

Rent increases

As a tenant you have rights under the *Residential Tenancies Act 2010* and *Residential Tenancies Regulation 2019*. This factsheet summarises the law in NSW about how rent may be increased, including how often it may be increased, correct notice, and what to do if the increase is excessive.

How rent may be increased

The landlord/agent may increase the rent provided that:

- they give you correct written notice of the increase
- a rent increase is permitted under your tenancy agreement

If you are a tenant of Housing NSW or the Aboriginal Housing Office, see 'Housing NSW and AHO tenancies' below.

How often rent may be increased

This depends on the type of tenancy agreement you have – see the table below.

A *fixed-term* agreement is for a specified period (e.g. 6 months). A *periodic*, or 'continuing' agreement is one where the fixed term has expired or no fixed term is specified.

Agreement type	Permitted frequency
Fixed-term of 2 years or more	once in any 12-month period
Fixed-term of less than 2 years	(see below)
Periodic (ongoing)	once in any 12-month period [1]

1. As of March 2020, rent increases for periodic leases are limited to once in 12 months. However different rules apply if you are a tenant of DCJ Housing or the Aboriginal Housing Office – see below.

Fixed-term agreements of less than 2 years

The landlord/agent can only increase the rent if your agreement sets out the amount of the increase or the method of calculating it. Also see below for notice rules.

Correct notice of rent increase

The landlord/agent must give you 60 days written notice of a rent increase. The notice must specify:

- the increased rent
- the day from which the increased rent applies

If the landlord/agent posts the notice, they must allow an extra 7 working days for delivery.

Different rules apply if you are a tenant of DCJ Housing or the Aboriginal Housing Office – see below.

Incorrect notice

If you do not get 60 days notice and/or notice is not given in writing, you do not have to pay the increased rent.

You can write to the landlord/agent explaining that the notice is incorrect. Continue to pay your current rent.

If the landlord/agent still wants to increase the rent, they must give you a new notice.

Fixed-term agreements of less than 2 years

If you have a fixed term agreement of less than 2 years, your landlord does not have to give you 60 days written notice of a rent increase during the fixed term if your agreement sets out:

- an amount for your rent increase; and
- the day from which the increased rent applies.

Renewing your tenancy

If you are renewing your tenancy by signing up to a new fixed term agreement, the rent cannot be increased by the new agreement simply having a higher rent term.

Notice of rent increase on renewal is required. The notice period is 60 days. The notice is required before the agreement is renewed. See the note under section 41(2) of the *Residential Tenancies Act 2010*.

Excessive rent increases

If you think a rent increase is excessive, you can:

- negotiate with the landlord/agent to lower or withdraw the increase, and/or
- apply to the NSW Civil and Administrative Tribunal (NCAT) for an order that the new rent is excessive. You must apply within 30 days of getting a rent-increase notice. (See below for more detail about applying to the Tribunal).

Negotiating a smaller rent increase

Ask to meet with the landlord/agent. You can offer to pay a little extra rent per week or to pay the increase gradually over 6–12 months. If the landlord/agent seems interested, put a proposal in writing.

While negotiating, apply to the Tribunal within the 30-day time limit in case you cannot come to an agreement.

See our Rent Increase Negotiation Kit for tools to help you negotiate: <https://tenants.org.au/resource/rink>

Applying for an excessive rent order

If the Tribunal finds that a rent increase excessive, it will make an *excessive rent order*. The order will specify:

- the amount that the rent must not exceed
- the day from which this maximum rent applies – for a period of up to 12 months

When deciding if a rent increase is excessive, the Tribunal will consider:

- rents for similar premises in the same or a similar area ('general market level of rents')
- the landlord's outgoings under the tenancy agreement
- any fittings, appliances or other goods, services or facilities provided with the premises
- the state of repair of the premises
- the accommodation and amenities provided in the premises
- when the last increase was
- any work you have done to the premises
- any other matter it considers relevant

The Tribunal will not consider your income or whether you can afford the increase.

Preparing an excessive rent case

Gather evidence to present at the Tribunal hearing:

- Look at similar properties in your area (at least 3), take photos, and gather evidence of the rent for the properties (through real estate agent listings or statutory declarations from current tenants – newspaper clippings are not enough).
- Check out your area and dwelling type on our *Rent Tracker Postcode Tool*, or generate a personalised letter and data summary using our *Rent Increase Negotiation Kit*: <https://tenants.org.au/resource/rink>
- Refer to the latest *Rent and Sales Report* on the DCJ Housing website (<https://www.facs.nsw.gov.au/resources/statistics/rent-and-sales>), which has the average rents in every local government area in NSW.
- Make a list of repairs done by the landlord (if any).
- Make a list of all rent increases since you lived at the premises.
- Gather receipts for any work you have had done to the premises with the landlord's consent.
- Take photos showing the condition of the premises.
- Find out if council and water rates have increased in recent years – get this in writing if possible (in case the landlord claims increased charges as a reason for the rent increase).

See Factsheet 11: *NSW Civil and Administrative Tribunal* and contact your local Tenants' Advice and Advocacy Service for advice.

FACS Housing and AHO tenancies

If you have a periodic agreement, DCJ Housing and the Aboriginal Housing Office can increase your rent more than once in any 12 month period, if you are receiving a rental rebate.

DCJ Housing and the Aboriginal Housing Office can also change your rent rebate without giving you 60 days notice.

To dispute a change to your rent rebate, appeal to the Housing Appeals Committee – you cannot apply to the Tribunal about it.

If your rent rebate is cancelled, you can apply to the Tribunal for an excessive rent order (see above).

Contact your local Tenants' Advice and Advocacy Service with any questions.

See also

- *Rent Increase Negotiation Kit*: <https://tenants.org.au/resource/rink>
- Factsheet 5: *Rent arrears*
- Factsheet 11: *NSW Civil and Administrative Tribunal*

Contacts

- NSW Civil and Administrative Tribunal: phone 1300 006 228, ncat.nsw.gov.au
- Housing Appeals Committee: phone 02 8741 2555, free call 1800 629 794, www.hac.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	9559 2899
• 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