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CHILD  
POVERTY  
ACTION  
GROUP

To: The Honourable Nick Smith, Minister for Building and Housing  
c/o Social Services Committee: [select.committees@parliament.govt.nz](mailto:select.committees@parliament.govt.nz)

### Submission: [Residential Tenancies Amendment Bill](#)

Child Poverty Action Group (CPAG) thanks the Social Services Select Committee for the opportunity to submit.

Child Poverty Action Group (CPAG) is an independent charity working to eliminate child poverty in New Zealand through research, education and advocacy. CPAG believes that New Zealand's high rate of child poverty is not the result of economic necessity, but is due to policy neglect and an ideological emphasis on flawed economic incentives. Through research, CPAG highlights the position of tens of thousands of New Zealand children, and promotes public policies that address the underlying causes of the poverty they live in.

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We would like the opportunity to speak to this submission.

#### Overview

New Zealand recognised the right of every child to adequate housing in 1993 by signing the United Nations Convention on the Rights of the Child.<sup>1</sup> *Article 27* of that convention states:

*The government recognizes the right of every child to an adequate standard of living for the child's physical, mental, spiritual, moral and social development...*

*And the Government shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.*

The Residential Tenancies Amendment Bill introduces some standards for residential tenancies, including requirements for insulation, smoke alarms, and consumer protections. This legislation is desperately needed to protect tenants and their children from substandard accommodation. Every winter between 25,000 and 30,000 children are hospitalised with respiratory infections and illnesses caused by living in cold, damp houses.<sup>2</sup> In the years between 1991 and 1997, 30 children under 15

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<sup>1</sup> See <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.

<sup>2</sup> Health and cold damp houses' *Environmental Health Indicators NZ*, at: <http://www.ehinz.ac.nz/indicators/indoor-environment/health-conditions-related-to-cold-and-damp-houses/>.

years died in New Zealand in fire-related incidents and in most cases operating smoke alarms were not present.<sup>3</sup>

For children, sub-standard, high cost housing causes *excess mobility*: a CPAG survey of South Auckland schools reported accommodation as the most common reason behind high rates of transience.<sup>4</sup> *Overcrowding* affects more than 136,000 children in New Zealand<sup>5</sup> and causes at least twice the risk of being admitted to hospital for pneumonia<sup>6</sup> and has been identified as the most important risk factor for rheumatic fever<sup>7</sup> and meningococcal disease,<sup>8</sup> and can compromise children's health with lifetime consequences. With *damp and mould* in the home, children have at least twice the risk of being admitted to hospital for pneumonia,<sup>9</sup> more frequent asthma-related symptoms<sup>10</sup> and rheumatic fever,<sup>11</sup> while cold homes are linked to cardiovascular disease, respiratory illness and increased asthma attacks among children.<sup>12</sup>

There is now compelling evidence that the advantages to children's health and wellbeing of living in adequate, warm, dry homes include improved attendance at school, fewer visits to doctors and fewer hospital admissions.<sup>13</sup>

Twentythree years ago New Zealand recognised the right of every child to adequate housing. This bill is an opportunity to honour that right.

**Submission 1: CPAG commends the Government for proposing this legislation for installation of smoke alarms and insulation in residential tenancies but urges that the July 2016 time requirement include all residential tenancies.**

<sup>3</sup> See Fire Service, *Fire incidents resulting in deaths of New Zealand children aged under 15 years 1991-1997*, at <http://www.fire.org.nz/Research/Published-Reports/Pages/Fire-incidents-resulting-in-deaths-of-New-Zealand-children-aged-under-15-years-1991-1997.html>.

<sup>4</sup> Wynd D. The revolving door – student transience in Auckland schools 2014 <http://www.cpag.org.nz/news/new-report-student-transience-in-auckland/>.

<sup>5</sup> Johnson A. *Housing Market changes and their impact on children*. Part 4 in *Our children, our choice: Priorities for policy series*. ISBN: 978-0-9941105-3-4. Child Poverty Action Group August 2014, at: <http://www.cpag.org.nz/resources-publications/our-children-our-choice-priorities-for-policy-7/part-4-housing-2/>.

<sup>6</sup> Grant CC, Emery D, Milne T, Coster G, Forrest CB, Wall CR, Scragg R, Aickin R, Crengle S, Leversha A, Tukuitonga C, Robinson EM. *Journal of Paediatrics and Child Health* (2011) *Journal of Paediatrics and Child Health* 2011;1-11. doi:10.1111/j.1440-1754.2011.02244.x

<sup>7</sup> Jaine R., Baker, M., Venugopal, K., Acute Rheumatic Fever Associated with Household Crowding in a Developed Country, *Pediatric Infectious Diseases Journal*, 2011; 30: 315-319.

