strategy Unit work on rent regulation is planned at this stage.

12. s 9(2)(f)(iv) [redacted]

Attachments:	Title
Attachment A:	Rent regulation: Findings from a literature scan

DEPARTMENT OF THE PRIME MINISTER AND CABINET
TE TARI O TE PIRIMIA ME TE KOMITI MATUA

Rent regulation: Findings from a literature scan

February 2021

[SENSITIVE]

Defining rent control / regulation

- "Rent control" covers a subset of wider regulation of rental contracts, from rent freezes through to different types of limits on rent increases.
- Rent regulations may apply to all tenancy agreements (new and existing) or just to sitting tenants.
- Broader rental regulation includes general contract law, and regulation of other matters such as notice periods and valid reasons for terminating a tenancy agreement.
- A key distinction exists between regulation of rent levels and regulation of rent increases.

[SENSITIVE]

Types of rent regulation

Basis for regulation	Approaches to regulation
Regulation of rent levels	Often referred to as 'first generation' or 'hard' rent control, this approach creates a price ceiling or freeze on nominal rents for areas that have become more popular and seen significant increases in demand. It **keeps rents in a certain area below market rent** and is often aimed at ensuring 'popular' areas remain affordable for a wider range of people.
	A more limited approach to regulating the level of rent is **protection against 'excessive' rents**. This recognises that landlords may have monopoly-like power that they can use to demand rent that exceeds market rent in some circumstances.
Regulation of rent increases	'Second generation', 'soft' or 'modern' rent regulation restricts increases to rents, preventing certain types of increases. **Rent increases are limited, e.g. to improvements or cost increases** and aim to protect tenants from rent increases because of demand or to smooth out sudden spikes in rent. Cost increases may be capped at or above the CPI. A cap that is a percentage above the CPI smoothes increases in rent, but does not act to supress market rent levels over the longer term.

[SENSITIVE]

Rent regulation in New Zealand

- New Zealand's Residential Tenancies Act 1986 currently incorporates protection against rent that "exceeds the market rent by a substantial amount" (clause 25).

- To use this provision, tenants must apply to the Tenancy Tribunal. The 'market rent' the Tribunal considers is defined as what a "willing landlord might reasonably expect to receive and a willing tenant might reasonably expect to pay for the tenancy, taking into consideration the general level of rents (other than income-related rents […]) for comparable tenancies of comparable premises in the locality or in similar localities and such other matters as the Tribunal considers relevant".

- The Tribunal is not allowed to consider the personal circumstances of the landlord or the tenant in this determination.

Tenure security and rent regulation are interlinked

- If rent regulation aims to keep rents below market rents, or if regulations only apply to sitting tenants, tenure protection is necessary for it to be effective.
- Without tenure security, landlords may choose to evict sitting tenants who would be eligible for rent regulation in order to take on a new tenant who is prepared to pay a higher rent.
- OECD research has found that, because of this risk, rent regulation without tenure security can lead to rents that are higher than in unregulated rental markets.
- Monitoring and enforcement is also critical. If this is weak or inconsistent it can undermine the operation of regulations.

 [SENSITIVE]

‘Price ceiling’ rent control has negative outcomes over the long-term

- Price ceiling rent control – which attempts to keep rents below a market level for some properties or tenancies – is associated with short-run improvements to affordability, but tends to benefit one set of tenants at the expense of others, so there is limited overall increase in well-being.

- Research finds a range of negative long-term impacts, including:
  - A decrease in affordability over time.
  - Lower mobility: people stay in housing that does not meet their needs for longer and are less likely to move for employment or higher paid employment.
  - A decrease in housing quality over time, as landlords have a reduced incentive to maintain their properties. This is based on several studies that have shown improved housing quality when rent controls are lifted.
  - Reducing the diversity of communities: because rent control encourages long tenure, those in rent-controlled areas are more likely to be older and less likely to have children.

 [SENSITIVE]

The impact on housing availability and homelessness is ambiguous

- The effect of rent regulation on housing availability is not clear cut. In theory there is an assumption that it will decrease supply, because it is less financially rewarding to build new properties for rent, but conflicting factors make it hard to determine the overall impact. For example, it may lead to geographic differences because the drive for more supply shifts to non-controlled areas but is not necessarily dampened overall.

- Exemptions from rent regulation for new supply can also mitigate the tendency to discourage new supply.

