

Bond

As a tenant you have rights under the *Residential Tenancies Act 2010* and *Residential Tenancies Regulation 2010*. This factsheet explains the law in NSW about rental bonds.

About the bond

The bond is money you pay at the start of the tenancy as security in case you do not follow the tenancy agreement. A bond is not compulsory but most landlords/agents ask for one. There are restrictions; the landlord/agent can only ask for:

- a bond in the form of money (you cannot be asked for a written guarantee, for example)
- one bond for the one tenancy agreement.

The most bond you can be required to pay is an amount equal to 4 weeks rent (that is, the amount of rent you agreed to pay at the start of the tenancy).

The landlord/agent cannot require you to pay a bond to them before you sign a tenancy agreement.

The landlord/agent cannot require you to pay more (or another) bond when the rent is increased or if a new tenant moves in.

Paying the bond

You can pay the bond:

- as a lump sum, or
- in instalments starting from when you sign the tenancy agreement – if the landlord agrees.

When you pay the bond, the landlord/agent must give you:

- a receipt for any payment/s you make – unless details of the payment are recorded in your tenancy agreement
- a 'Bond Lodgement' form with details about how much bond you have paid. This will be sent off with the bond.

You and the landlord/agent should sign the lodgement form.

Help with paying the bond

The 'Rentstart' scheme offers help to people with low incomes renting in the private market to pay the bond. Apply through your local Housing NSW office.

Deposit of the bond

The landlord/agent must deposit the bond with NSW Fair Trading. For lump-sum payments:

- a landlord must deposit the bond within 10 working days after it is paid
- an agent must deposit the bond within 10 working days after the end of the month.

For a bond paid in instalments, the periods for depositing the bond with Fair Trading vary according to

when your instalments are made. (Contact Fair Trading for more information.)

Once the landlord/agent has deposited the bond, Fair Trading will send you a deposit notice and a rental bond number. Keep these in a safe place with your tenancy agreement.

If you do not receive a deposit notice, contact Fair Trading to find out if landlord/agent has deposited the bond. If the landlord/agent does not deposit the bond within the required period, they can be fined up to \$2,200.

Change of shared tenancy

To change the names of the tenants registered for the bond, fill in a 'Change of Shared Tenancy Arrangement' form (from Fair Trading). Have it signed by the outgoing and incoming tenants and the landlord/agent and return it to Fair Trading. Note:

- At least one of the original tenants must remain in occupation for you to use this form.
- If any of the tenants used Rentstart to help them pay the bond, you cannot use this form.
- This form cannot be used to transfer a tenancy (see Factsheet 18: *Transfer and sub-letting*).

Transfer of bond

You can transfer your bond to a new tenancy if:

- the same tenants are all moving to the new tenancy
- the landlord/agent of the original tenancy agrees and they are not claiming any of the bond.

Fill in a 'Transfer of Bond' form (from Fair Trading). Have it signed by:

- all the tenants named on the bond deposit notice
- the original landlord/agent.

Attach this form to the new 'Bond Lodgement' form.

You cannot transfer the bond if any of the tenants used 'Rentstart' to pay the bond.

Claiming the bond back

At the end of the tenancy, fill in a 'Claim for Refund of Bond Money' form (from Fair Trading).

If you and the landlord/agent agree about the amount to be returned, sign the completed form and have the landlord/agent sign it. Return the form to Fair Trading by post, email (bondclaims@finance.nsw.gov.au), or in person. Fair Trading can deposit the money into your bank account or post a cheque to your new address.

TENANTS RIGHTS FACTSHEET 03: Bond

You can still make a claim if you disagree about the amount of bond to be returned to you. Fill in the form with the amount that you want paid. You do not need the landlord's/agent's signature. Return the form to Fair Trading.

Fair Trading will give the landlord/agent written notice that you have made a claim. If the landlord/agent does not dispute it, Fair Trading will pay your claim after 14 days.

If the landlord/agent does dispute your claim, they must apply to the NSW Civil and Administrative Tribunal (NCAT) within 14 days of receiving the notice and tell Fair Trading in writing that they have done so.

The Tribunal will decide how the bond will be paid out.

Claim by landlord/agent

If the landlord/agent wants to make a claim from the bond without your agreement, they must give you:

- a copy of the condition report completed at the end of the tenancy agreement
- copies of estimates, quotes, invoices or receipts for work they are claiming.

They must provide these to you within 7 days of making the claim.

Fair Trading will give you written notice that the landlord/agent has made the claim. To dispute their claim, you must:

- apply to the Tribunal for an order to pay all or part of the bond to you (within 14 days of receiving the claim notice – use the 'Rental Bond Application' form from the Tribunal)
- give written notice to Fair Trading that you have made the application.

The Tribunal will decide how the bond is paid out.

You can still apply to the Tribunal for a refund of all or part of the bond, even if Fair Trading has paid the landlord's claim. You must apply within 6 months after the bond is paid out.

What the landlord/agent may claim for

The landlord/agent may claim from the bond:

- the reasonable cost of:

- repairs: if you, another occupant or a guest has damaged the premises or goods leased with the premises (other than 'fair wear and tear')
 - cleaning: if you have left any part of the premises not reasonably clean
 - replacing locks or other security devices: if you have altered, removed or added these without the landlord's consent.
- rent or other charges you owe under the tenancy agreement.

The landlord/agent is not limited to claiming for the above.

Rental Bonds Online

NSW Fair Trading provides a voluntary online rental bond system that allows tenants and landlords to manage their bonds. Rental Bonds Online allows payment of bonds through bpay and bank transfer.

A landlord who requires you to use Rental Bonds Online when you do not want to may be fined \$2200.

You can find out more about Rental Bonds Online at: fairtrading.nsw.gov.au/rentalbondsonline

Bond refund to former co-tenant

On request, the remaining tenant/s must pay back a former co-tenant's bond – less any rent owed or other reasonable costs – within 14 days of the request.

This does not apply if:

- the former co-tenant's debts exceed the amount of bond money they paid, or
- the former co-tenant has been excluded from the premises by a final apprehended violence order.

If a former co-tenant disagrees about how the bond is paid out to them, they can apply to the Tribunal to resolve the matter. They must apply within 6 months after the bond is paid out.

Contacts

- NSW Fair Trading: phone 133 220, www.fairtrading.nsw.gov.au
- Housing NSW: phone 1300 468 746
- NSW Civil and Administrative Tribunal: phone 1300 006 228, www.ncat.nsw.gov.au

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For free tenancy advice, call your local Tenants Advice and Advocacy Service:

SYDNEY:

• Eastern	9386 9147
• Inner	9698 5975
• Inner West	9559 2899
• Northern	8198 8650
• Southern	9787 4679
• South West	4628 1678
• Western	8833 0933

REGIONAL:

• Blue Mountains	4704 0201
• Central Coast	4353 5515
• Hunter	4969 7666
• Illawarra Sth Coast	4274 3475
• Mid Coast	6583 9866
• Northern Rivers	6621 1022
• Northwest NSW	1800 836 268
• Southwest NSW	1300 483 786

ABORIGINAL:

• Sydney	9833 3314
• West NSW	6881 5700
• South NSW	1800 672 185
• North NSW	1800 248 913

WEBSITE: tenants.org.au

NSW FAIR TRADING: 13 32 20

This factsheet is intended as a guide to the law and should not be used as a substitute for legal advice. It applies to people who live in, or are affected by, the law as it applies in New South Wales, Australia. ©Tenants' Union of NSW

