



Moving in

information for renters



IMPORTANT

Tenancy agreements should be carefully read before being signed. The landlord should be able to explain anything that is not clear. Otherwise Fair Trading or the nearest Tenant's Advice and Advocacy Service (TAAS) can offer further assistance.



QUICK TIP

Before deciding on the kind of place to rent, the tenant should find out exactly how much it will cost and ensure it is affordable.

The Residential Tenancies Act – what does it do and who does it cover?

Most residential tenancies in NSW are covered by this *Act*, which sets out the rights and obligations of both tenants (renters) and their landlords.

The *Act* also gives the Consumer, Trader and Tenancy Tribunal power to hear and settle disputes about residential tenancies, including bond disputes.

The *Act* covers private tenants and public or 'social housing' tenants including the Department of Housing, community housing and Aboriginal Housing Office tenants. (However, social housing providers are exempt from some parts (sections) of the *Act*.)

What does the Act have to do with the standard 'residential tenancy agreement'?

The residential tenancy agreement outlines the rights and responsibilities of tenants and landlords. They are usually written in a standard form, but they can also be oral, eg, a conversation between tenant and landlord. They can also be partly in writing and partly oral. Whether oral or written, all residential tenancy agreements must follow the rules and regulations set out in the *Act*.

The *Act* states that agreements between landlords and tenants must use a set of standard terms which cannot be changed. If a tenant or landlord does not carry out their responsibilities listed in the agreement, they may be in breach of a term of the agreement (and therefore may be in **breach** of the *Act*).

Most residential tenancy agreements also have a section called '**Additional Terms**', where the landlord can include any extra terms. These are negotiable but the landlord cannot add terms which conflict with either

the *Act* or one of the standard terms set out in the agreement. Any such terms are not binding or enforceable, even though the tenant may sign the agreement. Examples of additional terms which are not binding or enforceable include:

- automatically being required to steam-clean carpets
- being responsible for repairs to the stove
- penalties for paying rent late.

The tenancy agreement comes in two parts:

- Part 1 – sets out the terms of the agreement between the landlord/agent and the tenant.
- Part 2 – is the Condition Report that describes the condition of the premises at the time the tenant moves in.

Under the *Act*, a copy of a Fair Trading publication called the *Renting guide* must be given to the tenant by their landlord/agent when the tenancy agreement is signed.

Condition Report

The tenant must be given a copy of the Condition Report when they move in. The tenant and landlord use the report to record the condition of the property and it is completed by both the landlord/agent and tenant at the start and also at the end of the tenancy.

The landlord/agent initially completes the Condition Report and gives two copies to the tenant to record their comments. The tenant has seven (7) days to fill in both copies with their comments and return **one** to the agent/landlord. The tenant keeps the other.

It is important for tenants to take the time to inspect the property thoroughly and fill in the Condition Report carefully. This will help prevent problems if the landlord disputes the return of the bond at the end of the tenancy.



IMPORTANT

The condition report is very important. If it is not completed properly the tenant may experience difficulty in getting their bond back when they move out. A copy should be kept safe for the end of the tenancy.



IMPORTANT

The amount of bond that is to be paid (if any) must be written on the tenancy agreement. All bond money must be lodged with the Office of Fair Trading.

Common problems that can easily be missed are cracked windows, grease on the stove, marks on the walls or stains on the carpets.

If repairs are needed, the tenant should ask the landlord/agent to get them completed and obtain agreement in writing. There is also a section on the Condition Report for listing repairs that are promised.

If a condition report is not provided, the tenant should write a detailed report on the condition of the property and get a witness to sign and date it and send a copy to their landlord/agent.

The tenant should keep their copy of the condition report in a safe place – they will need it at the end of their tenancy when a final inspection is done.

Reservation fees

A tenant may be asked to pay a reservation fee while the landlord is deciding whether to accept their application. The maximum a landlord can ask for is one week's rent and only one reservation fee can be held for a particular property at a time. A reservation fee is a sign of good faith, but does not guarantee that the tenancy will go ahead.

The prospective tenant must be given a receipt for the reservation fee paid. If their application is accepted, the reservation fee becomes the first week's rent.

If the application is not accepted or the landlord makes no decision within 1 week of the fee being paid, the full amount must be refunded.

If the applicant withdraws the landlord may retain rent for the days the premises were reserved but only if: the premises were not let or occupied during the period of reservation; no more than one reservation fee was being held; and a proper receipt and written acknowledgement were given to the prospective tenant when the fee was paid.

