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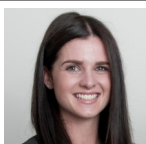
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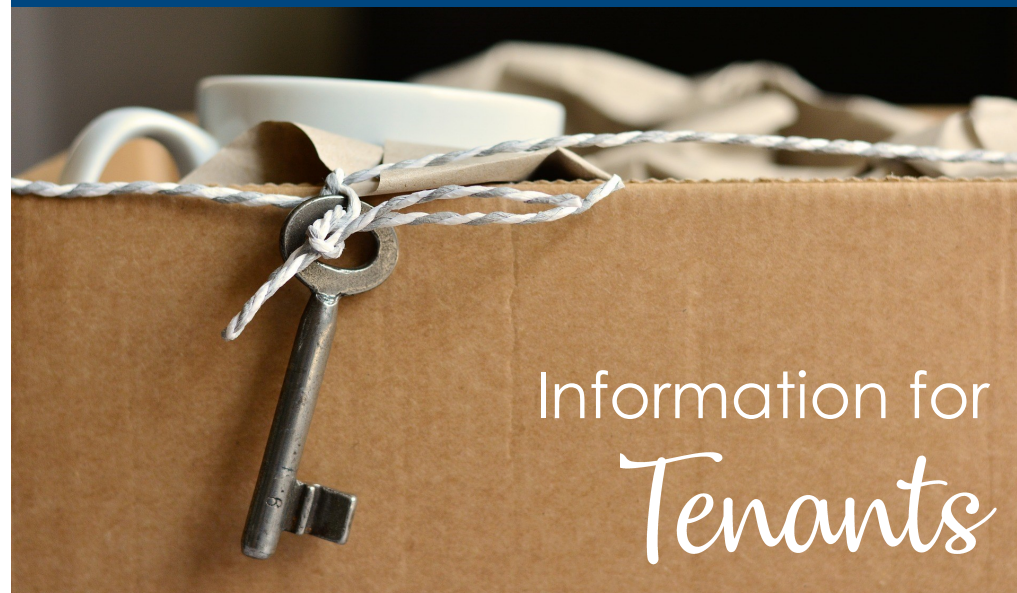
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Fair  
Trading



Information for  
*Tenants*

We have compiled the NSW Department of Fair Trading Tenancy Fact Sheets into one convenient booklet for your easy reference.

All fact sheets in this booklet are sourced from the NSW Fair Trading website, under the Renting a home, Starting a tenancy section:

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

If you have any questions, please feel free to contact us at any time - we are here to assist you in your property journey!

#### FIRST NATIONAL NORTH HAVEN OFFICE HOURS:

Monday to Friday 8:45am - 5:15pm

Saturday 9:00am - 1:00pm



North Haven

#### Interest payable

A small amount of interest may be paid to you when you get your bond back. The majority of the income earned from the collective pool of rental bonds is used to fund a range of services that benefit all tenants, such as funding the NSW Civil and Administrative Tribunal and organisations across New South Wales under the Tenants Advice and Advocacy Program.

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)  
Fair Trading enquiries 13 32 20  
TTY 1300 723 404  
Language assistance 13 14 50

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.

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Fair Trading will issue a 'Notice of Claim' to the agent or landlord, giving them 14 days in which to contest or agree with your claim.

If the landlord or agent agrees with your claim, they can advise NSW Rental Bonds in writing for a bond that was originally lodged by the paper bond lodgement form. If the bond was lodged online, they can log on to Rental Bonds Online and agree to the claim. The bond will be refunded within two working days.

If the landlord or managing agent disagrees with the claim, they may discuss the claim with you. If an agreement cannot be reached, they can apply to the NSW Civil and Administrative Tribunal (the Tribunal) to contest your claim.

If they apply to the Tribunal, the bond will be held by Fair Trading until the dispute is settled. The landlord or agent will need to attend a hearing at the Tribunal and present evidence to back up their claim. You will receive a notice from the Tribunal if they apply. You should also attend the hearing and bring evidence to support your claim.

If they do not apply within the 14 days, the bond will then be paid out as per your claim.

### Challenging a landlord's claim

If the landlord or agent lodges a claim first, Fair Trading will send you notice giving you 14 days in which to contest the claim. You can contact the agent or landlord and try to come to an agreement for the claim. If that is unsuccessful, your only option is to apply to the Tribunal within the 14 days, otherwise the bond will be paid out as per the landlord's claim.

If you lodge a claim with the Tribunal, make sure you complete and return the Notice of claim slip to Fair Trading as mentioned in the form. If the bond was lodged online, you must log in to Rental Bonds Online and tell us that you are disputing the claim. Fair Trading will then hold the bond until the Tribunal makes a decision.

Within 7 days of lodging the claim, the landlord or agent must send you copies of the final inspection report, along with any estimates, quotes, invoices or receipts relating to the claim. If they fail to do this you should raise it at the

Tribunal hearing. You should also tell the Tribunal if you were not given a reasonable opportunity to be present at the final inspection, and if you disagree with what was written in the final condition report. You should also show any evidence you have to support your position.

### Fair wear and tear

You are not responsible for fair wear and tear to the premises. Fair wear and tear means the deterioration that occurs over time with the use of the premises even though the premises receive reasonable care and maintenance. Such deterioration could be caused by exposure, time or just by ordinary use. You are only liable for negligent, irresponsible or intentional actions that cause damage to the premises. These examples may help to explain the difference.

Fair wear and tear - you are not liable	Damage - you are liable
Faded curtains or frayed cords	Missing curtains or torn by the tenant's cat
Furniture indentations and traffic marks on the carpet	Stains or burn marks on the carpet
Scuffed up wooden floors	Badly scratched or gouged wooden floors
Faded, chipped or cracked paint	Unapproved paint job
Worn kitchen bench top	Burns or cuts in bench top
Loose hinges or handles on doors or windows and worn sliding tracks	Broken glass from one of your children hitting a ball through the window
Cracks in the walls from movement	Holes in walls left by tenant removing picture hooks or shelves they had installed
Water stain on carpet from rain through leaking roof or bad plumbing	Water stain on carpet caused by overflowing bath or indoor pot plants



### Starting a tenancy

This is a collection of fact sheets for residential tenants on topics related to starting a tenancy:

- New tenant checklist
- Tenancy databases
- Discrimination when renting
- Residential tenancy complaints

All the fact sheets in this document can also be accessed as individual pages on the Fair Trading website:

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

# New tenant checklist

## What you must know before you sign a lease

At the start of every tenancy, your landlord or agent should give you:

- a copy of this information (the *New tenant checklist*)
- a copy of your lease (tenancy agreement)
- 2 copies of the premises condition report (more on that later)
- an invitation to lodge the bond using Rental Bonds Online (RBO). Or, if you are unable to use RBO, a bond lodgement form for you to sign, so that it can be lodged with NSW Fair Trading
- keys to your new home.

If applicable, you should also receive:

- a certificate of compliance for a swimming pool (more on that later)
- a copy of the by-laws, if the property is in a strata complex
- notification if the premises has been listed on the Loose-Fill Asbestos Insulation Register (more on that later)
- notification of any other material fact relating to the premises (more on that later).

Before you sign the lease, make sure you read it thoroughly. If there is anything in the lease that you do not understand, ask questions.

Remember, you are committing to a legally binding contract with no cooling-off period. You want to be certain you understand and agree to what you are signing.

You should only sign the lease when you can answer Yes to the following statements.

### The lease

- I have read the lease and asked questions if there were things I did not understand.
- I know the length of the lease is negotiated before I sign, which means it can be for 6 months, 12 months, or some other period.

- I know that I must be offered at least **one** way to pay the rent that does not involve paying a fee to a third party.
- I know that any additional terms to the lease must be negotiated before I sign.
- I have checked that all additional terms to the lease are legal. For example, the lease does **not** include a term requiring me to have the carpet professionally cleaned when I leave, unless I have agreed to that as part of a condition to allow me to keep a pet on the premises.

### Promised repairs

For any promises made by the landlord or agent (for example, replace the oven, paint a room, clean up the backyard, etc.):

- I have made sure these have already been done
- or
- I have an undertaking in writing (before signing the lease) that they will be done.

### Upfront costs

I am **not** being required to pay:

- more than 2 weeks rent in advance, unless I freely offer to pay more
- more than 4 weeks rent as a rental bond.

I am **not** being charged for:

- the cost of preparing my lease
- the initial supply of keys and security devices to each tenant named on the lease.

# Getting your bond back

## Information for tenants

### Rental Bonds Online

For new residential tenancies from 30 January 2017, an agent or self-managing landlord must offer you the option of using Rental Bonds Online (RBO), Fair Trading's easy and secure service to manage bonds online. To use RBO, all you need is an email account, a mobile phone, internet connection, a Visa, Mastercard or the ability to pay by BPAY, and an Australian bank account.

For more information on making a bond claim using RBO, visit the Frequently asked questions for tenants page on the Fair Trading website.

If you do not owe the landlord or agent money at the end of your tenancy, the bond that you paid at the beginning of your tenancy should be refunded to you in full. However, if the landlord or agent believes you owe them money, they are able to make a claim against your bond.

The main reasons a claim may be lodged against your bond are:

- if you still owe any rent or have unpaid water usage bills
- if you broke the lease early and have not paid the break fee or other compensation payable
- if you didn't hand back all the copies of the keys you were given and the locks needed to be changed
- if you caused damage or did not leave the premises in a reasonably clean condition, compared to the original condition report, apart from 'fair wear and tear'.

This is not an exhaustive list. There may be other legitimate reasons for the landlord or agent to make a claim against your bond, such as the cost of disposing of goods you have left behind.

### Refund by agreement

Before you leave and hand back the keys you should contact the agent or landlord to arrange a mutually agreeable time to do the final inspection. This is where you both go over the property to see if there is any damage to the property or anything that needs cleaning. If the agent or landlord raises something that is minor, you may be able to deal with it on the spot. The official condition report needs to be completed at this inspection.