<sup>8</sup> Baker M, Martin, D., Kieft, C., Lennon, D., [A 10-year serogroup B meningococcal disease epidemic in New Zealand: Descriptive epidemiology, 1991–2000](http://www.ncbi.nlm.nih.gov/pubmed/11711111), *Journal of Paediatrics and Child Health*, 2001; 13-19.

<sup>9</sup> Grant CC, Emery D, Milne T, Coster G, Forrest CB, Wall CR, Scragg R, Aickin R, Crengle S, Leversha A, Tukuitonga C, Robinson EM. *Journal of Paediatrics and Child Health* 2011;1-11. doi:10.1111/j.1440-1754.2011.02244.x

<sup>10</sup> Weinmayr G, Gehring U, Genuneit J, Büchele G, Kleiner A, Siebers R, Wickens K, Crane J, Brunekreef B, Strachan DP and the ISAAC Phase Two Study Group. *Dampness and moulds in relation to respiratory and allergic symptoms in children: results from Phase Two of the International Study of Asthma and Allergies in Childhood (ISAAC Phase Two)*. *Clin Exp Allergy*. 2013;43(7):762-74.

<sup>11</sup> See <http://www.ehinz.ac.nz/indicators/indoor-environment/health-conditions-related-to-cold-and-damp-houses/>.

<sup>12</sup> Pierse, N., Arnold, R., Keall, M., Howden-Chapman, P., Crane, J., Cunningham, M., 2013: Modelling the effects of low indoor temperatures on the lung function of children with asthma, *Journal of the Epidemiology of Community Health*. 2013 Nov 1;67(11):918-25. doi: 10.1136/jech-2013-202632.

See <http://www.ehinz.ac.nz/indicators/indoor-environment/health-conditions-related-to-cold-and-damp-houses/>.

<sup>13</sup> Howden-Chapman P. 'Effects of improved home heating on asthma in community dwelling children: randomised controlled trial.' *BMJ*. 2008; 337: a1411. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2658826/>. Chapman R, Howden Chapman P, Viggers H, O'Dea D, Kennedy M. 'Retrofitting houses with insulation: a cost-benefit analysis of a randomised community trial.' *Journal of the Epidemiology of Community Health* 2009;63:271-277 doi:10.1136/jech.2007.070037. Jackson G, Thornley S, Woolston J, Papa D, Bernacchi A, Moore T. 'Reduced acute hospitalisation with the healthy housing programme.' *Journal of Epidemiology and Community Health* 2011; 65:588-DOI: 10.1136/jech.2009.107441. <http://jech.bmj.com/content/65/7/588.full>. Howden-Chapman P, Crane J, Chapman R, Fougere G. 'Improving health and energy efficiency through community-based housing interventions.' *Int J Pub Health*. 2011 Dec;56(6):583-8. doi: 1007/s00038-011-0287-z. <http://www.ncbi.nlm.nih.gov/pubmed/21858460>.

**Discussion:** The Minister for Building and Housing, the Hon Dr Nick Smith,<sup>14</sup> highlighted two measures when he introduced the first reading of the Residential Tenancies Amendment Bill: the requirement for smoke alarms in all tenanted properties from 1 July 2016; and the requirement that those homes receiving the Government's income-related rent subsidy be required to comply with the new insulation regulations by 1 July 2016. However, all other tenanted homes are not required to be insulated until 1 July 2019.

CPAG argues that, although the Minister estimates these new requirements will see 180,000 tenanted homes insulated over the next 3 years, the delayed requirements for insulation of private rentals privileging private for-profit landlords, while imposing harsher compliance conditions on the not-for-profit sector, is unjustifiable.

**Submission 2: That compliance with existing legislation that requires homes to be free of dampness, to be secure, to not leak, to have safe wiring, and to have proper sanitation, be vigorously enforced.**

**Discussion:** The Minister suggests<sup>15</sup> strengthening compliance with existing housing regulations (as above). Minimum standards for residences or dwellings are contained in a 68 year old regulation known as the Housing Improvement Regulations 1947. These regulations set down minimum standards for housing, with provision for a \$40 fine for property owners who breach these standards. This is a meaningless penalty and the standards are outdated.<sup>16</sup>

The three changes proposed by this bill are: First – that the Ministry for Housing and Building can take enforcement cases to the Tenancy Tribunal. While the Minister acknowledges that people with disabilities are vulnerable tenants “who will not realistically take a dodgy landlord on”, CPAG argues that all low income tenants are vulnerable, and the Ministry has had the power to act on their behalf under existing regulations but has not chosen to do so.

