Renters in share housing are generally covered by the Residential Tenancies Act 2010 and Residential Tenancies Regulation 2019. This factsheet summarises some of the key legal issues for people living in share housing in NSW.

Legal status of people in share housing

People in share housing usually have their own bedroom and share the rest of the premises. Your rights and obligations will depend on your legal status. You may be:

- a co-tenant
- a head-tenant
- a sub-tenant, or
- a boarder or lodger.

Co-tenants, head-tenants and sub-tenants have rights and obligations under the Residential Tenancies Act 2010. Boarders and lodgers do not – see Factsheet 14: Boarders and lodgers.

Co-tenant Your name and the names of other tenant/s are on the tenancy agreement for the premises. You share rights and obligations with the other co-tenant/s. Co-tenants are jointly and severally liable. This means that responsibility for the tenancy is shared by all co-tenants. The landlord may pursue any co-tenant for the entirety of a debt incurred.

Head-tenant You are a tenant (your name is on the tenancy agreement for the premises), you live at the premises and sub-let part of the premises to another person under a separate written agreement. That person is a sub-tenant. You are a landlord in relation to the sub-tenant. For information about your rights and obligations as a head-tenant, see the information for landlords on the NSW Fair Trading site fairtrading.nsw.gov.au. If you have questions about how that information applies to you as head-tenant, contact NSW Fair Trading on 13 32 20.

Sub-tenant You are sharing with a tenant (their name is on the tenancy agreement for the premises) who has sub-let part of the premises to you under a separate written agreement. That person is a head-tenant.

You have the rights and obligations of a tenant in relation to the head-tenant – they are your landlord.

Boarder or lodger You are a boarder/lodger if you rent part of the premises from:

- a tenant who also lives there, or
- the owner of the premises, who also lives there and they keep control over the whole premises (including the part you rent). They are your landlord.

None of the above If none of the above applies to you, contact your local Tenants Advice and Advocacy Service for advice.

Changing occupants: transfer or sub-let

A tenant may transfer their tenancy under the tenancy agreement, or sub-let part of the premises, to another person with the landlord’s written consent. If at least one original tenant on the tenancy agreement remains, the landlord must not unreasonably withhold consent.

If the landlord withholds consent, you can apply to the NSW Civil and Administrative Tribunal (NCAT) for an order that allows the transfer or sub-letting. The Tribunal will decide if the landlord’s witholding consent is unreasonable.

The landlord may withhold consent however, on some specific grounds (e.g. to comply with planning laws). See Factsheet 18: Transfer and sub-letting for further information. You can download a sample sub-letting agreement at tenants.org.au/share-housing-agreement.

Rent receipts

Whatever your tenancy status, you should get a receipt when you pay rent – unless you pay into a bank account.

Bond money

Also see Factsheet 03: Bond.

Change of co-tenants and bond

If the tenants on the bond lodgement form change, fill in a ‘Change of Shared Tenancy Arrangement’ form (from NSW Fair Trading) site fairtrading.nsw.gov.au. If you have questions about how that information applies to you as head-tenant, contact NSW Fair Trading on 13 32 20.

Sub-tenant You are sharing with a tenant (their name is on the tenancy agreement for the premises) who has sub-let part of the premises to you under a separate written agreement. That person is a head-tenant.

You have the rights and obligations of a tenant in relation to the head-tenant – they are your landlord.

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- a tenant who also lives there, or
- the owner of the premises, who also lives there and they keep control over the whole premises (including the part you rent). They are your landlord.

None of the above If none of the above applies to you, contact your local Tenants Advice and Advocacy Service for advice.

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- a tenant who also lives there, or
- the owner of the premises, who also lives there and they keep control over the whole premises (including the part you rent). They are your landlord.

None of the above If none of the above applies to you, contact your local Tenants Advice and Advocacy Service for advice.
Sub-tenant’s bond
The head-tenant must deposit your bond money with NSW Fair Trading. They must also give you a receipt – unless details of the payment are recorded in your tenancy agreement.

Boarder or lodger’s bond
Encourage the landlord to deposit your bond money with NSW Fair Trading (they are not required to). In any case, get a receipt for any bond money you pay.

If other occupants want you to leave

Co-tenant A co-tenant can apply to the Tribunal for a termination order to end the tenancy of another co-tenant. The Tribunal will consider the ‘special circumstances’ of the case and decide whether to make the order.

Sub-tenant The head-tenant must give you a 90-day termination notice during a periodic agreement, or a 30-day termination notice at the end of the fixed-term agreement. See Factsheet 10: Landlord ends agreement.

Boarder or lodger The landlord should give you ‘reasonable’ notice to vacate the premises (e.g. if you pay rent weekly, they should give you at least 7 days notice).

If you want to leave

See Factsheet 09: You want to leave for how to give a termination notice.

Co-tenant If all co-tenants are leaving, they must jointly give the landlord a 21-day termination notice during a periodic agreement, or a 14-day termination notice before the end of a fixed-term agreement.

Sub-tenant If one co-tenant is leaving in a periodic term, they can end their own tenancy under a periodic agreement by giving a 21- day termination notice to the landlord and each other co-tenant. Once they vacate the premises by the date in the notice, they are no longer a tenant under the agreement.

Boarder or lodger You should give the landlord ‘reasonable’ notice (e.g. if you pay rent weekly, give them at least 7 days notice). Put your notice in writing and keep a copy.

Paying bills

If you have a contract with a phone, power, TV or internet service or supplier, you must ensure the bills are paid.

If someone does not pay their share of the bills – except for electricity bills – you can take action in a Local Court to get the money back. See the chamber registrar at a Local Court, or contact a Community Legal Centre for advice.

Resolving disputes in share housing

Co-tenant Except as mentioned above, the Tribunal cannot deal with disputes between co-tenants. Try mediation through a Community Justice Centre.

Sub-tenant You can apply to the Tribunal to resolve certain kinds of disputes with your head-tenant. Contact your local TAAS for advice.

Boarder or lodger Contact your local Tenants’ Advice and Advocacy Service for advice about resolving a dispute with your landlord.

See also

• Factsheets: NSW Civil and Administrative Tribunal, Transfer and sub-letting, Boarders and lodgers, Boarding Houses Act, Domestic Violence at tenants.org.au
• Sample Share Housing agreement: tenants.org.au/resource/share-housing-agreement
• The Share Housing Survival Guide: sharehousing.org
• Easy Read fact sheet: When you live in a share house tenants.org.au/resource/easy-read
• New Renters Kit: tenants.org.au/resource/nrk

Contacts

• NSW Fair Trading: 133 220, fairtrading.nsw.gov.au
• Local Courts: 1300 679 272, localcourt.justice.nsw.gov.au
• Community Legal Centres: 02 9212 7333, clcnsw.org.au
• Legal Aid NSW / LawAccess NSW: 1300 888 529, legalaid.nsw.gov.au

For free advice, call your local Tenants Advice & 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 6683 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

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