

Tenancy reform proposals

Have your say on the draft Bill

The draft Residential Tenancies Bill 2009 has been released for public consultation. The Bill is **not** law at this stage. The Government has released the draft in order to seek the views of the community, ahead of introducing the Bill into Parliament in 2010.

Background to the Bill

The release of the draft Bill is the third consultation phase of the review of the existing tenancy laws which have remained largely the same since they were first introduced more than 20 years ago.

An options paper was released in 2005 followed by a report in 2007 outlining more than 100 reform proposals.

Fair Trading received over 1,600 responses from individual tenants, landlords, real estate agents, community groups and key stakeholder organisations. These ideas and opinions have helped shape the policy direction of the draft legislation.

What are the main aims of the draft Bill?

The draft Bill seeks to:

1. Fairly balance the rights and obligations of tenants and landlords.
2. Modernise and update the law in line with current practices.
3. Reduce the level of disputes, by providing greater clarity and certainty in the legislation.

Fair Trading has examined the tenancy laws in place in other States and Territories to identify best practice approaches that have been successful elsewhere, and these have been used in the draft Bill in a range of different areas.

What are the main proposals in the draft Bill?

The key changes proposed in the draft Bill when compared to the existing law are explained below.

'No grounds' termination notices

The draft Bill increases the notice given to tenants who are no longer in a fixed term lease from 60 days to 90 days. It also gives landlords greater certainty of recovering possession through the Tribunal where a tenant does not move out in accordance with the notice.

Rent arrears evictions

The Bill will shorten the time it takes for a landlord to get their application heard by the Tribunal where the tenant is behind in rent. It also gives a guarantee to tenants that their tenancy can continue if their rent arrears is paid or if they follow an agreed repayment plan.

Alterations

The Bill gives tenants greater flexibility to add fixtures or make alterations of a minor or cosmetic nature at their own expense. It clarifies the rights of landlords to seek compensation where the work is not done to a satisfactory standard, or will impact on the ability of the premises to be rented in the future.

Rent payments

The Bill will require all tenants be given at least one free and easy option to pay their rent. Tenants will be required to pay the landlord's costs if a cheque for rent bounces or if a direct debit payment is dishonoured.

Security of tenure

The Bill includes measures to encourage long-term leases and gives greater protection against eviction for tenants who have lived in the same premises for over twenty years.

Tenancy databases

The Bill limits the type of information that can be listed in a database and the period of time such information can be kept. It also gives the Tribunal broad powers to resolve disputes about listings.

Water efficiency

The Bill will require rented premises to be water efficient if tenants are to pay for water.

Co-tenant disputes

The Bill introduces new measures to resolve disputes between co-tenants or shared households, including domestic violence situations.

Goods left behind

The Bill will streamline procedures and reduce costs for landlords when dealing with goods left behind when a tenant vacates. At the same time, it introduces more practical methods to help tenants retrieve their goods and personal papers.

Pre-tenancy

The Bill will permit holding fees to be charged only after an application for a tenancy has been approved. It prohibits certain terms from being added to a lease and requires the disclosure of material facts to prospective tenants, such as if the landlord intends to sell the property, or if a mortgagee has taken court action to recover possession.

Breaking a lease early

The Bill will enable tenants to break a lease early without penalty in certain situations, such as when they accept an offer of public housing or need to move to a nursing home. The Bill also introduces the concept of a 'break fee' in all other cases where a tenant breaks a lease early, similar to the types of fees payable when a mobile phone contract or gym membership is broken.

Sale of rented premises

The Bill requires the tenant to be told before a rental property is placed on the market. It obliges the selling agent to make reasonable efforts to agree with the tenant on the days and times the premises will be available for inspection.

Security and safety

The Bill gives guidance as to what is meant by rental properties needing to be 'reasonably secure'.

Where can I get a copy of the draft Bill?

A copy of the draft Bill can be downloaded from the Fair Trading website at www.fairtrading.nsw.gov.au. If you do not have internet access, call Fair Trading on 13 32 20 for a copy.

How can I have my say?

The easiest way to comment on the Bill is through the online feedback channel on the Fair Trading website.

Alternatively, send your comments to Fair Trading by email, post or fax to:

Email: policy@services.nsw.gov.au

Post:

Principal Policy Officer
Residential Tenancies Bill 2009
Fair Trading Policy Division
NSW Fair Trading
PO Box 972
Parramatta NSW 2142

Fax: 9338 8990

Submissions on the Bill must be received by **Friday 18 December 2009**.

What happens next?

The Government will consider all feedback and submissions received on the draft Bill. At this stage, it is intended that the Bill will be introduced into Parliament in early 2010. The final Bill may differ from the draft Bill as a result of comments made during consultation. If the Bill is passed by Parliament it will **not** come into effect immediately. The existing Regulations, including a revised standard lease and condition report, will need to be re-made and this will involve further public consultation.