If you agree with the agent or landlord on how the bond is to be paid out, ask them to fill out and sign a Claim for Refund of Bond Money form. They can then give it to you so you can lodge it with Fair Trading, or they may lodge it on your behalf. This way, the bond can be paid out straight away.

Never sign a blank Claim for Refund of Bond Money form. Always make sure the bond refund amounts are filled in before you sign the form.

If you have a Rental Bonds Online account, you or your landlord or landlord's agent can submit a claim for bond refund online. If you wish to submit the claim, you can do this by logging into Rental Bonds Online and accessing your bond details. Click on 'Submit a claim' and follow the instructions. You will need your mobile phone to receive an SMS code to verify the claim. All refunds for online bonds will be paid by direct deposit into the bank accounts nominated in Rental Bonds Online. This means it is important your bank account details are up-to-date before you submit a claim for refund.

### If you disagree

If you cannot agree with the agent or landlord about how the bond should be paid out, or if you feel that they are taking too long, you can lodge a Claim for Refund of Bond Money form yourself without their signature on it. Tenants with a Rental Bonds Online account can submit a claim online. This will start the ball rolling but the bond will not be released immediately.

## Disposal of unclaimed items

If you fail to reclaim your goods of value within the 14 days, the landlord or agent may dispose of them in any of the following ways:

- donating the goods to charity (eg. leaving clothes in a clothing bin or arranging for furniture etc to be collected)
- disposing of the goods in a lawful manner (eg. taking them to the tip or organising a council collection)
- keeping the goods in the property if they are useful fixtures and fittings (eg. curtains)
- selling the goods for fair value and giving the proceeds to you (less any occupation fee and the reasonable costs of the sale).

Unclaimed personal documents can be disposed of after the 90 days in an appropriate manner, such as by being returned to the issuing authority (wherever possible), or shredded.

## Resolving disputes

If the law is correctly followed there is no action you can take against the landlord if your goods or personal documents have been donated, disposed of or sold.

However, if the law is not followed you may seek compensation from the landlord or agent through the Tribunal for any losses.

If the landlord or agent refuses to return goods or personal documents, you can apply to the Tribunal for an order that the items be returned to you.

If your goods have been sold and the proceeds of the sale have not been passed on to you an application can be made to the Tribunal.

## Managing your bond online

Your landlord or agent **must** give you the option to use Rental Bonds Online (RBO) to pay your bond. You can use RBO to securely pay your bond direct to NSW Fair Trading using a credit card or BPAY, without the need to fill out and sign a bond lodgement form. Once registered, you can continue to use your RBO account for future tenancies.

If you decide not to use RBO, you can ask your agent or landlord for a paper bond lodgement form for you to sign, so that it can be lodged with NSW Fair Trading.

## Swimming and spa pools

Does the property have a swimming or spa pool? If so, the landlord or agent must give you a copy of a valid certificate of compliance or occupation certificate issued in the past 3 years. This does not apply if you are renting in a strata or community scheme of more than 2 lots.

## Property containing loose-fill asbestos insulation

Properties in NSW that test positive for loose-fill asbestos insulation will have the property address included in a public register (available on the NSW Fair Trading website). If a property has been listed on this public register, the agent or private landlord must disclose this information to new tenants. The following section lists the other information that must be provided to tenants before they sign a lease.

## What tenants must be told

Sometimes a residential property has something in its history that you should know. If the landlord or agent is aware of any of the following facts, they must inform you:

- if the property:
  - has been affected by flooding or bushfire in the previous 5 years
  - has significant health or safety risks (unless they are obvious when you inspect the property)
  - has been the scene of a violent crime in the previous 5 years

- is affected by zoning or laws that will not allow you to obtain a parking permit and only paid parking is available in the area
- is provided with council waste services on a different basis to other premises in the area
- is listed on the loose-fill asbestos insulation register
- if other people are entitled to share the driveway or walkway.

## After you move in

- Fill in your part of the condition report and make sure you return a copy to the landlord or agent within 7 days. This is an important piece of evidence. If you do not take the time to complete it accurately, money could be taken out of your bond to pay for damage that was already there when you moved in.
- If you lodged the bond using RBO, make sure you receive an email or SMS notification from Fair Trading confirming your bond has been received. If the bond was not lodged using RBO, make sure you get a letter from Fair Trading sometime during the first 2 months saying that your bond has been received and advising you of your Rental Bond Number.

If you do not receive an email, SMS notification or letter, call NSW Fair Trading to make sure the bond has been lodged.

## Top tips for problem-free renting

Follow these useful tips to help avoid problems while you are renting:

- Photos are a great way to record the condition of the property when you first move in. Take date-stamped photos of the property, especially areas that are damaged or unclean. Keep these photos in case the landlord objects to returning your bond at the end of your tenancy.
- Keep a copy of your lease, condition report, rent receipts, Rental Bond Number and copies of letters/emails you send or receive in a safe place where you can easily find it later.

- Never stop paying your rent, even if the landlord is not complying with their side of the agreement (e.g. by failing to do repairs). You could end up being evicted if you do.
- Comply with the terms of your lease. In particular, never make any alterations, keep a pet or let other people move in without asking the landlord or agent for permission first.
- Keep a diary of your dealings with the landlord or agent - record all the times and dates of conversations, who you spoke to and what they agreed to do. If repairs are needed, put your request in writing to the landlord or agent and keep a copy. This type of evidence is very helpful if a dispute arises that ends up in the NSW Civil and Administrative Tribunal (NCAT).
- Consider taking out home contents insurance. It will cover your belongings in case of theft, fires and natural disasters. The landlord's building insurance, if they have it, will not cover your things.
- If the property has a pool or garden, be clear about what the landlord or agent expects you to do to maintain them.
- Be careful with what you sign relating to your tenancy and do not let anybody rush you. Never sign a blank form, such as a 'Claim for refund of bond' form.
- If you are happy in the place and your lease ends, consider asking for the lease to be renewed for another fixed term. This will remove the worry about being unexpectedly asked to leave and can help to lock in the rent for the next period of time.

### Further information

Go to the Fair Trading website or call 13 32 20 for more information about your renting rights and responsibilities.

The NSW Government funds a range of community based Tenants Advice and Advocacy Services across NSW to provide advice, information and advocacy to tenants. Go to the Tenants Union website at

[www.tenants.org.au](http://www.tenants.org.au) for details of your nearest service or check your local phone directory.

Landlords and agents must give a copy of this information statement to all new tenants before they sign a residential lease. Fines can be imposed if this is not done.

# Retrieving goods left behind

## Information for tenants

If you move out or are evicted from your rental property and you leave behind some of your goods or personal documents the law sets out how the landlord or agent can deal with them and how you can get them back.

You should contact the landlord or agent as soon as you can. That way, there is less risk that your goods or personal documents will be damaged, removed or disposed of. The sooner you collect the items the less you may have to pay to cover storage costs.

### Rubbish and perishable items

If you leave any rubbish or perishable items on the property, the landlord or agent may dispose of them immediately. For example, a broken chair and a pile of old newspapers or perishable food left in a cupboard and dying pot plants in the yard. They do not have to notify you or get your consent to dispose of such items.

### Notice required

If you have left items other than rubbish behind (goods of value) the landlord or agent must attempt to notify you. They need to try to contact you and let you know that they have your goods and will dispose of them after a certain time if you do not collect them. The landlord or agent can do this in writing (to your forwarding address if they have it, or to the rental property in case you have arranged for your mail to be redirected), in person or over the telephone. If after 2 days the landlord or agent has not been able to contact you, they are able to leave a notice on the premises (eg. stuck to the front door).

### Goods of value

Goods of value could include such things as furniture, electrical items and clothing. If you have left goods behind of this nature, the landlord or agent needs to store them in a safe place. This could be on the premises or somewhere else. They are only required to keep these goods for 14 days from the day they notify you to come and collect them.

### Personal documents

Different rules are in place when dealing with your personal documents. Personal documents are defined under the Act as being:

- a birth certificate, passport or other identity document
- bank books or other financial statements or documents
- photographs and other personal memorabilia (eg. medals and trophies)
- licences or other documents conferring authorities, rights or qualifications.

The landlord or agent should keep personal documents left behind in a safe place for at least 90 days from the day they give you notice.

### Reclaiming your goods and documents

You, or anybody else with a legal interest in the goods (eg. your ex-housemate or a goods hire company) can reclaim the goods at any time they remain in the landlord or agent's possession. A suitable time and day for collection needs to be agreed upon. The landlord or agent cannot refuse to return your belongings, even if you owe rent or money for some other reason.

You may have to pay an occupation fee to cover storage expenses if sufficient goods were left behind to prevent the landlord or agent renting the premises to somebody else.

An occupation fee equal to a day's rent can be charged for each day the goods are held, whether they are stored on the premises or elsewhere. However, only a maximum of 14 days occupation fee can be charged even if the goods are held for longer.

notice to the landlord. If they disagree they can apply to the Tribunal.

Alternatively, you can apply to the Tribunal without giving notice. You will need to take evidence to satisfy the Tribunal that the breach justifies ending the agreement. The Tribunal can refuse to make an order if the landlord remedies the breach. If you had already moved out, you may have to pay the costs of breaking the lease.

## Breaking the agreement without penalty

In limited circumstances you can break the agreement early without penalty. You can give 14 days written notice to end an agreement early if:

- you have accepted an offer of social housing (eg. from Housing NSW)
- you need to move into an aged care facility or nursing home (not a retirement village)
- you have obtained a final apprehended violence order against somebody you were living with that excludes them from the property
- the landlord has put the premises on the market for sale, and you were not told before signing the lease that the property would be sold.

You can give 21 days written notice to end an agreement early if:

- you have a fixed term agreement of more than 2 years and you have been given a rent increase notice or
- your co-tenant passes away.

