

Renters and Housing Union VIC

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Affordable, safe and accessible Proposed Victorian Rent Regulation Model

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Introduction

Who we are

Renters and Housing Union is the largest member-run union of renters in Australia representing more than 1,300 renters across the country. As a union, RAHU is funded and run entirely by our members.

We collectively organise for the right to safe and secure housing through self-advocacy, education, and frontline eviction defence. RAHU advocates for renters rights in all tenancy types, and for improving and expanding public housing so that every renter has a safe and affordable home.

RAHU formed in 2020 in response to the COVID19 crisis and we have grown to be Australia's strongest voice of renters guided by our members' lived experiences. We have supported our members through thousands of complaints and claims, helping secure rent reductions, waive improper debts, and return withheld bonds.

Aim

These recommendations aim to provide succinct and applicable solutions to address the Victorian rental crisis through exemplified international rent regulation models.



Background

The lack of rental market regulation is a central factor to the housing system being unfit for purpose. Rising and unaffordable rents are a key contributor to homelessness, inaccessibility to a home, and increased poverty due to forgoing essentials in order to meet rent.

1 in 3 Victorians now rent their home. Private rentals are the last and largest unregulated market in the consumer environment, yet housing is the key determinant of our health.

Regulating rents is central to resolving the housing affordability crisis, and Victoria can set the Australian standard to ensure every Victorian has a home.

Summary Recommendations

Rent Regulation

1. Establish a Rent Price Cap through a residential rental rating system that regulates the rental price by the quality and standard of the rental property.
2. Ban rent increases on all Victorian rental properties from 2023-2026
3. Broaden the Residential Tenancies Database to require all rental properties to be registered by 2024

Rent increase changes

4. Limit rent increases to 30% of median wage index
5. Expand the 12 month limit on rent increases to include new occupancy or leases on the same rental property
6. Require new lease agreements to state the previous 3 years' rental rate

Housing Stability

7. Broaden and increase the Vacant Residential Land Tax to all LGAs
8. Restrict short stay rentals to only primary residences
9. Develop State-based programs that fund Bond loans for new 3 year minimum lease agreements with rent capped at 30% of median wage index
10. After 12 months of vacancy, an unoccupied property requires program lease agreement or land acquisition proceedings commence

Rent Regulation

Overview

Victoria and Australia have both had extensive histories of rent control since the Second World War through to the 1980s, alongside the implementation of social security and public housing.

In the European context, rent control has existed in various forms since the early 1900s, beginning with broad rent controls, and moving towards second generation caps in line with the growth in renting populations, and variations in dwelling types.

Significantly, most European countries have a median of 25% social housing, including cooperatively owned, public and community models. This means that the proportion of private rentals is comparatively low, yet in many cases the private rental rate is equivalent to social housing rent prices¹.

Rent Control Definitions

'First Generation' - Rent control:

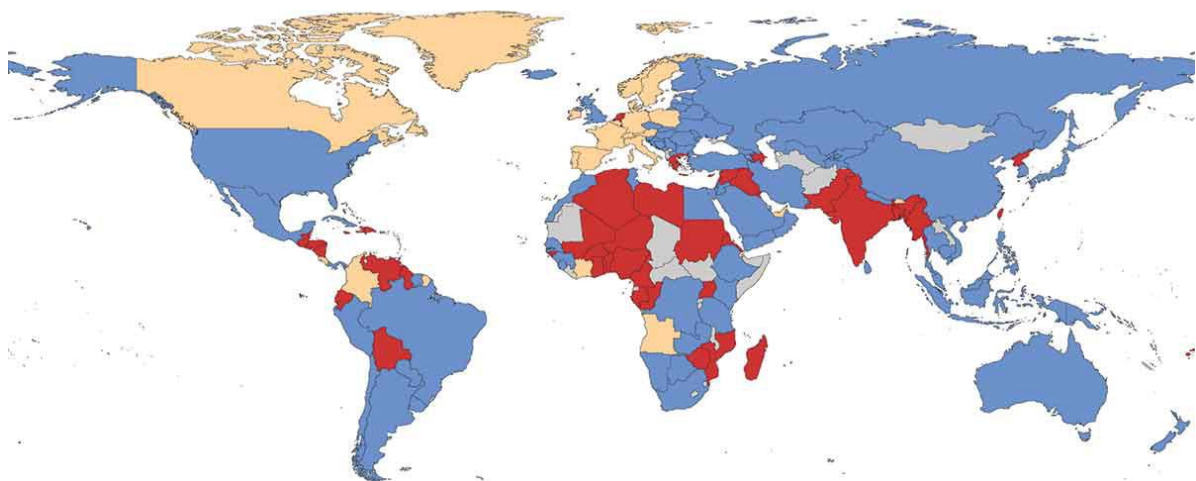
Broad-based cap where rents are frozen at a specified level, utilised internationally during the First and Second World Wars, including in Australia.