The second proposed change is strengthening the enforcement of work orders from the Tenancy Tribunal to fix a substandard property, including removing a landlord's defence of forgetfulness over an order and ensuring that a monetary payment cannot be used as a substitute for getting a home repaired.

**Question:** Will adequate resourcing be allocated for the Ministry to enforce the new and existing regulations and standards?

**Submission 3: That a tenant will be able to apply for a retaliatory eviction notice to be quashed up to 42 days after it is given.**

The third proposed change is strengthening the protection for tenants who take cases to the tribunal over housing standards issues. A tenant will have only 28 days to apply for a retaliatory eviction notice to be quashed, and the landlord will be able to be fined up to \$2,000 for an unlawful retaliatory

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<sup>14</sup> See Hansard (debates): Residential Tenancies Amendment Bill — First Reading, 8 December 2015, at: [http://www.parliament.nz/en-nz/pb/debates/debates/51HansD\\_20151208\\_00000016/residential-tenancies-amendment-bill—first-reading](http://www.parliament.nz/en-nz/pb/debates/debates/51HansD_20151208_00000016/residential-tenancies-amendment-bill—first-reading).

<sup>15</sup> See Hansard (debates): Residential Tenancies Amendment Bill — First Reading, 8 December 2015, at: [http://www.parliament.nz/en-nz/pb/debates/debates/51HansD\\_20151208\\_00000016/residential-tenancies-amendment-bill—first-reading](http://www.parliament.nz/en-nz/pb/debates/debates/51HansD_20151208_00000016/residential-tenancies-amendment-bill—first-reading).

<sup>16</sup> See Johnson, A. (2015) *Every child's right to housing*, in “Summit Proceedings: Welfare fit for families in a changing world”, pp. 39 – 46, at: <https://cdn.auckland.ac.nz/assets/business/about/our-research/research-institutes-and-centres/RPRC/publications/welfare-summit-proceedings-2015.pdf>.

notice. The window of 28 days is insufficient for people who are unlikely to know their rights in this and other circumstances.

**Submission 4: That a full Warrant of Fitness be a requirement for all residential tenancies, with a significant fine imposed for non-compliance.**

The bill introduces a new disclosure regime, where landlords will be required, in new tenancy agreements from 1 July 2016, to state whether the home has underfloor, ceiling, and wall insulation, and to what level. As well as insulation, weather tightness, ventilation and safe electrical wiring are required for the safety and health of occupants.

CPAG recommends the Government set aside funding to subsidise both social housing providers and private for-profit providers of residential tenancies to assist with urgent upgrading of dwellings to ensure the safety and health of the occupants.

**Submission 5: That fair rental regulations be introduced.**

The 2013 census revealed that almost half of all New Zealanders live in rental accommodation,<sup>17</sup> In Germany and Switzerland,<sup>18</sup> and in Canada,<sup>19</sup> where a high proportion of families are renters, rental regulations ensure and enforce fair conditions and costs for tenants. Regulating rents and security of tenure are important controls to support housing quality legislation.

A system of rent regulation generally involves:

- limits on the rent that landlord may charge, known as 'rent control'
- standards by which a landlord may terminate a tenancy
- obligations on the landlord or tenant regarding adequate maintenance of the property
- a system of oversight and enforcement by an independent regulator.

**CPAG Submissions:**

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**Submission 5: That fair rental regulations be introduced.**

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<sup>17</sup> Statistics New Zealand (2015) Dwelling and household estimates, at: <http://datainfolplus.stats.govt.nz/Item/nz.govt.stats/25baddf1-766b-423a-8a5a-c8f9de8a1d57>.

<sup>18</sup> Eaquib, S. & Eaquib, S. (2015) Generation Rent, BWB Books, at: <http://bwb.co.nz/books/generation-rent>.

<sup>19</sup> In Canada there are rent regulation laws in each province. In Ontario the [Residential Tenancies Act 2006](#) requires that prices for rented properties do not rise more than 2.5% each year, or a lower figure fixed by a government minister.