If you give notice for any of these reasons you are able to end the agreement early without having to pay any compensation or other costs to the landlord. You are only liable for the rent until your notice ends and you hand back possession of the premises.

## Mutual consent

Any tenancy agreement can be ended at any time if the landlord and tenant mutually agree.

## Hardship

If it would cause you undue hardship to stay in the premises until the end of the fixed term you can apply to the Tribunal to end the agreement early. You can ask for an urgent hearing but will need to keep paying the rent.

You will need to satisfy the Tribunal that special circumstances exist which were not in place when you first moved in and that your hardship is severe or serious. If the Tribunal agrees that your tenancy can end early it may order you to compensate the landlord for lost rent and other losses.

# Tenancy databases

## Information for tenants and prospective tenants

Tenancy databases are used mainly by agents as a way of screening prospective tenants.

The *Residential Tenancies Act 2010* sets out who, when, and why a person can be listed. The Act also enables disputes over proposed and existing listings to be resolved. If you believe that an agent or landlord has listed information about you that is incorrect, out-of-date or unjust, there are ways you can go about having the information removed or amended.

## What is a tenancy database?

Tenancy databases are run by private companies, not by the Government or the NSW Civil and Administrative Tribunal. They collect and hold information about tenants and can only be used by members (mostly agents) who pay membership fees. Members can list tenants on the database for certain reasons and can check the database to see if a prospective tenant has been listed by another member. There are a number of tenancy databases which operate in NSW, including TICA, National Tenancy Database and Trading Reference Australia. Tenancy databases are sometimes referred to as 'blacklists' or 'bad tenant databases'.

Files kept by an individual landlord or agency for their own internal use (hard copy or computerised) are not databases for the purposes of the legislation.

## Listings - who

You can only be listed on a database if you are named on the lease as a tenant. Approved or unapproved occupants, visitors or children cannot be listed.

## Listings - when

You can only be listed on a database after your tenancy has ended. You cannot be listed on a database simply because you fall behind with the rent, are given a termination notice or are not looking after the property in a satisfactory way.

## Listings - why

You can only be listed on a database for one or both of the following two reasons:

- You have vacated owing an amount more than the rental bond for a breach of the agreement which is still outstanding at the time of listing.
- The Tribunal has made an order terminating the agreement because of something you have done wrong and the tenancy has ended.

Any information recorded on a database must identify the reason for the listing in an accurate, complete and unambiguous way. For example, 'eviction order given on grounds of rent arrears, tenant owes \$500 in rent above the bond'.

## How will I know if I have been listed on a database?

Landlords or agents must advise you in writing if they propose to list you on a tenancy database. They must also give you details of the proposed listing, or take reasonable steps to try to advise you. They can do this by sending a letter to your new address (if known) or to the address of the rented premises (in case you are having your mail redirected).

They must give you at least 14 days to object before listing you on the database. You can apply to the Tribunal if you think the proposed listing would be incorrect or unjust.

If you apply for a tenancy and the landlord or agent discovers you have been listed on a database, they must advise you in writing. They should inform you of the contact details of the person who has listed you and how you can go about checking what the listing says and having it corrected or amended (if need be). They do not have to advise you of the reason for the listing. You are entitled to a copy of the information from the person who listed you (free of charge) or direct from the database.

operator. The database operator can charge you a fee for the information but it must not be excessive.

Some database operators also provide information over the phone, but be aware that high charges may apply.

## Removal of out-of-date, incorrect or unjust listings

Any listing that is older than 3 years must be removed from a database. Listings under 3 years must also be removed if they are 'out-of-date'. This is where any amount you owed above the bond has been repaid to the landlord within 3 months or if the termination order made by the Tribunal was not enforced.

Listings also need to be amended if the information is inaccurate, incomplete or ambiguous.

You can also seek to have your name removed from a tenancy database if you think the listing was unjust.

Any changes to the database records must be done by the landlord or agent within 7 days of them becoming aware that the information needs to be changed, if they can do it themselves, or within 14 days if they need to notify the database operator to have it removed or amended.

The laws apply to all listings, including any listings made before the new laws commenced.

## Disputes in the Tribunal

You are able to apply to the Tribunal to have incorrect, out-of-date or unjust listings removed if you cannot resolve the matter with the agent or landlord.

The Tribunal can order information about you in the database to be wholly or partly removed, changed, or not listed at all if it was a proposed listing. The Tribunal also has the ability to award compensation to you if you have suffered a loss as a result of inaccurate, ambiguous or out-of-date information being listed on a tenancy database.

# Breaking a lease early

## Information for tenants

When you sign a fixed term tenancy agreement (lease) you are committing to stay for the full term. If your circumstances change and you want to move out before the end of the fixed term there are potential costs involved. There are some circumstances where a fixed term agreement can be terminated early without penalty. Refer to the section 'Breaking the agreement without penalty' below.

## Costs you may have to pay

Breaking your tenancy agreement during the fixed term can be costly. You may have to pay:

- rent until a new tenant takes over or the fixed term period ends, whichever occurs first, and
- a percentage of the advertising costs and the agent's reletting fee (if the landlord uses an agent). For example, if you break the lease 9 months into a 12-month tenancy there is 25% of the lease remaining, so you would expect to pay 25% of these amounts.

If you need to end your agreement early you should give as much notice as you can. The landlord or agent must take all reasonable steps to find a replacement tenant as soon as possible. The more you can do to help, the less you may have to pay. You should make it as easy as possible for the landlord or agent to show the premises to potential new tenants.

If you are concerned that it is taking a long time to find a new tenant, you can check that the landlord or agent is trying to relet the property. Check the agent's website and their list of available rental properties.

The landlord and agent must try to keep your costs to a minimum. For example, if they do anything to make it harder to find a new tenant (such as asking for a higher rent or unreasonably rejecting potential tenants) you may not have to pay the full amount they are asking.

Once the new tenant is found the landlord or agent will request payment for the amount you owe. If you don't pay or if you disagree with the amount, the landlord or agent will usually claim from your bond or apply to the NSW Civil and Administrative Tribunal. Be aware that if you owe more money than the bond your name could be listed on a tenancy database. Such listings can make it difficult to rent again anywhere in Australia.

## Optional break fee

You and the landlord can agree to include a break fee clause in the additional terms of your tenancy agreement. The break fee is a penalty you agree to pay if you move out before the end of the fixed term.

If the fixed term of the agreement is for 3 years or less the break fee is:

- 6 weeks rent if you move out in the first half of the fixed term
- 4 weeks rent if you move out in the second half of the fixed term.

If the fixed term is for more than 3 years and you and the landlord agree to include a break fee clause, you can agree on the amount and write it into the agreement.

Where there is a break fee in your agreement that is all you have to pay if you move out early. However, if the landlord or agent find a new tenant quickly it does not mean that you will get any of the break fee back. It is a fixed fee.

## Breach by the landlord

If your landlord is not complying with the terms of your tenancy agreement you may be able to end your lease early without penalty, for example, if the landlord is failing to keep the premises in reasonable repair.

If you think the breach is serious enough to justify ending the tenancy, you can give 14 days written termination



## Ending a tenancy

This is a collection of fact sheets for residential tenants on topics related to ending a tenancy:

- Breaking a lease early
- Retrieving goods left behind
- Getting your bond back

All the fact sheets in this document can also be accessed as individual pages on the Fair Trading website:

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

# Discrimination when renting

## Information for tenants and prospective tenants

Everybody should be given a 'Fair Go' when renting or trying to rent a property. While landlords and agents have the right to choose the most suitable tenant, they are not able to unfairly discriminate against you when you apply for a rental property.

### Anti-discrimination laws

The law states that you cannot be discriminated against or harassed because of your:

- race (colour, nationality or descent)
- sex (male or female)
- pregnancy
- marital status (e.g. singles or unmarried mothers)
- disability (physical, intellectual or psychiatric disability)
- homosexuality (both gay and lesbian)
- age (both young or old)
- transgender (transsexual).

It is also against the law to discriminate against you because of the race, sex, pregnancy, marital status, disability, homosexuality, age or transgender of your relatives, friends or associates.

But people sometimes claim "that's discrimination!" without understanding the law. As long as the landlord or agent is not discriminating on one of the listed grounds they may rent to whoever they like. If, for example, they do not want smokers in their premises or tenants with pets, or if they reject your rental application because you have a poor tenancy history or they do not think you can pay the rent, there is no law to stop them from rejecting you as a tenant for that reason.

However, landlords and agents may be liable for discriminatory acts if, for example, the owner instructs an agent not to rent the property to 'foreigners' and the agent carries out those instructions. In that case both the landlord and the agent may be liable. It is no defence for an agent to say she or he was simply carrying out instructions.

### Direct and indirect discrimination

Direct discrimination is when a person is treated less favourably than another person because of their race, sex, marital status etc. One example of direct discrimination would be if a landlord refused to rent to you because you have children.

Indirect discrimination is where there is a requirement (a rule, policy, practice or procedure) that is the same for everyone, but which has an unequal or disproportionate effect on particular groups (for example, women, people of certain races, young people). Unless this requirement is 'reasonable having regard to the circumstances of the case' (Anti-Discrimination Act) it is likely to be indirect discrimination.

The following are examples of possible indirect discrimination:

- setting more restrictive standards, such as a higher than necessary income
- requiring all younger tenants to have one of their parents sign the lease as a co-tenant knowing that they do not intend to live in the premises
- having an across the board 'no pets' policy which also excludes the needs of disabled tenants, such as those with a guide dog
- requiring all applicants to have a proven rental history for a minimum number of years, which, for example, could exclude young people trying to rent their first home
- placing unrealistic restrictions on the number of occupants permitted which, for example, could exclude those who are pregnant
- having a complicated and long application form which may, for example, deter recently arrived migrants from applying.

### Fair trading laws

Fair trading laws prohibit agents from engaging in conduct that is, in the circumstances, misleading in

connection with the supply of goods and services to a customer.