'Second Generation' - Rent regulation:

This model includes both caps on rent increases, and caps on rent prices, often determined by the quality and specifications of the rental home.

'Third Generation' - Rent increase restrictions:

This model restricts rent increases in one tenancy, however remain unrestricted between tenancies, often leading to an increase in evictions or 'tenant flipping' for higher rents.



2020 diagram showing global distribution of rent control²

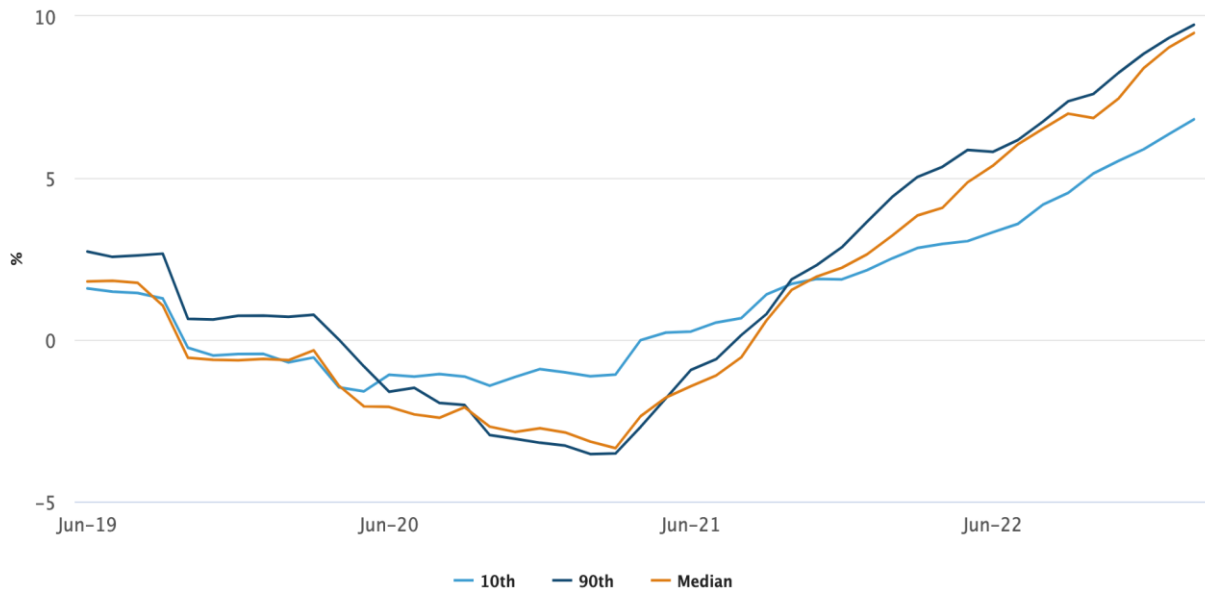
Issues

Rent Affordability

In the last year to February 2023, Australian median rents have risen by 10%, with regional Victoria rising by 20% over 2022.

