



# Living there

## information for renters



### IMPORTANT

*Before a landlord can increase the rent, the tenant must be given at least 60 days notice in writing.*



### QUICK TIP

*The tenant should get the landlord's written permission before doing anything to the property such as painting.*

**A tenancy agreement is a trading transaction between a landlord and a tenant (renter). As in all trading situations both parties have rights and responsibilities (obligations) to make their partnership work successfully.**

Landlord's obligations:

- The rented premises must be reasonably clean and fit to live in when a tenant moves in.
- The rented premises must be maintained in a 'reasonable' state of repair, considering the age of the premises, the rent paid and the prospective life of the premises.

Tenant's obligations:

- Keep the premises 'reasonably' clean. Any gardens, lawn or yard which the tenant has exclusive use of must also be kept neat and tidy.
- Tell the landlord/agent about any damage to the premises as soon as possible.
- Leave the premises in a similar condition as they were when they moved in except for fair wear and tear.
- Do not deliberately or negligently damage the premises or permit anyone else to. Negligence means not doing something which a reasonable person would usually do in the circumstances, or doing something which a reasonable person would not do. In simple terms, it is a lack of care or attention.
- Do not add or remove any fixtures or fittings, or do any renovations, alterations or additions without the landlord's written permission (the landlord is entitled to refuse permission).

### Rent increases

If rent is increased, this usually occurs after the fixed term period of the agreement has expired. Before a landlord (other than the Department of Housing) can increase the rent, the tenant must be given at least

**60 days** notice in writing. The notice must show the amount of the increased rent and the date from which it is to be paid.

For rent to be increased during the fixed term period of the agreement, details to this effect would need to be written into the agreement. An additional term would need to state the amount of the increase (or the method of calculating the increase) and the day from which it is to be paid.

Written notice of **60 days** must still be given. If the notice is posted, at least **4 working days** must be added to the amount of the notice to allow time for the notice to be delivered.

### Challenging an increase

If the tenant thinks a proposed rent increase is too high they can:

**Negotiate** – the landlord may agree to reduce the amount of the increase or withdraw it altogether. They may be persuaded by evidence of market rents in the area or what the tenant has done to the premises. The tenant should carefully explain the reasons why they believe the increase is too high in a letter to the landlord. If the landlord agrees to lower the increase, this should be put in writing. Another 60 days notice is not necessary and the lower increase becomes due from the same date the original increase was payable.

**Apply to the Consumer, Trader and Tenancy Tribunal** – tenants can apply to the Tribunal to have the proposed increase reduced or withdrawn if they believe that the increase is too high. However, Department of Housing tenants receiving a rent rebate cannot do this.

Applications to the Tribunal must be made within **30 days** of receiving the rent increase notice. Tenants have to prove that the increase is excessive. The main evidence the Tribunal considers is comparable rents for similar properties in the same area.



## IMPORTANT

Anything the tenant and landlord agree to during the tenancy should be put in writing and a copy sent to the other party.

## Rent arrears

If the tenant gets into arrears, they should contact their landlord/agent and explain the situation. They may be able to come to an agreement about paying off the arrears over time. Any agreement should be confirmed in writing and notes made of any conversations with the landlord. This may be helpful if the matter has to go to the Tribunal at a later date.

The landlord can give the tenant a notice of termination if they are more than **14 days** behind in their rent. The termination notice must give the tenant **14 days** to leave. If the notice is mailed, the landlord/agent must allow **4 working days** for postage on top of the **14 days**. The tenant should check the dates on the notice carefully.

If the tenant does not comply with the notice, the landlord/agent must apply to the Tribunal for a hearing to decide whether the tenant has to leave.

Tenants are entitled to stay in the premises until the Tribunal orders an end to the tenancy and gives a date to leave. The landlord must follow this process and it is illegal for them to evict the tenant without an order from the Tribunal.

