

Sale of rented premises

As a tenant you have rights under the *Residential Tenancies Act 2010* and Regulation. This information is for a tenant renting privately whose landlord is selling the premises.

If your landlord wants to sell the property, they can at any time. However, there are a number of provisions that govern how they can do this. Some landlords may hire a different agent just for the sale. All agents are subject to the same laws as the landlord.

You want to leave?

You may be able to leave, even in a fixed term, if the landlord is selling. More information on page 2.

Showing the premises to prospective buyers

The landlord/agent has the right to access premises to show them to prospective buyers. However, they must:

- give you written notice at least 14 days before the premises are first made available for showing
- make all reasonable efforts to agree with you as to the days and times for showing.

You must not unreasonably refuse to agree to days and times for showing the premises. You need not agree to more than 2 showings a week.

If you and the landlord/agent fail to agree about inspection times, they may show the premises not more than twice a week and must give you at least 48 hours notice each time.

Open-house inspections

In an open-house inspection, the premises are left open and anyone – not just prospective buyers – can walk through unaccompanied. You do not need to agree to an open-house inspection.

Time restrictions on access

The landlord/agent or third parties must not:

- enter before 8am or after 8pm,
- enter on a Sunday or public holiday or
- stay longer than necessary

unless you consent.

Condition of the premises during showings

You must keep the premises 'in a reasonable state of cleanliness' during your tenancy. You do not need to do any more than this. If you agree to do more, ask for a rent reduction.

Asking for a rent reduction

You can ask the landlord/agent to reduce the rent for the period that the premises are being shown. However, there is no requirement for them to agree; if they do agree, have them confirm it in writing.

Being there when the premises are shown

You have the right to be at the premises when they are shown, or have someone else there on your behalf. The landlord/agent or a prospective buyer may also want a tradesperson or architect to inspect the premises. The law has no specific provision for this, the landlord/agent must use standard access provisions.

People entering the premises when you are not there may also be a problem for your insurance. Ask your insurance company about this.

If your goods are stolen or damaged, apply to The NSW Civil and Administrative Tribunal (NCAT) for compensation. You must be able to show that your loss was due to the conduct of the landlord/agent or some other authorised person. For example a tradesperson.

See Factsheet 08: *Access and Privacy*

If there is a dispute: Applying to NCAT

If the landlord/agent or a third party doesn't comply with:

- the maximum (or agreed) number of times they can access the premises
- correct notice periods
- restrictions on access times

you can apply to NCAT for orders:

- to stop the landlord/agent entering the premises (apply within 3 months of becoming aware of them doing so)
- to specify or limit the days and times, and purposes for which, the landlord/agent or other authorised person can enter (apply within 3 months of becoming aware of the problem).

Application by landlord

If you refuse the landlord/agent access to the premises when they are legally allowed, you are in breach of your tenancy agreement.

They may apply to NCAT for an order authorising them or any other person to enter the premises.

Landlord taking photographs

The landlord/agent can photograph the outside of the premises. However, photographing inside the premises, including your belongings, is a breach of your right to reasonable privacy.

If photos are taken without your consent, you can apply to NCAT for order/s:

- that the landlord either destroy the photos or give them to you
- that the landlord/agent not use the photos in advertising
- for compensation for any financial loss you suffered as a result.

You must apply within 3 months of the breach.

'For sale' signs

If the property is a house, the landlord/agent needs your consent to put a 'for sale' sign on the premises. If they do so without your consent, you can remove the sign and apply to NCAT for an order that they do not do it again as it is a breach of the access rules and your right to peace, comfort and privacy in your use of the premises.

On-site auctions

If the property is a house, the landlord/agent cannot hold an auction on site unless you consent.

Strata Schemes

If the property is in a strata scheme, the landlord/agent can put a for-sale sign or hold an auction on the common property without your consent.

You want to leave

You will need to end ('terminate') your residential tenancy agreement. How you do this depends on which type of agreement you have. If you are in a periodic agreement, there is no special termination notice; you can serve a no reason notice of 21 days. If you are in a fixed-term agreement you may still be able to leave early, if:

- They did not disclose the proposed sale before entering into the agreement, and;
- The landlord has now told you of their intention to sell.

In that case, you may give the landlord/agent a 14-day termination notice. You will not need to pay compensation or any other amount for ending the agreement early.

Also see Factsheet 09: *You want to leave*.

Landlord wants you to leave

What the landlord can do depends on which type of agreement you have.

Fixed-term agreement

The landlord cannot terminate your agreement for sale of the premises.

Periodic agreement

The landlord can issue a 30-day notice of termination but only if both the following conditions are met:

- They have exchanged a contract for sale with a buyer, and;
- The contract requires them to give 'vacant possession' of the premises to the buyer.

See factsheet 10: *Landlord Ends Agreement*.

Your tenancy agreement after the sale

If you or the landlord have not terminated the agreement, then the buyer becomes your landlord from the settlement date. Your tenancy agreement carries on as it was before with the same terms. If you are in a fixed term, the buyer must honour the fixed term.

Fixed-term agreement of over 3 years

If the agreement is registered with the Registrar General (NSW Land Registry Services), the new landlord is subject to the whole agreement.

If the agreement is not registered, it ceases to be a fixed-term agreement – it becomes periodic.

The new landlord

The old landlord/agent should write to you with the new landlord's name and the date from which you pay rent to them. You do not have to sign a new agreement with the new landlord if you do not want to, your old agreement is still in force.

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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

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