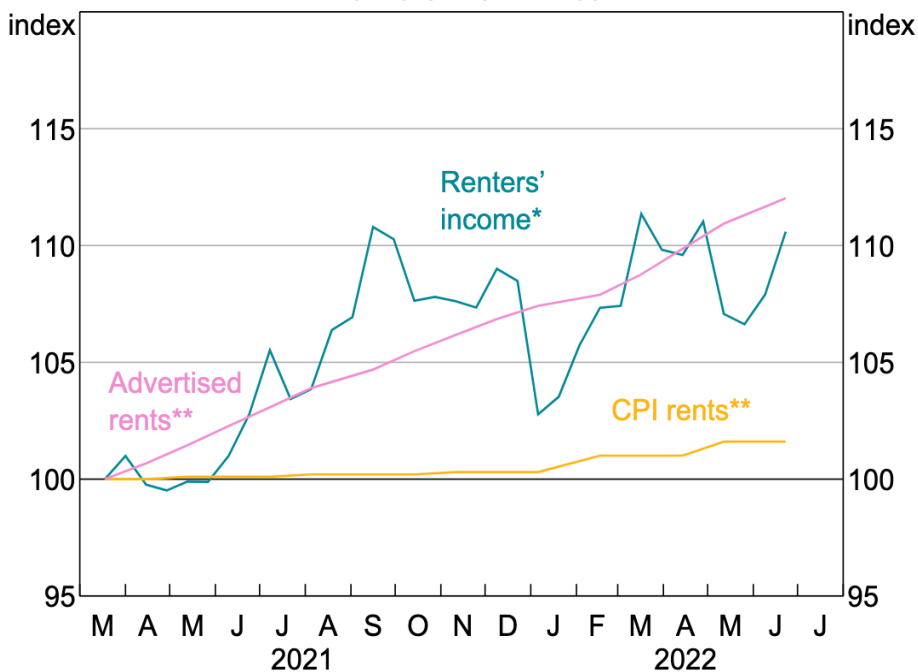
- Median rents increased by 10% in the year ending February 2023³
- 75% of renters in Australia are currently living in financial stress⁴
- Eviction Notices for non payment of rent account for over 50% of VCAT claims

Figure 14: Average rent changes, annual, by rent amount percentile *



Rent and Income

Mid-March 2021 = 100



National rental market changes - [New insights into the rental market](#), ABS April 2023

Graph 13 - [Renters, Rent Inflation and Renter Stress](#)¹⁵ ABS March 2023

In 2022 rent quadrupled the rate of wages, with median rent prices increasing by 8.7%, while wages rose by 2.1%. In the same year, housing values grew seven times the rate of wages, demonstrating a further disparity in inequality between those who own property and those who rent a place to call home⁶.

Rent Increases

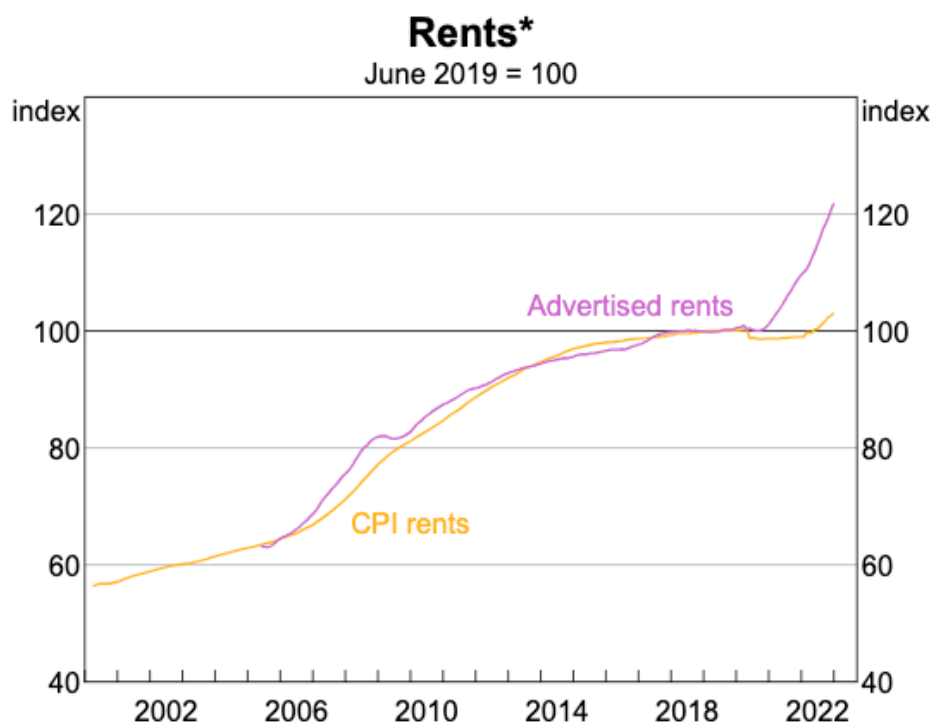
From March 2022 Victorian rental laws have limited rent increases to once every 12 months, however since this change, rent increase notices and advertised rental prices have increased significantly.