The following is an example that may be both discrimination and misleading conduct.

An Aboriginal person rings the real estate agent about a rental property. On the phone the agent tells the caller that the property is available. When the Aboriginal person goes to the office to lodge an application, the agent informs them that it is no longer available. Then a non-Aboriginal person asks the same agent and is told that the property is still available.

In an actual case like this, the Administrative Decisions Tribunal ruled that the real estate agent was liable under anti-discrimination law and awarded \$6,000 damages against the agent.

### More information

If you believe that you have been discriminated against when applying for a rental property and would like more information, contact the NSW Anti-Discrimination Board on 9268 5555 or 1800 670 812 or visit their website at [www.lawlink.nsw.gov.au/adb](http://www.lawlink.nsw.gov.au/adb).

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)  
Fair Trading enquiries 13 32 20  
TTY 1300 723 404  
Language assistance 13 14 50

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.

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2. Seek independent legal assistance when legal advice or interpretation of legislation is required.
3. Discuss your concerns and explain the issues with the other party. Let the other party express their concerns and position and try to come a mutual agreement.
4. Contact the organisation's head office if a resolution cannot be achieved. Many businesses have their own internal complaint resolution body. These industry based organisations may assist to resolve complaints or simply provide advice.

### What will Fair Trading do to help resolve complaints?

We will contact each party to seek a mutual resolution to the complaint. If Fair Trading is able to help both parties reach an agreement, we will finalise the complaint without any further intervention.

Parties involved need to be prepared to put their points forward and listen to what the other party has to say. The parties will benefit when each is willing to negotiate and make suggestions to settle the matter.

The time to finalise the complaint depends on parties' availability and the level of inquiries to be made by Fair Trading. We aim to finalise most complaints within 30 days.

Please keep in mind that if a complaint is complex or the parties do not co-operate, then this time may vary. Please also keep in mind that we cannot order or direct either party to resolve the complaint, only a court or a tribunal can do this.

### What is the role of the Fair Trading Officer?

The Fair Trading officer will:

- provide impartial advice to the parties with the complaint
- allow all parties to put forward their points
- explain the relevant matters in the complaint

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- confirm that all relevant matters have been discussed
- make suggestions as to the best way to finalise the complaint, and
- refer applicable strata disputes to Fair Trading's free strata and community mediation service.

Fair Trading can conduct investigations and take disciplinary action where a breach has been identified.

The Fair Trading officer will not:

- take sides or represent either party
- continue with the complaint handling process if the parties do not show willingness to reach an agreeable settlement, or
- offer any legal advice.

The complaint process is voluntary and its success depends on parties co-operating. Fair Trading cannot force either party to continue with the complaint process.

### What happens if there is no resolution?

Where agreement cannot be reached, parties will be advised of the outcome and recommended to seek independent advice or lodge a claim with the NSW Civil and Administrative Tribunal (NCAT).

NCAT can make orders which are binding on the parties. These may include monetary payment, ending a tenancy agreement, or repair work to be completed.

Find out more at <http://www.ncat.nsw.gov.au>

Information on strata and community mediation services can be found on the Fair Trading website.

### How can I access the complaint service?

If you are not able to resolve the matter yourself, you can lodge a complaint online via the NSW Fair Trading website or call Fair Trading on 13 32 20 to discuss your matter further.

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# Residential tenancy and real estate complaints

## Tenants, landlords and agents

NSW Fair Trading provides a free complaint service for tenants, residents, landlords and agents with real estate and property related matters or disputes.

### How can Fair Trading assist with my matter?

The complaint service offered by Fair Trading is a voluntary process between parties that are involved in a tenancy, real estate or property dispute, and who have been unsuccessful in resolving the issue themselves. An experienced Fair Trading officer will provide the parties with relevant information in order to assist them to come to a mutual agreement. In some circumstances, formal mediation may also be offered.

The complaint process **does not** include:

- enforcing orders that require action or payment from either party
- a decision on evidence resulting in a legal determination or an Order
- a Fair Trading officer inspecting property to determine fault or attribute blame, which falls outside their role.

A video is available that demonstrates how the complaint service works: *Help with tenancy problems* contains examples of cases based on real complaint scenarios. It can be viewed on Fair Trading's YouTube channel.

### What type of matters can Fair Trading assist with?

Fair Trading **can** assist with matters about:

- residential tenancies where the dispute is between a tenant, agent and/or landlord e.g. tenants illegally locked out of their tenancy, or a landlord seeking advice on getting access to have a repair done

- the landlord or agent refusing access to Rental Bonds Online
- individuals involved in the sale or purchase of property/stock in NSW
- retirement village residents or owner/operators
- residential community (park) residents or owner/operators
- owner/occupants of strata schemes
- conveyancers.

### What type of matters can't Fair Trading assist with?

Fair Trading **cannot** assist with matters about:

- public or social housing
- urgent health and safety issues
- an Apprehended Violence Order (AVO) or violence related matters
- boarding house residents
- commercial or retail lease disputes
- suspected and/or illegal activity
- termination of agreements
- serious damage to the property
- contractual disputes
- rental bond matters (other than Rental Bonds Online).

For these matters, you may lodge a claim with the NSW Civil and Administrative Tribunal (NCAT).

### What should I do before coming to Fair Trading for help?

Parties involved in the complaint should try to resolve the issues themselves before coming to Fair Trading for help. These steps can help you find a resolution:

- Review the Fair Trading website for relevant information on your rights or obligations and any applicable legislation.

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### Your landlord's pest control responsibilities

The landlord is responsible for the eradication of pests if the infestation is evident at the **start** of the tenancy. As part of the landlord's general obligations, the landlord must provide the residential premises in a reasonable state of cleanliness and fit for habitation by the tenant.

For tenants this means it is very important when you first see a property to look for signs of pests such as droppings in cupboards and on floors.

You should also check if the previous tenants owned cats or dogs, as fleas could be breeding in the carpet and may not appear for a couple of months. Note what you see in the condition report as evidence to avoid any disagreements later on.

Negotiate with the landlord for the property to undergo a pest control service before or within the first weeks of your tenancy if you see evidence of pests. Have this written into your rental agreement under the special conditions section of the agreement. If the landlord fails to carry out the agreement to arrange a pest control service, you may argue that they are in breach of the agreement and ask them to remedy the breach.

### When pests appear after you move in

If you do not discover the pests until **after** you move in, then contact the landlord immediately by phone.

It is also a good idea to notify the landlord in writing and attach a copy of the letter to your condition report. Request that the landlord takes steps to eradicate the pests immediately, including a pest control service if necessary.

The sooner you contact the landlord with the problem, the less chance they have to claim that the infestation is a result of your tenancy.

If you and the landlord can't agree on who is responsible for pest eradication, you can use Fair Trading's free

dispute resolution service. An experienced dispute resolution officer can contact the landlord and help negotiate an agreement. If necessary, the officer may arrange to visit the property and conduct the service onsite. Alternatively you can lodge an application with the NSW Civil and Administrative Tribunal.

# Pests and vermin

## Information for tenants

Dealing with an infestation of pests or vermin is never pleasant for anyone. The information on this page will help you understand whose responsibility it is to eradicate pests such as:

- rats
- mice
- cockroaches
- fleas
- termites (white ants)
- wasps, and
- ants.

### Tenant pest control responsibilities

You are usually responsible for the eradication of pests if the infestation occurs **after** you have moved in and if the infestation was caused by your activities or lack of cleanliness.

For example, if you have been living in a rented property for several months and an infestation of cockroaches occurs, then usually you will have to pay for the pest control service.

If you believe that the infestation was not caused by your activities or lack of cleanliness then you may not be held responsible for pest eradication if you can show the landlord is in breach of the tenancy agreement (for example, by not offering the property in a clean and safe condition at the **start** of the tenancy) and that this breach has caused the infestation.

### Guide to responsibility

Below is a general guide to who is responsible when an infestation occurs. However, the person with responsibility may change depending on the individual situation, the history of the property, and what has been recorded on the condition report.

Pests and vermin	The landlord is responsible	The tenant is responsible
Ants	if present at the start of the tenancy	if present during the tenancy
Bees and wasps	if present in a wall cavity or similar if present at the start of the tenancy	if present during the tenancy
Birds	to remove and seal off any entry points	
Cockroaches, fleas and spiders	if present at the start of the tenancy	if present during the tenancy
Mice and rats	if present at the start of the tenancy	if present during the tenancy
Possums	to remove and seal off any entry points	
Snakes	if present at the start of the tenancy if caused by the landlord breaching the conditions of the agreement - eg. landlord left piles of rubbish in garden	if present during the tenancy
Termites/white ants	at the start and throughout the tenancy	



## During a tenancy

This is a collection of fact sheets for residential tenants on topics related to starting a tenancy:

- Privacy when renting
- Getting repairs done
- Safety and security
- Rent increases
- Paying water charges
- Falling behind in your rent
- Asking to make an alteration
- Sharing a rented home
- Domestic violence in a rented property
- Mortgagee re-possession
- Natural disasters
- Pests and vermin

All the fact sheets in this document can also be accessed as individual pages on the Fair Trading website:

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

# Privacy when renting

## Information for tenants

You have a right to privacy and quiet enjoyment of the premises you are renting. Your landlord, agent or anybody else acting on their behalf must not interfere with your reasonable peace, comfort and privacy.

For this reason, the law restricts the access a landlord or agent can have to the rented property while you are living in it. They are only allowed to enter the premises at certain times for certain reasons and in most cases have to give you notice first.

### Notice before entry

The amount of notice the landlord or agent must give you depends on the reason for entering the premises.