- Although rent regulation may not have a clear effect on new construction, there is some evidence that it can reduce rental housing supply through conversion into owner occupancy (rather than accept a regulated rent, landlords choose to sell).

- The literature does not support a clear conclusion on whether and how rent regulation affects rates of homelessness.

The literature is light on the effect of 'modern' (second generation) rent regulation

- Assumptions about negative outcomes for this type of rent regulation are not supported by strong empirical evidence.
- Outcomes from modern rent controls vary markedly based on market conditions. Most of the existing empirical studies into the effects of rent regulation are typically country specific and based on one regional market, which makes it difficult to draw general conclusions.
- It can be said that modern rent regulation (that allows landlords to receive a return on investment, exempts new construction, and allows for annual adjustments) has little impact on the amount of investment in rental housing and succeeds in limiting extreme rent increases.
- However, it does not tend to generate significant relief from high rents in most cities. An OECD comparison of rent control in 2009 (rent regulation and tenure security) found no clear evidence that comparative average rent levels (when considering differences in dwelling quality) were lower in countries with stricter rent controls.

 [SENSITIVE]

Selected international comparisons

Reference rents – similar dwellings are compared to set rent levels

- **Germany** has regulations preventing excessive rents for all tenancies, including new rental contracts. Sitting tenancies' rents cannot be increased by more than 20% over three years. Increases for sitting tenants in the private market can be set based on:
  - the rents of three similar rental dwellings
  - a database of local reference rents (Mietspiegel).
- In Germany, this approach appears to dampen increases in rents when rents are rising overall.

- **France** also uses reference dwellings to set initial rents (same region and comparable characteristics). Rent increases are then indexed to the CPI and reasons for landlords to end or not renew a tenancy are limited (e.g. occupation or sale).

Selected international comparisons (cont).

Smoothing significant rent increases – designating 'rent pressure zones'

- Since 2016, local councils in **Scotland** can apply to Scottish Ministers to have an area designated as a 'rent pressure zone' (RPZ) if rents in the area are rising too much, causing problems for tenants, and putting pressure on the council to subsidise or provide housing.
- Following consultation, if an area is designated as an RPZ, a cap is set on annual rent increases for existing tenants. Any cap set is at least the CPI plus 1% and lasts up to five years.
- Limited outcome information is available given the short timeframes it has been in place, but concerns have been raised about evictions because the restrictions only apply to sitting tenancies.
- In **Ireland**, a Rent Pressure Zone is a designated area where rents cannot be increased by more than 4% per annum, for new and existing tenancies. Located in parts of the country where rents are highest and rising, and where households have the greatest difficulty finding affordable accommodation, the zones are intended to moderate the rise in rents in these areas and create a stable and sustainable rental market that allows landlord and tenants to plan financially for their future.

 [SENSITIVE]

Selected international comparisons (cont).

Indexation to the CPI

- As noted above, rent increases for sitting tenancies in **France** are indexed to the CPI (after they are set based on reference rents).

- In **Spain**, rent increases are indexed to the CPI for the first five years of any tenancy agreement. Following this, the rent can be renegotiated.

COVID-19 Response

- In response to the economic impact of COVID-19, some countries have responded with some combination of rent freezes and moratoria on evictions for private tenants, including Australia, Ireland, Slovak Republic and Austria.

- Other countries have provided additional financial support for housing.

[SENSITIVE]

Conclusions

- Important factors are the distinction between regulation of rent levels and regulation of rent increases, and between regimes that apply to all tenancies or just to sitting tenancies.
- Approaches that set a ceiling and aim to keep rents below the market rate are associated with significant negative outcomes over the long-term, including a decrease in affordability and quality of housing, lower mobility and less diversity in communities.
- The impact on availability of housing and homelessness is ambiguous.
- Rent regulation and tenure protection need to be closely linked.
- There is limited empirical evidence that softer regulation of rent increases (that still allows for a return on investment and annual increases to rent levels, and exempts new construction) has negative effects. This type of rent regulation is one tool to deal with sharp increases in rent, with less negative effects than are often imagined, and can promote resident stability.
- Outcomes vary considerably based on the characteristics of individual markets, so any measures would need careful monitoring.
- Rent regulation is more common in countries with a large private rental sector (compared to countries with higher home ownership rates). As the proportion of the population living in rented accommodation increases, this may increase calls for rent regulation.

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 [SENSITIVE]