Costs

A tenant is required to pay rent in advance (less any reservation fee) from the first day of their tenancy:

- 2 weeks if the weekly rent is \$300 or less, or
- 1 month if the weekly rent is more than \$300.

In addition, they will usually be asked for a bond (no more than 4 weeks rent unless premises are furnished).

Tenants may also be asked to pay a fee for the preparation of the agreement but only up to \$15.00.

The landlord should give the tenant a written statement of the costs before they sign the agreement. Security deposits for electricity, gas and telephone are not part of the residential tenancy agreement. The tenant must organise for these to be paid direct to the relevant authorities.

The bond

The landlord may request a tenant to pay a bond at the start of the tenancy as security in case the tenant does not follow the terms and conditions of the agreement.

If a bond is paid, both the tenant and the landlord/agent must sign a completed 'Bond lodgement' form and then (the form and the money) should be lodged by the landlord/agent with the Office of Fair Trading within seven (7) days.

Once lodged, all parties should receive an advice of lodgement that states a rental bond number. If the advice is not received, the tenant should telephone Fair Trading's Renting & Strata Services to confirm that the bond had been lodged. It is an offence for a landlord/agent not to lodge a rental bond with Fair Trading if they request one from their tenant.

In the situation of shared accommodation, if the names listed on a bond change, a 'Change of shared tenancy arrangement' form should be completed and lodged with Fair Trading's Renting & Strata Services branch. The form should be signed by the remaining tenants, the person(s) leaving and moving in and the landlord/agent. One original household member must still be in the premises to use this form.

Rent and rent receipts

The tenant and landlord should agree on the rent to be paid and the method of payment before the tenant moves into the property. These arrangements should be written into the tenancy agreement.

The landlord must give the tenant rent receipts showing the landlord or agent's name, the tenant's name, the address of the property, the period for which the rent is paid, the date the rent is received and the amount paid.

However, the landlord does not have to give their tenant a receipt if the rent is paid direct



IMPORTANT

If a tenant pays their rent in person, they must be given a receipt.



QUICK TIP

A tenant cannot be asked to make any more rent payments until the rent which they last paid has been used.

into a bank or building society account or where the rent is paid by automatic deduction.

Rent collection service

A collection agent is usually a person or organisation who collects rent on behalf of a managing agent.

If a tenant agrees to pay their rent through a collection agent, they enter into a contract with the collection agent. The collection agent may charge a fee for this service and if there are direct debits from a tenant's bank account for rent payment, bank fees may also be charged.

Tenants should be aware that the collection agent and the bank can charge additional fees if there are insufficient funds in the bank account at the time the collection agent attempts to debit their account.

Before agreeing to use the services of a collection agent, it is important that tenants read and understand the terms of the contract.

Electronic rent payments

The landlord/agent cannot pass on the cost of providing a payment card or deposit book to the tenant for paying rent at a post office or bank.

Security

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

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.

If the tenant considers the property not to be 'reasonably' secure, they can request the landlord to install door and/or window locks and other security measures before they sign the agreement. The tenant should make a note of the landlord's promises on the Condition Report.

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, so tenants should discuss any proposals prior to moving in. Any consent by the landlord should be put in writing, preferably as an additional term of the agreement.

Keys

All tenants listed on the agreement are entitled to receive a set of keys free of charge. This includes keys to all doors, window locks, the garage, letterbox and any other security keys or remote control devices.

The tenant pays for the cost of replacing any keys that are lost.

The landlord/agent is not permitted to request a deposit/bond for any keys, security tags or remote control devices.

Water & sewerage charges

Landlords are responsible to pay for all service charges for water and sewerage issued by the local water supply authority.

A tenant can be asked to pay water usage as a part of the bill if all the following conditions are met:

- the rented premises is individual metered
- the tenant has signed a residential tenancy agreement with an additional term about 'water usage' usually under clause 29 of the standard form of residential tenancy agreement)
- the local water supply authority does not have a minimum amount payable for all properties.

The tenant is entitled to a photocopy of the water account and should pay any amount owing before the due date on the bill.

A tenant can only be charged for the metered amount of water that they use. For this reason, it is important that the water meter is read and the figure noted on the Condition Report before the start of the tenancy, ensuring that a new tenant does not pay for the water of any previous tenants.



QUICK TIP

Other Fair Trading
renting factsheets
include:

FTR38 – Living there
FTR39 – Moving out

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 (www.tenants.org.au)	9251 6590 1800 251 101
Aboriginal Tenancy Advisory Services	
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



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

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

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