Reason	Notice required
To inspect the premises (up to 4 times per year)	At least 7 days written notice
To do ordinary repairs or carry out maintenance	At least 2 days notice
To carry out urgent repairs, such as fixing burst water pipes, dangerous electrical faults, gas leaks or blocked toilets	None
To comply with health and safety obligations, such as installing smoke alarms	At least 2 days notice
To obtain a property valuation (once in a 12 month period)	At least 7 days notice
To show a prospective tenant (in the last 14 days before your tenancy is due to end)	Reasonable notice on each occasion
In an emergency	None
If they have tried to contact you and been unable to do so and have reasonable cause for	None

serious concern about your health or safety or other occupants	
If they reasonably believe the premises have been abandoned by you	None
To show the premises to prospective buyers	2 weeks written notice before first inspection. Subsequent inspections as agreed with you, or no more than 2 inspections per week with 48 hours notice
In accordance with a NSW Civil and Administrative Tribunal order	As ordered by the Tribunal

In addition to all of the above reasons you can consent to the landlord, agent, or any other person acting on their behalf to enter the property at any time for any reason.

### Limits on access

In most circumstances, access is not permitted on Sundays, public holidays or outside the hours of 8am to 8pm. Where practical, you should be notified of the approximate time when access will be required.

If a person wishes to enter the property without the landlord or property manager (e.g. a selling agent, valuer or tradesperson) they must have written consent from the landlord or managing agent which they must show to you. The person who comes must not stay on the premises longer than is necessary to achieve the purpose.

In normal situations you must be given at least 2 days notice if tradespeople need to access the premises to carry out non-urgent repairs. It may be in your best interest to talk to the landlord or agent and agree on a shorter period of notice in order to get the work completed as soon as possible.

### Disclosure of previous disasters

The landlord or agent must tell you before you sign the tenancy agreement if the premises have been subject to flooding or bushfire in the previous 5 years. This only applies where they know of the event. If this information was not disclosed before you signed the agreement and it happens again you may be entitled to compensation.

### Disputes

Any tenancy related disputes following a natural disaster can be taken to the Tribunal.

# Natural disasters

## Information for tenants

As a tenant it is vital you know what your renting rights and responsibilities are if you have been affected by a natural disaster, such as a flood, bushfire or storm damage.

### What happens with the tenancy

This will depend on the extent of the damage and what you and the landlord want to do about the situation.

If the premises are destroyed or become totally or partly uninhabitable, this does not automatically end your tenancy. Either you or the landlord can give a termination notice in writing to end the tenancy. The notice, once served, can take effect immediately or can specify a later date. If the landlord serves you with a notice and you do not want the tenancy to end you should let them know. You cannot be evicted without a NSW Civil and Administrative Tribunal order.

If the premises are only partly uninhabitable, such as one room not being usable as a result of hail damage to the roof, you may wish to stay on in the premises while the repairs are being carried out. You should only consider doing this if the damage is relatively minor and there is no ongoing safety risk to you or your family. Follow any instructions from emergency personnel and talk to the landlord to see if they agree.

If the premises have been more seriously damaged or have become totally uninhabitable another option is to move out temporarily and return once the premises are liveable again. This may be for a few days or weeks or however long it takes. If this is what you want to do you should talk to the landlord or agent as soon as possible. While the landlord or agent can try to help you as an act of goodwill they are not obliged to find or pay for your temporary accommodation.

You and the landlord/agent can also decide to formally end the agreement and re-sign a new agreement after the repairs are complete. However, be aware that a higher rent could be included in the new agreement.

### What happens about the rent

If the tenancy is ended permanently, no rent is payable from the day you move out. Any rent already paid in advance must be fully refunded.

If you move out temporarily or continue living in the partially damaged premises the rent should be waived or reduced. Whether any rent is payable at all and, if so, the level of reduction will depend on the extent of the damage and the amount of use you have of the premises. Any agreement in these situations about the rent, how long you may be away from the premises and what will happen to your possessions while you are away is best put in writing.

### Repairs

If the tenancy is to continue, the first step is for the landlord or agent, preferably with you being present, to inspect the premises and document the repairs needed.

You should discuss with the landlord or agent the timetable for repairs, recognising that there may be unavoidable delays because of the demand for insurance assessments and qualified tradespeople in the area. A landlord is not obliged to compensate you for any damage to your furniture or personal belongings arising from a natural disaster.

Serious storm, fire or flood damage are all considered to be urgent repairs. Such repairs should be done as soon as possible. If you believe the landlord or agent is not acting quickly enough on needed repairs you can apply to the Tribunal or arrange for the work yourself and be reimbursed.

### Access

After a natural disaster most repairs needed are likely to be classed as urgent repairs. The landlord or agent does not have to give you any minimum period of notice before sending tradespeople to do this work.

These limits do not apply in an emergency, for urgent repairs, if the premises are abandoned, if the Tribunal so orders or if you agree.

### Entry when you are not home

If correct notice has been given, you do not need to be at home for the landlord or agent or authorised person to enter. If the time does not suit you, you can try to negotiate a different time with the landlord or agent.

### Unlawful entry

If these requirements have not been followed you do not have to allow access to your home. It is an offence for a landlord or someone on their behalf to enter the premises without following the correct procedures. If the problem is serious or persistent, you may apply for an order from the Tribunal.

If your goods are damaged or stolen during the access visit you can apply to the Tribunal for compensation.

# Getting repairs done

## Information for tenants

When you rent a place to live the landlord must ensure it is in a reasonable state of repair before you move in, taking into account the age and remaining life of the property and the amount of rent you pay.

If something in the premises breaks down, leaks or needs fixing you should contact the landlord or agent as soon as possible. Even if the issue doesn't bother you, you should tell the landlord about it because you may be responsible for expenses that arise from the issue if you didn't keep the landlord informed.

Unless the repairs are urgent, it is best to make the request in writing. Tell them what needs fixing and when you would like it done by.

The landlord is not always obliged to fix every small thing in the property. They only need to keep the premises in a reasonable state of repair considering the age of the property, the amount of rent you are paying and the prospective life of the premises. They also need to comply with building, health and safety laws.

You are responsible for doing things like replacing light bulbs, changing the smoke detector batteries, cleaning windows, dusting, removing cobwebs and routine garden maintenance such as watering, mowing and weeding.

## Urgent repairs

The law distinguishes between urgent (emergency) repairs and those which are not so urgent. Urgent repairs are:

- a burst water service or a serious water service leak
- a blocked or broken toilet
- a serious roof leak
- a gas leak
- a dangerous electrical fault
- flooding or serious flood damage
- serious storm or fire damage
- a failure or breakdown of the gas, electricity or water supply to the premises
- a failure or breakdown of the hot water service

- a failure or breakdown of the stove or oven
- a failure or breakdown of a heater or air-conditioner
- a fault or damage which makes the premises unsafe or insecure.

If urgent repairs are needed you should notify the landlord or agent right away. The landlord or agent must arrange for the repairs to be done as soon as possible. If you cannot reach them, check your tenancy agreement for the details of a nominated tradesperson to contact.

If urgent repairs are not done within a reasonable time you may be able to arrange for the work to be done and be reimbursed by the landlord (but only up to \$1000). However, you must be able to show that:

- the need for the urgent repair was not your fault
- you contacted the landlord or agent about the problem or made a reasonable attempt to do so
- you gave the landlord or agent a reasonable opportunity to get the repairs done
- the repairs were carried out by a licensed tradesperson (if appropriate).

You must give the landlord written notice setting out the details of the repair and copies of all receipts. The landlord is required to pay you back within 14 days of receiving your notice. If they do not pay you back, you can use Fair Trading's free tenancy and real estate complaint service who can contact the landlord and help negotiate an agreement. Alternatively, you can apply to the NSW Civil and Administrative Tribunal for an order.

If urgent repairs are likely to cost more than \$1000 or you cannot afford to pay, you can apply to the Tribunal for an urgent hearing order for the landlord to get the repairs done.

## Doing repairs yourself

You cannot arrange for non-urgent repairs to be carried out unless the landlord or agent has agreed. If they agree, make sure you get it in writing before the work is

## Court or Tribunal ordered tenancies

You can seek to have a tenancy established between you and the mortgagee. You can apply to either the Supreme Court, if the proceedings have not been finalised, or to the Tribunal if the possession order has already been made. These orders can be difficult to obtain as you need to show that there are special circumstances in your particular case. You need to apply before the Sheriff enforces the order. If you are considering taking this option it may be best to first obtain legal advice.

## Disclosure by landlord

Before you sign a tenancy agreement, the landlord or agent is required to tell you if they know that court action to recover possession has already been commenced by the mortgagee. If this information was not disclosed you can apply to the Tribunal for compensation. You may also seek to end lease early without paying the usual penalties.

# Mortgagee re-possession

## Information for tenants

When a landlord is unable keep up with their loan repayments the mortgagee (i.e. the lender, normally a bank or other financial institution) usually wants to take possession of the property in order to sell it and recover their money. This is what is referred to as mortgagee re-possession.

### Legal process of re-possession

To take back possession of the premises, the mortgagee needs to obtain an order from the Supreme Court. You should get notice of the proceedings. Sometimes the landlord and the mortgagee are able to resolve the matter and you will not have to move out. If the court makes an order for possession you should be notified. However, the court can make an order even if you were unaware of the proceedings.

Before the order is given the mortgagee may send you a written demand that you pay the rent to them instead of the landlord or agent. If you receive such a letter you should pay the rent according to the demand.

### Notice to vacate

Supreme Court orders for possession are enforced by the NSW Sheriff's Office. A Sheriff's Officer will serve you with a notice giving you at least **30 days** to vacate the property. If you do not move out the Sheriff can remove you from the premises. There are no further extensions to this time unless this is agreed to by the mortgagee and the Sheriff's Office. If you find a new place to live before the end of the 30 day notice period you may move out at any time.

### Rent-free compensation

Regardless of how much time (if any) remains on your fixed term agreement the court order for possession will end your tenancy earlier than expected.

As a form of compensation you do not have to pay any rent for 30 days after being given the official notice to

leave by the Sheriff. This may help to cover the cost of finding a new place to live.