## Getting repairs done

Under the *Residential Tenancies Act*, repairs are classified as either 'urgent' or 'non-urgent'. Residential premises must always be 'fit to live in'. Landlords are obliged to organise any urgent repairs, as soon as reasonably possible, after having been notified by the tenant of the fault or damage.

### Urgent repairs

Urgent repairs are for any work needed to fix:

- a burst water service
- a blocked or broken lavatory system
- 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 any essential service on the premises for hot water, cooking, heating or laundering
- any fault or damage that causes the premises to be unsafe or not secure.

The landlord/agent must first be given a reasonable opportunity to arrange the repair work, or if they cannot be reached, any properly qualified tradesperson nominated in

the tenancy agreement should be contacted. If the landlord/agent failed to nominate a tradesperson in the agreement, the tenant can contact any qualified tradesperson. The tenant can spend up to \$500 on urgent repairs and must be reimbursed within 14 days by the landlord/agent.

### Non-urgent repairs

The following steps are recommended for repairs or other work that needs to be carried out:

1. The tenant should contact the landlord or agent and explain the problem and what they would like done. Record the date of all conversations and a summary of what was said (this will be important if the problem is not easily resolved).
2. If the response is favourable, the tenant should write a letter confirming what was agreed to in the conversation.
3. If the response from the landlord/agent is negative, the tenant should keep paying their rent and carefully consider if the need for the repair is important enough to pursue. If yes, the tenant should write a letter to the landlord/agent outlining what they want done, giving a reasonable time limit in which to have the work completed.
4. If the work is not done within a reasonable time, the tenant should write a final letter to the landlord/agent explaining that they intend to apply to the Consumer, Trader and Tenancy Tribunal or seek help from an advisory service.
5. The tenant can apply to the Tribunal for an order that the landlord carries out the work to maintain the premises in reasonable repair. The Tribunal can also grant compensation or allow the rent to be paid to the Tribunal until the work has been completed.

## Locks and security

The landlord is required to provide and maintain locks or other security devices to ensure that the rental premises are 'reasonably' secure.

What is 'reasonably secure' will vary in different situations. The potential risk (likelihood of premises being broken into) will have a bearing on the type and standard of locks needed to make a property reasonably secure and will depend largely on the area in which the premises are located. But even then, the same standard cannot be applied to all premises within the area.



## IMPORTANT

A landlord has the right to refuse any requests to add fixtures to a property or change the look of a property.



## IMPORTANT

*Tenants have a basic right to privacy and quiet enjoyment of the premises that must be respected by their landlord.*

The 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 test of 'reasonable security', merely another factor to be taken into account.

Neither the tenant nor the landlord can change or remove locks and security devices without the permission of the other except:

- in an emergency
- with a reasonable excuse
- with an order from the Consumer, Trader and Tenancy Tribunal.

If a tenant wishes to add locks or other security devices to make the premises more than reasonably secure, they must obtain the landlord's prior consent, pay all the associated costs and give the landlord copies of the keys.

### Fixtures and fittings

The landlord has the right to refuse any requests by a tenant to add fixtures or otherwise change the look of the premises. Fixtures added by tenants cannot be removed without the landlord's permission. If the landlord refuses to allow the fixture to be removed, the tenant must be compensated for the value of the fixture (depreciation should be considered). If removing a fixture causes damage, the tenant is responsible for repairing the damage or compensating the landlord.

### Privacy and access

It is a term of every tenancy agreement that all tenants have a basic right to privacy and quiet enjoyment of the premises that must be respected by their landlord/agent. The landlord must make sure that they, or anybody else on their behalf, do not interrupt these basic rights.

The landlord, agent or any person authorised by the landlord may enter the premises only in certain circumstances (see box below for a list of these circumstances).

### The landlord/agent cannot enter the premises:

- on a Sunday or a public holiday – unless the tenant agrees
- before 8.00 am or after 8.00 pm – unless the tenant agrees.

If anyone besides the landlord/agent wants to enter the premises, they must have written permission from the landlord/agent and show it to the tenant.