'Tenant flipping': Of note, without limiting rent increases by property instead of lease, agents are incentivised to terminate a lease in order to increase rent in the new lease. This "tenant flipping" causes insecurity of tenure for renters, and regional rent spikes.

- VCAT applications for rent increases have risen by 295% between January - April 2022⁷
- Rent increase cases make up 30% of RAHU cases from January to June 2022, five times higher than 2021⁸

RAHU has found since the end of the Victorian rental moratorium in March 2021, the real estate industry has campaigned widely to issue rent increase notices by:

- Issuing shorter term (3 or 6 month) lease agreements
- Issuing rent increases in new lease agreements for the same occupancy,
- Advertising a significantly increased rent in new rental listings.



Graph 10 -
['Renters, Rent Inflation and Renter Stress'](#)⁹
ABS March 2023

Solutions

Australian Models

ACT Rent Increase limits

Third generation rent increase regulation

Australian Capital Territory (ACT) has had restrictions on rent increases in place since 2019. Under this model, rental providers can only increase the rent by a maximum of 110% of the CPI at the date of the rent increase. In simpler terms, a provider can only increase rent by the rate of inflation in Canberra rentals, plus 10%. For example, if the CPI is 4.2%, a provider can increase the rent by a maximum of 4.62%.

Challenges:

- The rent increase process still allows for 'comparable market examples' to be used in rent increases, allowing for industry to selectively include higher rate rentals
- CPI fluctuates and could cause larger instability in rent prices

Amendments for Victorian context:

- Limit increases to a percentage of the median wage index, as below 30% of wage increases
- Include new occupancies and new leases within the 12 month limitation on rent increases

Wartime Australian Rent Control

First generation rent control

Victoria and Australia have both had extensive histories of rent control since the Second World War continuing through to the 1980s. The Menzies Government introduced rent control in 1939, which was further strengthened by the Curtin Government in 1941, who froze rents at 1940 levels, with an independent tribunal responsible for deciding any changes. Following the end of the war, state governments implemented various types of rent control, alongside substantial amounts of public housing to ensure the housing security of their citizens. Although these controls were wound back by the 1960s, many residential tenancies in Victoria were under some form of rent control until the 1980s.

- Renters' income disparity and the disparity of standards of rental properties necessitates flexibility of rental price within the regulatory design

International Rent Cap Models

Denmark: Rating system

First and second generation rent controls

Denmark has a rating system outlined within the rental act which provides rules about how much rent can be charged for the property¹⁰. The rating system criteria set includes:

- The location and size of the property
- The condition of the residence
- What equipment and facilities are included
- The amount of residences in the property
- Whether parts of the property are used for business

This rating system applies to regulated municipal zones. In addition to this system, Denmark has had a national rent cap system in place since August 2022 applied to include all unregulated municipal zones, in response to the cost of living pressures. This cap works by placing a temporary rent cap for any rent increases for unregulated rental properties. Prior to the development of the rental cap, landlords were able to raise rents in line with the Net Price Index (NPI) which was linked to inflation levels. This meant that Danish renters were often served rent increases of up to 8%. Under the new model, a 2-year ceiling for rent increases of 4% has been introduced.

There are possible exceptions for landlords to raise the rent by more than 4% if they can prove that they have increases in operating expenses that exceed the 4% cap. The 4% rent cap will be reviewed after the expiration of the 2 years, in January 2025¹¹.

Sweden - Collective bargaining

First and second generation rent controls

In Sweden, tenancies are open-ended and initial rents at the beginning of a tenancy are set by a Rent and Tenancy Tribunal on the basis of their reasonableness compared to the 'utility value' of the property. Utility value refers to the consideration of whether or not they are broadly comparable to similar properties of the same utility value.