If advance rent has been paid covering any part of this period, you are entitled to have that rent refunded. You can apply to the NSW Civil and Administrative Tribunal if the landlord or agent does not pay the money back.

### Access to show buyers

While you are still occupying the premises the mortgagee can show the property to possible buyers, but only if you have been given reasonable notice and you agree to the times and dates of the inspections.

### Refund of rental bond

The mortgagee can authorise NSW Fair Trading to release the bond to you once they take over the premises from the landlord. They can even do this while you are still living in the premises so you can use the money to help pay the next bond.

### Staying in the property

If the mortgagee had previously been notified of your tenancy agreement, they are bound by it when they take over from the landlord, under the *Real Property Act 1900*. However, most residential tenancy agreements are for less than 3 years which means that they are not registered on the title. In most cases the landlord would have taken out the mortgage before finding you as the tenant. Consequently, it is unlikely that the mortgagee will have had prior notice and be bound to honour your agreement.

This does not stop you from approaching the mortgagee, or somebody acting on their behalf, and requesting to stay on in the premises at least until it is sold. It is possible that the premises will be bought by another investor who may want you to stay as a tenant.

done, including any agreement about reimbursing your costs. Also, make sure you keep all the receipts for any work carried out.

### If repairs are not done

You should **never** stop paying the rent for any reason, including when a landlord is not doing repairs. Withholding rent will put you in breach of your agreement and will not help to resolve the repairs problem. Withholding rent places you at risk of having your tenancy terminated.

### Resolving repair problems

If you and your landlord can't agree about a repair problem, you can use Fair Trading's free tenancy and real estate complaint service. Fair Trading's experienced staff will talk you through the issues and can contact your landlord or agent to negotiate an agreement. The Help with tenancy problems video demonstrates how the complaint service works. It can be viewed on Fair Trading's YouTube channel.

You can also apply to the Tribunal for orders relating to repairs. These include:

- an order that the landlord do repairs
- an order that you can pay your rent to the Tribunal until the repairs are done
- an order that your rent be reduced until the time it is fixed
- an order to compensate you for losses (eg. damage to your belongings from a leaking pipe after you told the landlord the pipe was leaking).

### Damage caused by you

You must notify the landlord as soon as possible if the property is damaged. If you or somebody you invited to your home caused damage, you may have to pay for the repairs or arrange for the repairs yourself.

# Safety and security

## Information for tenants

When you are renting a place to live, the landlord must provide premises that are in a reasonable state of repair and are reasonably secure. There are a number of safety and security matters that you may need to think about.

### Window and balcony safety

Each year, around 50 children fall from windows or balconies in Australia. Many suffer serious injuries. Sometimes these falls are fatal.

There are a number of simple, commonsense steps you can take to reduce this risk. For example, move furniture away from windows and balustrades, and fit locks or guards to windows so they cannot be opened more than 12.5cm, except by an adult.

Falls occur more often in the warmer months when families leave windows and doors to balconies open during the day and at night. Do not rely on flyscreens to prevent your child from falling out of a window.

Fair Trading has produced two short videos about window safety presented by DIY guru and TV personality, Rob Palmer. They include easy step-by-step instructions on how to install window safety devices yourself. You can watch the new Window safety video series on our YouTube channel.

The NSW tenancy laws require landlords to provide and maintain locks and security devices to make the premises reasonably secure. Landlords cannot unreasonably refuse permission for tenants to make minor changes to rental premises, such as installing child safety window locks.

Go to the Window and balcony page on the Fair trading website for more information.

### Swimming pools

Young children can drown because of faulty or inadequate pool fencing. The maintenance of pool fencing is extremely important, even if you do not have young children living at your home. Children are most at

risk of drowning within six months of moving into a new property with a swimming pool, or when visiting the home of a friend, family member or neighbour with a pool.

If the property you are renting has a swimming pool, you need to check that the pool fence is in good, working condition. Landlords must meet the standards in the *Swimming Pools Act 1992*. This requires most pools to be surrounded by a fence that separates the pool from the house. Please visit the pool safety checklists page on the swimming pool register website for further information.

Landlords are required to register the pool with the NSW Government Swimming Pool Register. From 29 April 2016, landlords will also be required to give tenants a copy of a compliance certificate or an occupation certificate issued within the last 3 years when they enter into a new residential tenancy agreement. This requirement does not apply to lots in a strata or community scheme with more than two lots, as these properties are subject to Council pool inspection every 3 years.

### Smoke alarms

A smoke alarm is an effective early warning device designed to detect smoke and alert you to the presence of a fire, and increase the time available for safe escape. Your landlord is required by law to have installed at least one smoke alarm in a hallway outside a bedroom or other suitable location in each storey of your rented home. You are not allowed to remove or interfere with smoke alarms, without a reasonable excuse. If a smoke alarm is battery operated you are responsible for replacing the batteries and testing that it is working. This should be done once each year.

For information about the type, location and number of smoke alarms that are required call the Smoke Alarms Helpline on 1300 858 812 or go to the Fire and Rescue NSW website, where you can also find information about conducting a fire safety audit of your home.

### Law Access NSW

Tel: 1300 888 529

### Domestic Violence Line (Community Services)

Toll free: 1800 656 463

### Rape Crisis Centre

Toll free: 1800 424 017

### Women's and Girls' Emergency Centre

Tel: 9360 5388

### Victim's Services

Toll free: 1800 633 063

### Wirringa Baiya Aboriginal Women's Legal Centre

Toll free: 1800 686 587

### Another Closet (information on violence in gay and lesbian relationships)

Website: [www.anothercloset.com.au](http://www.anothercloset.com.au)

# Domestic violence in a rented property

## What tenants and occupants need to know

If there is violence in your rented home you should contact the Police or an advice service. There are also steps you can take under the tenancy agreement to improve your safety.

### Changing the locks

If you obtain an Apprehended Violence Order (AVO) which prohibits a person from accessing the rented premises where you were both living, you can immediately change the locks. This applies if the AVO is a provisional, interim or final order.

You do not need the landlord's or agent's consent to change the locks as you would normally do. However you must give them a key for the new lock within 7 days unless they agree not to have a key. The cost of changing the locks is your responsibility. If you do give a key to the landlord or agent, they cannot pass it on to the person who has been excluded from the property.

If the excluded person is named on the tenancy agreement as a tenant, your action in changing the locks does not end their tenancy or make you a tenant instead. All it does is prevent them from using their keys to enter the property while the AVO remains in force.

### Changing the tenancy agreement

If the person excluded from the premises was named as a tenant on the agreement, a final AVO made by a magistrate terminates that person's tenancy. If you were named on the agreement as a co-tenant the tenancy simply transfers to your name. There is no need for you to sign a new agreement or do anything else. Any share of the bond owing to the excluded person does not have to be paid back until you vacate.

If your name is not on the agreement, you can ask the landlord or agent to have the agreement put into your

name. If they refuse you can apply to the NSW Civil and Administrative Tribunal for an order to do this.

If you are an occupant of social housing premises (eg. Housing NSW) the Tribunal can only make such an order if you meet any eligibility requirements. Contact the social housing provider to find out what you can do.

### Ending the lease early

Tenants cannot usually break a fixed term agreement early without paying a penalty or compensation. However, if you are a tenant and you obtain a final AVO which prohibits a co-tenant or occupant from accessing the premises, you have the option to end the lease early without having to compensate the landlord. This may be helpful if you cannot afford the rent on your own. You must give the landlord or agent 14 days notice in writing of your intention to leave.

### Tenancy database listings

If you are listed on a tenancy database due to damage to the property caused by a co-tenant or occupant during an incident of domestic violence, there are steps you can take. You can ask for the information about you to be removed or changed and you can apply to the Tribunal for orders. More information can be found on the Tenancy databases page on the Fair Trading website.

### Further advice and support

**Domestic Violence Legal Advice Line**  
Tel: 8745 6999  
Toll free: 1800 810 784  
Website: [www.womenslegalnsw.asn.au](http://www.womenslegalnsw.asn.au)

**Women's Legal Contact Line**  
Tel: 8745 6988  
Toll free: 1800 801 501

### Fire Safety

Being prepared is the key to reducing the risk of fire occurring in your rented home and surviving a house fire. Everyone in your household should understand what the risks are and what to do to minimise them. It is recommended that you have a safety checklist to help keep your home fire safe.

For information about home fire safety and other fire safety tips, visit the Fire & Rescue NSW website, where you can also find information on fire escape plans and printable fire safety fact sheets.

The NSW Environment Protection Authority (EPA) has produced a comprehensive guide on selecting, installing and operating domestic solid fuel heaters. Visit the EPA website for more information or to download the Selecting, Installing and Operating Domestic Solid Fuel Heaters guide.

### Gas water heaters

Gas water heaters that have not been properly maintained have been responsible for deaths and serious injuries. If your property has a gas bath heater or flued instantaneous water heater in the bathroom, or a flueless water heater in the kitchen, it could be a source of danger.

The Australian Gas Association recommends that all gas water heaters are serviced regularly by approved service agents and when replaced are installed externally to reduce the risk of an accident.

Always ensure:

- the bathroom and kitchen heaters have unobstructed ventilation
- heater flue pipes are free from all restrictions and holes
- there is no evidence of the heater creating soot deposits
- there are no signs of discolouration on or around the heater and flue.

Flueless water heaters using natural or LPG gas are designed to work without a flue pipe. However, if the ventilation is obstructed poisonous fumes such as carbon

monoxide can be forced back into the room and contaminate the air. As carbon monoxide is colourless, odourless and tasteless, it is virtually undetectable. Inexpensive carbon monoxide detectors can be purchased from most hardware stores.

For further information, contact the gas retailer, or the Master Plumbers Association of NSW toll free on 1800 424 181.

### Security

Your landlord must provide and maintain locks or security devices to ensure that the premises are reasonably secure. What is reasonably secure will vary in different situations.