### Can a tenant refuse access?

A tenant does not have the right to refuse access to the landlord or someone with written permission from the landlord if they have been given proper notice. However, there is nothing to stop the tenant from negotiating a more acceptable arrangement. If the tenant is not given proper notice they have the right to refuse access.

### Changes to shared tenancies

In a shared tenancy (usually made up of flat-mates or house-mates), there may be more than one householder's name listed on the rental bond. If one or more people listed on the rental bond changes, a 'Change of shared tenancy agreement' form should be completed and lodged with the Renting and Strata Services Branch of Fair Trading. This is to ensure that bond records are up to date. To use this form, one original household member must still be in the premises. The form should be signed by:

- the remaining tenants
- the person(s) leaving
- the person(s) moving in and
- the landlord/agent.

Contact Fair Trading for a copy or download one from our website.



## IMPORTANT

*Under no circumstances should a tenant stop paying rent.*

REASON FOR ACCESS	MINIMUM NOTICE TO TENANT
In an emergency or for urgent repairs	None
To do repairs and maintenance	2 days
To inspect the premises	7 days (not more than four times a year)
To show the premises to prospective buyers or mortgagees	'Reasonable' (can only show premises a reasonable number of times)
To show the premises to prospective tenants	'Reasonable' during the 14 days before the agreement ends
If the landlord has good reason to believe the premises are abandoned	None
If the tenant gives permission	None
Consumer, Trader and Tenancy Tribunal Order	As specified on the Order

The Act does not define what is 'reasonable' notice when the landlord wants to show the premises to prospective buyers or tenants. This is determined by examining all the facts of each case to determine whether the notice is reasonable and should be negotiated between the parties.

## QUICK TIP

Other Fair Trading  
renting factsheets  
include:  
FTR37 – Moving in  
FTR39 – Moving out

## Other fair trading information

- Business names
- Running a business
- Co-operatives
- Tenancy
- Property management
- Selling your home
- Conveyancing
- Strata schemes
- Home building
- Product safety
- Buying a car or boat
- Credit
- Shopping
- Retirement villages
- Residential parks
- Other fair trading issues

 **13 32 20**  
business hours

Tenants' Advice and Advocacy Services (TAAS) are independent community-based organisations. They help both private and public tenants by providing tenancy advice, information and advocacy.

## Tenancy Advisory Services

Inner Sydney	9698 5975
Inner Western Sydney	9559 2899
Eastern Sydney	9386 9147
Northern Sydney	9884 9605
Southern Sydney	9787 4679
Western Sydney	9891 6377
South Western Sydney	4628 1678
Central Coast	4353 5515
Hunter	4929 6888
Mid North Coast	1800 777 722
Northern Rivers	1800 649 135
Illawarra/South Coast	1800 807 225
North Western NSW	1800 836 268
South Western NSW	1800 642 609
Aged Tenants Service	9281 9804
	1800 451 488
Tenants Union Hotline ( <a href="http://www.tenants.org.au">www.tenants.org.au</a> )	9251 6590
	1800 251 101
<b>Aboriginal Tenancy Advisory Services</b>	
Greater Sydney (Sydney Metro, Hawkesbury, Wyong, Gosford, Blue Mountains & Wollondilly	9564 5367
	1800 772 721 (outside Sydney)
Southern NSW	1800 672 185
Western NSW	1800 810 233
Northern NSW	1800 248 913

## Where to get more information

### Fair Trading Centres

Tel. 13 32 20

### Specialist services

#### Renting & Strata Services

9377 9100 or 1800 451 301 (outside Sydney)

#### Aboriginal tenancy information

9377 9200 or 1800 500 330 (outside Sydney)

#### Rental bond information

9377 9000 or 1800 422 021 (outside Sydney)

**TTY** Tel. 9338 4943

Telephone service for hearing impaired.

**Language assistance** Tel. 13 14 50

Ask for an interpreter in your language

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

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