A property's utility value is based on a range of characteristics of equivalent homes in the area:

- Size of the property
- Construction and condition
- How modern the property is relative to the average residence
- Liveability standards including quality of soundproofing, and its state of repair.

A premium over utility value is allowed for newly constructed units known as 'presumption rents'. This is only allowed provided that the landlord has already entered into a collective bargaining agreement with the Tenants Union. The tenant will still have the right to test in

court whether any subsequently proposed rent increases are justified. In general, rent increases are the purview of the legally-constituted collective bargaining process. Sweden has what is known as a unitary housing system wherein there are few practical differences in rights or in terms of rent determinations across private and non-market housing.

France - Rent-Shield model

First, second and third generation rent control

France has been operating the Rent-Shield model since June 2022. The policy will be revised at the end of June 2023. It builds upon existing protections for renters in the private rental market.

France uses the Indice de référence des loyers (IRL) (rent reference index) which is a nationally set index governing rent increases. From 2022, the French government has ruled that the IRL may not exceed 3.5%, effectively capping all rent increases to that level. In France, landlords can only raise the rent once every 12 months, and only in line with the IRL. Any rent increases must be included in the lease agreement at the outset of the lease.

Recommendations for a Victorian model

These recommendations propose a regulatory design for Victorian residential leases.

Rental Rating System:

In order to apply a rent regulation model fit for purpose, the Victorian regulatory framework must be expanded.

- Establish a Rental Property Database requiring all rental properties to be registered
- Establish a 5 star Rental Rating System including key liveability criteria including:
 - Requirements for Energy efficiency and minimum standards
 - Location, size and age of property
 - Number of residents in the dwelling
- Each property would be assessed under a set of criteria with a 5 star rating system
 - Renters would be required to complete a rating assessment of their residence
 - Expand monitoring and enforcement by a non-industry regulator
- Establish a Rent Price cap determined by the rating system
 - This rating system would then determine the maximum rental price for each property

Rent Increase restrictions

Concurrently, to prevent retaliatory spikes in the rent market as exemplified post-pandemic, rent increases must be restricted

- Ban Rent Increases for residential tenancies until 2025
- From 2026, limit rent increases to 30% of CPI
- Expand the 12 month limit on rent increases to include new occupancy or leases on the rental property
- Require new lease agreements to state the previous 3 years' rental rate

Applying rent regulation in the Victorian context:

Challenges:

- Rental property standards are varied and vastly unmonitored, yet they have little correlation with the rental price,
- To ensure adequate enforcement, relevant consumer regulators may require expansion
- Industry-set vacancy rates have inflated and controlled market rents, rather than being set by quality of the property

Benefits:

- Regulating rent prices directly addresses rental affordability for a third of the Victorian population
 - Determining rent price by the quality of the rental incentivises minimum rental standards to be met
 - Rental market regulation assists to include residential leases within preexisting consumer law frameworks and protections
 - Registration of all rental properties would assist government in ensuring compliance and revenue from the Vacant Residential Land Tax and related taxes and levies
 - Rent control reduces tenancy turnover and displacement, increasing household and community stability¹²
 - Rent control increases owner-occupier home ownership as property investors sell-off rental properties
-

Testimonials from our members

We help hundreds of our members navigate claims processes and complaints against landlords and real estate agents behaving badly.

Here are a few of their stories:

My rent is already increasing by 20% just after my lease expires, so I'm assuming they did this because they plan on upping it even more. Problem is I can't afford to move because I haven't got savings, but I can't afford to stay and be paying too much a week.

- Russell, Melbourne renter

I have been share-housing in my rental for 9 years.

We had issues with mould last year - we were blamed for the cause even though the mould report stated that we didn't cause anything. The landlord eventually paid for treatment but we had to agree to clean our bedroom blinds (mould on all three).

Mould has obviously come back this year as we were told they should be replaced. Now the landlord won't agree to pay so I have to pay for the new blinds or go to VCAT as it's affecting our health.

Lease is up for renewal and they are upping the rent by \$210 a month and claiming market rate.

I don't want to go through VCAT or rock the boat because I want to stay long term.