The likelihood the premises may be broken into will have a bearing on the type and standard of locks needed to make a property reasonably secure. This will depend largely on the area in which the premises are located. The level of security needed for a ground floor unit may be greater than for a unit on an upper level.

Your landlord does not have to make the property so secure that the premises can never be broken into. The requirements of insurance companies are not the sole test of what is 'reasonably secure', but are merely one factor to be taken into account.

You can change or add locks or security devices with the landlord's consent, or if it is reasonable to do so, such as in an emergency (eg. if the premises have been burgled and keys are missing or if your key breaks off in the lock). You will need to give the landlord a copy of the new key within seven days. If the premises are not reasonably secure, you should raise this matter with the landlord or agent as soon as possible.

### Rural properties and dams

Around 20 children are fatally injured on Australian farms every year and many more are hospitalised. Drowning accounts for around 35-40 percent of all child farm deaths, with farm dams being by far the most common risk. Children also find their way into creeks, troughs, dips and irrigation channels. Children under five are at most risk. For more information on how to protect

# Rent increases

## Information for tenants

There are certain rules that a landlord or their agent must follow if they wish to put the rent up.

### Notice of a rent increase

If the fixed term period of your lease has ended and you are on a continuing (periodic) tenancy the landlord may increase the rent by giving you at least 60 days notice in writing before the date the increased rent becomes payable. The notice must:

- specify the proposed new amount of rent (not the amount of the increase) and
- specify the date from which the increased rent is payable and
- be signed, dated and properly addressed to you.

If you have entered into a tenancy without having a written agreement in place, the rent cannot be increased during the first 6 months.

If you are renewing a tenancy agreement for a further fixed term, the rent cannot be increased automatically. You must still be given 60 days written notice before the rent increase can take effect.

### During the fixed term

During a fixed term agreement of **less than 2 years** the rent cannot be increased, unless a term has been added to the agreement saying it can. The agreement must spell out the amount of the increase or the method of calculating the increase (eg. a dollar amount or %). It cannot be unclear like 'in line with the market' or 'by the rate of inflation'. Even where you have agreed to the increase in the agreement, you still have to be given 60 days written notice before it can take effect.

During a fixed term agreement of **2 years or more** the rent can be increased at any time (so long as 60 days written notice is given) but cannot be increased more than once in any 12 month period. After receiving a rent increase notice, you have the option to give 21 days

notice to terminate the agreement. The notice must be given before the increase becomes payable. If you take this option you are not considered to have broken the agreement early.

### Negotiating with the landlord

If you receive a rent increase notice, you can ask to discuss it with the landlord or agent. They may be willing to reduce the amount of the increase, especially if you are a long standing and reliable tenant.

If the landlord agrees to a smaller increase you do not have to be given another 60 days notice. The lower increase simply becomes payable from the same day as stated in the original notice. Make sure any agreement you reach is put in writing and signed by yourself and the landlord or agent. In addition, you could ask to sign a new lease for a new fixed period. That way you will lock in the rent for at least the length of the new lease.

### Challenging an increase

If you think a rent increase is excessive you can apply to the NSW Civil and Administrative Tribunal. You must apply within 30 days of receiving the rent increase notice. The Tribunal will consider:

- rents for similar premises in the same area or a similar area (ie. the 'market rent')
- the landlord's costs associated with the tenancy agreement
- the value and nature of fittings, appliances and other goods, services and facilities provided with the premises
- the state of repair of the property
- the accommodation and amenities of the premises
- any work you have done to the premises
- when the last increase occurred
- any other relevant matter, except your income or whether you can afford the increase.

some examples as to when it is reasonable for the landlord to say no. These are:

- if the total number of occupants permitted under the lease would be exceeded
- if the total number of occupants would exceed any local council rules and regulations
- if the person being proposed is listed on a tenancy database
- if they reasonably believe it would result in the premises being overcrowded.

This is not an exhaustive list. There may be other situations where it would be reasonable to decline your request.

### Challenging a refusal

If your request to sub-let part of the premises or to add a co-tenant is refused, and you believe the decision is unreasonable, you can apply to the Tribunal which will arrange for a hearing and consider evidence from you and the landlord before making an order about whether to allow you to sub-let or add a co-tenant.

### Costs

You cannot be charged by the landlord or agent for allowing a transfer or sub-letting, other than any reasonable expenses incurred. In most situations there is unlikely to be any expense involved.

While the new sub-tenant or co-tenant may mean there is extra income in the household it does not mean that the landlord can automatically increase the rent. The same rules for putting the rent up still apply.

### Changing bond records

Where a bond has been paid and co-tenants subsequently change, co-tenants can pass bond money between themselves from the incoming to the outgoing person. A Change of Shared Tenancy Arrangement form will need to be signed and lodged with Fair Trading so

that the bond records can be updated. You can get the form from the Fair Trading website, or call 13 32 20.

### Social housing providers

The need to be reasonable when considering requests to add a co-tenant or sub-let part of the premises does not apply to social housing providers, such as Housing NSW. Who can live in the premises is determined by the social housing provider's own policies and procedures.

# Sharing a rented home

## Information for tenants

There are a number of ways to share a rented home and each arrangement means you have different obligations and processes to follow.

### The different arrangements

#### Sub-letting

This involves you entering into a formal agreement with somebody else to rent part of the premises to them (e.g. the garage or granny flat) or the whole premises. In effect you are taking on the role of landlord for the sub-tenant. You remain the landlord's tenant at the same time. There is no contractual arrangement between the landlord and the sub-tenant. For example, the sub-tenant would pay their rent to you not the landlord or agent. You continue to be responsible for the tenancy, including the actions of the sub-tenant. If, for instance, the sub-tenant caused damage to the premises you would need to fix it or pay for the repairs. You may be able to recover the cost from the sub-tenant.

#### Transferring or assigning the lease

This is different to sub-letting and is where you wish to transfer the whole tenancy to a new tenant or only part of the tenancy (i.e. by taking in a new co-tenant). There is no ongoing landlord and tenant relationship once the tenancy is transferred as there is with sub-letting. The new tenant is either jointly responsible to comply with the lease (in the case of a new co-tenant) or wholly responsible to the landlord if the whole tenancy is transferred. The existing lease agreement, including any remaining fixed term period and the rent payable, is transferred to the new tenant or co-tenant. There is no need to sign a new lease although it is best to put the arrangement in writing to avoid any disputes later on.

#### Additional occupants

This arrangement falls outside the sub-letting and transferring rules. This is where you wish to have somebody stay with you in the premises on an informal basis. This could be a family member, friend or stranger

and it may be a temporary or permanent arrangement. Exclusive use or possession of part of the premises is not granted. All areas of the premises are simply shared. The new person is just an additional occupant even though they may be paying you rent to stay there. You are responsible for the actions of any occupants or guests you allow in the premises.

### Consent of the landlord

You must first seek the landlord or agent's written consent before you sub-let or transfer any part of the premises. If you do this without consent you are breaching the terms of the agreement. The landlord can apply to the NSW Civil and Administrative Tribunal to order you to comply with the lease.

The landlord has total discretion if you ask to sub-let or transfer the whole premises. If they say no, you cannot apply to the Tribunal.

However, if you want to only sub-let part of the premises or take on a new co-tenant the landlord cannot unreasonably say no. They can ask for information about the prospective sub-tenant or co-tenant such as their name and details of their rental history. They can ask that an application for tenancy form be filled out. They could also meet and interview the person, as they would with a new tenant.

If you just want to have an additional occupant you do not need to tell the landlord or agent who they are, or get their consent. However, you must not exceed the maximum number of permitted occupants stated on the lease.

### Reasonable refusal

As mentioned above the landlord cannot unreasonably say no to requests from you to sub-let part of the premises or take on a new co-tenant. The law gives

While all these factors are important, the main consideration for the Tribunal is the market rent.

If you are thinking about challenging the increase at the Tribunal, contact your local Tenants Advice and Advocacy Service. They can give you assistance on the type of evidence you will need. Newspaper clippings of other properties for rent will not be enough.

If the Tribunal decides that the rent increase is excessive it can order that the rent not be increased or that it be increased by a smaller amount. It can also set the maximum rent for a period of up to 12 months.

If the rent increase comes into effect before your case is heard by the Tribunal you should pay the increased amount until the Tribunal has made its decision. If the Tribunal decides in your favour it can make an order for a refund.

Applying to the Tribunal is the only way to challenge a rent increase. If you have been given proper notice and you do not pay the increase, you will fall behind with the rent over time. This can lead to you being evicted.

If you are not given proper notice you do not have to pay the increase. If you have already started paying the increase you can ask the landlord to refund the extra payments and apply to the Tribunal if they refuse.

# Paying water charges

## Information for tenants

Your landlord can only ask you to pay water usage charges if all the minimum criteria have been met.

### Minimum criteria

The minimum criteria for passing on water usage charges is:

- the rental premises must be individually metered (or water is delivered by vehicle, such as those with water tanks on rural properties), and
- the charges must not exceed the amount billed for water usage by the water supplier, and
- the rental premises must meet required 'water efficiency' standards.

### Water efficiency standards

A rental property is only considered water efficient if it meets these standards.

Water efficiency devices	Minimum standard required
Internal cold water taps and single mixer taps for kitchen sinks and bathroom hand basins	A maximum flow rate of 9 litres per minute
Showerheads	A maximum flow rate of 9 litres per minute
No leaking taps	No leaking taps anywhere on the premises at the start of the tenancy or when the other water efficiency measures are installed

The requirement for sink and basin taps to have a maximum flow rate of 9 litres per minute does not apply to other taps in the premises such as bathtub taps, laundry taps, outside taps for the garden, or taps which supply washing machines and dishwashers.

The landlord does not necessarily need to change the showerheads and tap fittings. The water efficiency measures can be achieved simply by installing aerators or regulators to existing taps and showerheads and fixing any leaking taps on the premises.

