



13 October 2010

The Hon Virginia Judge MP
Residential Tenancies Regulation 2010
Fair Trading Policy
PO Box 972
Parramatta NSW 2124

By e-mail: policy@services.nsw.gov.au

Dear Minister Judge

Residential Tenancies Regulation 2010

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit, law and policy organisation that works for a just and democratic society by taking strategic action on public interest issues. PIAC has, as a key area of work, energy and water policy. The Energy + Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in NSW.

PIAC welcomes the opportunity to respond to the consultation draft of the Residential Tenancies Regulation 2010 (the Regulation). This letter addresses aspects of the Regulation that cover financial responsibility for charges associated with utilities.

Part 3 Clause 10 — Water-efficiency measures required for payment of usage charges by tenants: s 39 (1) (b) of Act

PIAC contends that compelling landlords to implement water-efficiency measures before they can bill tenants for water usage charges is a responsible course of action. Rising water prices have a financial impact on tenants yet, in comparison to homeowners, tenants' ability to improve the water-efficiency of their residence is extremely limited. As such, PIAC supports Clause 10 of the Regulation.

Acknowledging this support, PIAC submits that the Regulation must go further to ensure the water-efficiency of tenanted properties. In particular, the failure of the Regulation to oblige or encourage landlords to install dual flush toilets is a missed opportunity to promote water-efficiency and reduce the financial burden on tenants as utility prices rise. Sydney Water states that replacing a single flush toilet can save up to 25,000 litres of water per year.¹ This represents a saving of 12.4% of average annual water usage charges.²

PIAC asserts that water efficiency measures under the Regulation would be greatly strengthened with the addition of a clause obliging landlords to install dual flush toilets to rental properties. PIAC notes that the Regulatory Impact Statement for the *Residential Tenancies Regulation 2010* explored this option but found the financial impact on landlords to be prohibitive.³ The Regulatory Impact Statement also noted that Queensland's *Residential Tenancies Regulation 2005* nominates dual flush toilets as a regulated water efficiency measure for rental properties.⁴ PIAC submits that the existence of our proposed requirement in another Australian jurisdiction demonstrates that barriers to introducing similar obligations in NSW are not insurmountable. Further, anecdotal evidence suggests that the introduction of stronger water efficiency measures of this nature have not been overly onerous on landlords in Queensland. PIAC recommends that the *Residential*

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Tenancies Regulation 2010 include a clause requiring rental properties to be fitted with dual flush toilets.

Addition to Part 3— Rights and obligations of landlords and tenants— Gas Supply Charges

Section 38 (1) (a) of *The Residential Tenancies Act 2010* obliges a tenant to pay:

All charges for the supply of electricity, gas (except bottled gas) or oil to the tenant at the residential premises if the premises are separately metered⁵

PIAC understands that tenants are being charged a gas supply fee even where they have no appliances and are not using this utility. The fee of approximately \$200 per year is levied on the basis that the residence is fitted with a gas meter that facilitates the delivery of reticulated gas. Avoiding these charges requires the removal of the meter, an action requiring permission from the landlord. If permission were granted, the cost of removing the meter would negate the savings made—unless a long-term tenancy was in place.

PIAC asserts that it is fair and reasonable for tenants to pay the supply fee and usage charges for gas where they are drawing gas through the meter. However, where a gas meter is connected to the residence and the tenant generates no gas usage charges, the gas supply charge should be paid by the landlord. Where a residence has no fixed gas appliances, such as a stove or hot water heater, PIAC argues that gas could be viewed, in this case as a discretionary, rather than an essential service. On this basis, PIAC recommends that an additional clause be inserted into Part 3 of the Regulation to stipulate that the obligation to pay gas supply fees should only fall to the tenant in the event that the tenant draws gas through the meter.

Thank you again for the opportunity to comment on the public consultation draft of the *Residential Tenancies Regulation 2010*. Should you require any further more information, or wish to organise a meeting to discuss the issues raised in this letter, please contact Carolyn Hodge, Policy Officer, via email chodge@piac.asn.au or via telephone on (02) 8898 6520.

Yours sincerely



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¹ Sydney Water, *Toilet Replacement Service* (2010)

<<http://www.sydneywater.com.au/Water4Life/InYourHome/Toilets.cfm>> at 8 October 2010.

² Based on average residential household water consumption for Sydney, the Blue Mountains and the Illawarra. Independent Pricing and Regulatory Tribunal, *Residential energy and water use in Sydney, the Blue Mountains and Illawarra* (2007) 33.

³ *Residential Tenancies Regulation 2010* (NSW) Regulatory Impact Statement, 16.

⁴ *Residential Tenancies Regulation 2005* (QLD) s 27A (1)(a). For more information water efficiency measures in Queensland see also, *Residential Tenancies and Rooming Accommodation Regulation 2009* no. 74 (QLD) s 22 (1) (a).

⁵ *Residential Tenancies Act 2010* (NSW) s 38 (1)(a).