Collette - Brunswick

As someone with unstable income and not much work, I'm not sure what to do to guarantee myself any protection. I cannot afford a rent increase. - Jay, Brunswick

Before we moved in, the landlord spruced the place up with a typical 'landlord special,' and repainted the house. Three months in, the paint began to flake off absolutely everywhere – the landlord had used the same paint in the kitchen over the stove. There is no range hood, only an open chimney which the rain frequently comes in through.

Each time we cooked anything, the paint would warp and bubble and fall into our food.

When we contacted our agent about this urgent repair they made us feel as if we would be lucky if they sent anyone at all. After a week, a handyman came and only removed the paint immediately above the stove burners so the rest of it continues to flake everywhere.

We are scared to raise the issue again with the agent. We are worried about being evicted at the end of our first term or being given a rent increase we will not be able to pay.

Melissa, Northcote

When I told my agent that the bathroom had dangerous amounts of black mould growing on the ceiling, she told me to simply use a mop and clean off the ceiling every time I had a shower to get rid of it.

Martha, St Kilda

We're two casual workers who have rented our place for 18 months. Despite requesting urgent repairs this whole period, we only received the first correspondence from the agents since moving in, notifying of a rent increase from \$380 a week to \$450 - almost 20%.

It was obvious to us that the property was not worth that and spent the next 3 months trying to find a new place. Upon sending our notice to vacate, we received emails stating we had to pay for carpet steam cleaning and fumigation. We cleaned and packed up for a couple of weeks and then moved out.

Hayden, Docklands

I have lived here since early October 2021. I enquired about signing a new 12 month lease.

The agency repeatedly avoided addressing my requests in writing over 7 weeks by claiming they were waiting on a reply from the landlord.

Then, at the next routine inspection after the lease had expired, they brought along a property valuer to take notes on the features of the house and value it.

A week later, I received an email notifying me that my rent would be increased by \$195.

I still have not received a new lease, but they seem to have purposely avoided granting me another to circumnavigate the tenancy laws about rental increases while under a current lease agreement.

Corky, Werribee

I'm finishing up my first year long lease. I've been informally offered another year-long lease renewal. I was notified that my next lease will include a rent rise of 5%.

This notice was given after a 2 week period of ignoring a minimum standards breach - a non-functional bathroom door

Shane, Bundoora

My housemates and I were given notice to be evicted because the landlords intended to move back into the house.

Leading up to the eviction date, the agent organised multiple viewings of the house to evaluate the property's value for sale.

This made us wonder whether the intention of our eviction was to sell the house, and if so, why it hadn't been declared. We asked and were told that the house was not being sold.

In the weeks following our eviction, the house had a 'for sale' sign up and was in fact being sold. The landlord then alerted us to collect our mail as the house had been sold and they were vacating.

It seemed like they said they were moving in to skirt around their obligations towards their tenants in selling the house.

Eamonn, Preston

Endnotes

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3. Australian Bureau of Statistics (24 April 2023), [New insights into the rental market](#), ABS Website, accessed 17 June 2023.
4. [Renters under increasing strain as cost-of-living pressures bite across Australia](#) - ABC, 2022
5. [Renters, Rent Inflation and Renter Stress](#) ABS Bulletin - March 2023 Australian Economy
6. ['Pricing us out of a home' Submission to the Cost of Living Senate Select Committee](#)
7. Residential Tenancies Data - VCAT Residential Tenancies Hub Jan-April 2022
8. ['Unregulated and Unaffordable - Rent Regulation Report'](#) - August 2022 Renters And Housing Union
9. [Renters, Rent Inflation and Renter Stress](#) ABS Bulletin - March 2023 Australian Economy
10. [Rent Guide IVS 2023](#) - Rent Guide Denmark
11. Hanna Kettunen & Hannu Ruonavaara (2021) Rent regulation in 21st century Europe. Comparative perspectives, *Housing Studies*, 36:9, 1446-1468, DOI: 10.1080/02673037.2020.1769564
12. From: Kholodilin, Konstantin A., and Sebastian Kohl. "Do rent controls and other tenancy regulations affect new construction? Some answers from long-run historical evidence." *International Journal of Housing Policy* (2023): 1-21. <https://doi.org/10.1080/19491247.2022.2164398>