### Proving water efficiency

It is important to note the presence of the water efficiency measures on the condition report for the premises.

If you are unsure if the taps and showerheads in your property meet the required standards ask the landlord or agent to provide some evidence. You could carry also out a simple bucket and stop watch test to see if, when fully turned on, the flow rate is less than 9 litres in a minute.

### Charges limited to water usage

You are only responsible to pay water usage charges. A water usage charge is based on the volume of water supplied to the residential premise.

Water can be supplied to the premise in different ways depending on which services are available to the area. For example, some areas may also supply water that is recycled. If this is the case, you will be responsible to pay any usage charges.

Some local water supply authorities may also provide a breakdown of the water usage component on your bill which may separately itemise water usage and sewerage usage charges. The total water usage charge is the same as if there were no separately itemised usage charges, which you will be responsible to pay.

Other costs (fixed) on the water bill such as water service or sewerage services are payable by the landlord. These costs are charged regardless of whether the property is occupied or not and you cannot be asked to pay them.

## Minor alterations

While a landlord cannot unreasonably refuse a change of minor nature, the law does not define what a change of a 'minor nature' is. This will depend on the property and the circumstances. It is for you and your landlord to agree on or for the Tribunal to resolve if a dispute arises.

Examples of the types of changes that may be considered reasonable include:

- installing window safety devices for small children
- installing additional security features
- having a phone line connected
- putting a reasonable number of picture hooks in the wall
- planting some vegetables or flowers in the garden
- connecting to pay television
- replacing the toilet seat
- installing a grab rail in the shower for elderly or disabled occupants.

## Painting the premises

It is up to the landlord to decide whether you can paint the premises (inside or out) and the Tribunal cannot give permission if the landlord refuses. If the landlord does consent, you should make sure they are aware of the colour, type and brand of paint and how many coats you are planning to do before you begin, to avoid any disagreements later on. Make sure these details are included in the landlord's written consent.

## Installing the National Broadband Network

As with other types of alterations, if you would like to access the NBN you must first seek the landlord's written consent. You may have to pay any costs associated with the installation of this service, but you can negotiate with your landlord and they might agree to pay for some or all of the costs.

If internal wiring is required then you may need to organise a separate licensed cabler because the NBN installer will not undertake internal wiring tasks and permanent cabling through walls, floor or ceiling cavities. The Australian Communications and Media Authority (ACMA) can provide information on where to find registered cablers.

Visit the NBN Co website for more information about connecting to the NBN.

## Remedies for unsatisfactory work

Your landlord can apply to the Tribunal for order against you for the cost of rectifying work you have done or arranged if:

- they can show the work was not done to a satisfactory standard or
- it is likely to adversely affect the landlord's ability to rent the premises in the future to other tenants.

Such an application can be made whether or not your landlord gave you consent to add the fixture or to make the change.

# Asking to make an alteration

## Information for tenants

From time to time, you may wish to add to the comfort or security of your home by making minor changes at your own expense. It is important that you follow the proper process otherwise action can be taken against you for breaching the terms of your lease.

### Consent

You must first seek the landlord's written consent before you add a fixture or make any renovation, alteration or addition to the premises. If an agent is managing the property you can put your request to them. It is best to put it in writing so you have a record of your request.

When submitting your request, you should try to provide as much information as you can about the change you wish to make to the property. For example, if you wish to install pay television, you should first find out exactly what is required to be done to the property. A landlord may also be more likely to agree to your request if you use a qualified tradesperson to carry out alterations.

### Agreement is essential

Before you make any changes, you should agree with your landlord as to who will pay the costs and what will happen to any fixture you add at the end of the tenancy. Make sure this is recorded in writing.

### Rules on costs

Generally, an added fixture or change made by you is at your own expense unless your landlord offers to pay. For example, your landlord may offer to share or cover the cost of materials or reduce some rent. It is entirely up to the agreement between you and your landlord. You are not able to go to the NSW Civil and Administrative Tribunal seeking to get back money for improvements so make sure that this is agreed upon well in advance.

### Removal at the end of the tenancy

If you pay for any fixtures in the premises, you are allowed to remove them at the end of the tenancy, as

long as you notify your landlord or your agent of any damage this causes.

You must then either pay for the cost of repairs, or arrange to repair any damage to a satisfactory standard.

If your landlord pays for the fixture in some way, then you are not allowed to remove it without their consent. Your landlord has the right to apply to the Tribunal for an order that prohibits you from removing a fixture, or an order that you pay for repairs to any damage you have caused in removing a fixture.

If you do not remove a fixture you have added by the time you hand back possession, you cannot come back and get it later on. It ceases to belong to you and forms part of the premises.

### When can a landlord refuse my request?

Your landlord cannot unreasonably refuse to give you consent to add a fixture or to make a change that is of a minor nature.

The law gives some guidance as to the types of reasons where it would be reasonable for your landlord to say no to your request.

These include work which:

- involves structural changes (e.g. knocking out a wall)
- is not reasonably capable of being rectified, repaired or removed
- is not consistent with the nature of the property (e.g. installing modern fixtures in a heritage property)
- is prohibited under a law (such as a strata by-law).

This is not an exhaustive list. There may be other reasons to decline your request. If you think that the reason for your landlord's refusal is not reasonable, you can apply to the Tribunal for permission to make the change.

The landlord or agent cannot charge you an administration fee for passing on the bill, late fees or other additional amounts.

### Time to pay

You only have to pay if the landlord or agent gives you a copy of the part of the water bill setting out the water usage charges payable, or some other evidence showing how your usage was calculated, within **3 months** of getting the bill. You must be given 21 days to pay the amount owing. So long as they request your payment within the 3 months, if you don't pay they can still take action to recover the money later on (eg. making a claim against your bond or getting an order from the NSW Civil and Administrative Tribunal).

### Things to know

Some important points to remember include:

- If you remove or tamper with the water efficiency devices you still have to pay for water usage and you may have to pay to replace them.
- If you think your water bill is too high, it may be helpful to contact your local water provider about average water usage. A large increase in water usage may indicate a water leak on the property. You should let the agent or landlord know as soon as possible.
- Water billing periods are unlikely to align with tenancy agreements. It is important that the water meter reading be noted on the condition report at the start and end of each tenancy to ensure you are not paying for another tenant's water usage.
- Social housing tenants may have a different system applied for calculating and paying water usage. Contact Housing NSW for further information.
- These provisions apply to all tenancies, regardless of the terms of any existing leases.
- If you have agreed to pay for water usage, the landlord or agent is not allowed to deduct the charge from rent you have paid; it must be made as a separate payment in addition to the rent.

# Falling behind with your rent

## Information for tenants

If you have fallen behind with your rent it is important to take action as soon as possible, as your landlord can give you notice to end the tenancy if your rent is more than 14 days overdue.

### If you are behind with your rent

One of the terms of your tenancy is that you agree to pay your rent on time. If the rent is late you are in breach of this term. It is important to pay the outstanding rent as soon as possible.

If you are unable to pay all of the overdue rent immediately, you should contact your landlord or agent to talk about a repayment plan.

### Repayment plans

A repayment plan is a plan for the outstanding rent to be paid over a period of time, in addition to your normal rent payments. You and the landlord both need to agree on the plan, including the payment amounts and dates. The repayment plan should be put in writing and signed by both parties to avoid misunderstanding or disputes over what was agreed. If you cannot agree on a repayment plan the NSW Civil and Administrative Tribunal may help set to one up.

### Can I be asked to leave?

If the rent is **14** days behind or more, the landlord can serve you with a termination notice, giving you **14** days to vacate the property.

The notice must be in writing, signed by your landlord or agent and explain the reason for the notice and the date by which you must vacate.

### What if I do not vacate within 14 days?

The landlord can apply to the Tribunal for an order to end your tenancy. They can do this at the same time as

giving you notice or up to 30 days after the notice ends. If they apply to the Tribunal you will receive a notice from the Tribunal to attend a hearing. You cannot be evicted until the Tribunal makes a termination order and gives you a date to leave.

The law provides a general guarantee that a tenancy can continue if you catch up with the rent or a repayment plan is agreed to by the landlord and you stick to it. This applies before or after the Tribunal hearing, unless the Tribunal orders differently because the rent has frequently been late (see below for more information).

### At the Tribunal

It is important that you attend any Tribunal hearings.

The Tribunal member may first conciliate to try to get you to agree with your landlord on a repayment plan for the overdue rent. At this meeting, make sure that you do not offer to pay more than you can afford because if you fail to make the repayments, the landlord can take you back to the Tribunal and the tenancy may be terminated. If you cannot come to an agreement, your case will be decided by a Tribunal member.

At the hearing, you can:

- ask for time to bring your rent up to date and allow you to continue your tenancy
- give evidence of how much extra you can afford to pay and when.

### When do I have to move out?

#### Termination order

If the Tribunal issues a termination and possession order, you are required to vacate the premises on the date specified unless you pay your overdue rent or comply with a repayment plan agreed to by the landlord. Otherwise, the Sheriff may enforce the warrant for possession and evict you. However, refer to the information below about frequent late payments.

### Frequent late payers

If you have a history of frequently paying the rent late, your landlord can apply to the Tribunal for you to be evicted even if you pay all the rent you owe.

The law does not state what is considered to be frequently late. Whether the Tribunal makes such an order is up to the Tribunal to decide based on the evidence you and the landlord present at the hearing.

### Rent records

If you are told that you are behind in your rent and you disagree, check your rent receipts and other records (such as bank statements) to see if this is correct. Ask the landlord or agent to give you a copy of your rent ledger so you can see if your records match theirs.

### Late fees

The landlord can only ask you to pay the cost of replacing any rent deposit books or rent cards you have lost and the amount of any bank fees for dishonoured rent cheques, insufficient funds for direct debit rent payments and the like.

Your landlord cannot charge you for Tribunal application fees, or costs involved in enforcing a warrant or charge a penalty (eg. interest) for late payments.