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Committee Secretariat  
Social Services and Community Committee  
Parliament Buildings  
Wellington

Sent by email to: [ssc@parliament.govt.nz](mailto:ssc@parliament.govt.nz)

## **SUBMISSION on the Residential Property Managers Bill**

### **1. Introduction**

Thank you for the opportunity to make a submission on the Residential Property Managers Bill (the Bill). This submission is from Consumer NZ, an independent, non-profit organisation dedicated to championing and empowering consumers in Aotearoa. Consumer has a reputation for being fair, impartial and providing comprehensive consumer information and advice.

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### **2. General Comments on the Bill**

Consumer strongly supports the introduction of the Bill. We have been calling for the regulation of property managers for many years so we are pleased to finally see the introduction of the Bill.

As more New Zealanders are finding home ownership unaffordable and being displaced from their homes as a result of natural disasters (such as the cyclones and flooding earlier this year), it is clear our laws need to be brought into line with those in other jurisdictions where tenants receive greater protections. Renters also need to know that, if they are dealing with

a property manager, they will be licensed, qualified and meet appropriate professional standards.

Our comments on specific clauses of the Bill below are set out below.

### **3. Comments on specific clauses of the Bill**

#### *Clause 8 – Application of the legislation*

As mentioned in our previous submission, given the Bill does not cover private or public sector landlords, we are concerned it will create a two-tier system in which some tenants are afforded greater protections than others.

We are not convinced a Code of Conduct for private and public landlords will adequately protect tenants. In our view, all tenants should be afforded the same minimum protections. People living in community housing and those with public landlords are more likely to be vulnerable so should receive the same protections as those who rent through property managers.

However, if a Code of Conduct is issued, we support it being mandatory to ensure all tenants are adequately protected.

#### *Clause 9 – RPMO must be licensed or exempt*

We support businesses that provide residential property management services being required to hold residential property management organisation (RPMO) licences.

#### *Clause 17 – Eligibility to hold licence*

We support the wording of clause 17. However, as stated in our previous submission, we consider the regulations should require completion of a level 4 certificate to ensure standards in the industry are lifted.

A joint research report that Consumer and the Office of the Privacy Commissioner (OPC)<sup>1</sup> published in September 2022 (the Report) found the power imbalance between property managers and renters directly contributes to a situation in which renters feel they are unable to assert

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<sup>1</sup> Consumer NZ, 'Data Privacy in the Rental Sector – OPC Research Report', September 2022, [https://d3c7odttnp7a2d.cloudfront.net/assets/9617/Consumer\\_NZ\\_-\\_Data\\_Privacy\\_in\\_the\\_Rental\\_Sector\\_-\\_OPC\\_Research\\_Report\\_-\\_Sept\\_2022.pdf](https://d3c7odttnp7a2d.cloudfront.net/assets/9617/Consumer_NZ_-_Data_Privacy_in_the_Rental_Sector_-_OPC_Research_Report_-_Sept_2022.pdf).

their data rights out of fear they may miss out on finding a suitable property.<sup>2</sup>

The Report also illustrated property managers in the current rental market wield power over, and can undermine, prospective tenants' privacy rights through the abuse of consent mechanisms in the privacy regime. It found that property managers were not following the OPC's guidance for private landlords, property managers and tenants.<sup>3</sup> This guidance was introduced to clarify expectations for landlord and property manager collection, handling and use, and destruction of renters' personal data.

In the Report we recommended that the regulator should ensure that sector participants are educated in their obligations to tenants, and in particular, on tenants' privacy rights and what could amount to a breach of good faith." We therefore consider this should be included in any education requirements prescribed by regulations.

Clause 17(1)(d) states that an individual may be licensed if they "have the qualifications and experience" prescribed by the regulations or obtained overseas that the registrar considers, to be equivalent of the qualifications and experience prescribed by the criteria. As stated in our previous submission, although we consider it would be useful to require industry experience, on balance, we don't think it should be required. We suggest requiring a set period of supervision by an experienced property manager could be an alternative to requiring industry experience.

#### Clause 47 – Trust Accounts

We support requiring RPMOs to hold all money received in a trust account and dealing with that money in accordance with regulations.

#### Penalties

We acknowledge the offences and penalties are aligned with those included in similar occupational regulatory systems, such as the Real Estate Agents Act. However, as stated in our previous submission, we consider the penalty amounts in the Bill should be increased to ensure they act as a sufficient deterrent.

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<sup>2</sup> Page 5 of the Report referred to in footnote 1.

<sup>3</sup> Office of the Privacy Commissioner, "Rental sector guidance", <https://privacy.org.nz/resources-2/renting/>.

Under the Lawyers and Conveyancers Act, the penalty amount for a person that commits an offence is up to \$50,000, and up to \$150,000 for a corporation. We would like to see similar penalties under the Bill.

#### Clause 107 – Code of Conduct

We support the introduction of a Code of Conduct, particularly given the findings in our Report. In the Report we recommended the regulator set clear industry standards and expectations of appropriate behaviours for industry participants. The Code could achieve this by including, for example:

- a prohibition on the use of private databases, such as TenantCheck.<sup>4</sup>
- provisions setting out what types of information property managers can collect.
- provisions setting out expectations around the collection, use and destruction of renters' personal information.

#### Standard Terms

As stated in our previous submission, we receive regular complaints from tenants who have been disadvantaged by terms in tenancy agreements that we consider unfair. Complaints we've received include those about terms that allow a landlord or property manager to:

- charge fees to end a fixed-term tenancy early
- hold tenants liable for the landlord's own expenses, such as advertising costs
- increase rent under a fixed term agreement
- limit liability for the landlord's agents
- unilaterally vary the services provided as part of the tenancy
- charge a re-letting fee for renewing a tenancy
- charge fees for changing one name on a tenancy agreement.

In our view, requiring the use of standard terms would resolve many of these issues. It would also ensure contracts are drafted in plain English, consistent, easier to understand and easier to compare. However, we are yet to see any provisions requiring the use of standard terms.

Thank you for the opportunity to provide comment.

*ENDS*

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<sup>4</sup> <https://tenantcheck.co.nz/>