Residential Tenancies Amendment (Protection of Personal Information) Bill 2025 - Tenants' Union of NSW Briefing July 2025

The Residential Tenancies Amendment (Protection of Personal Information) Bill 2025 (the Bill) introduces a range of important rental reforms in relation to establishing protections for renters personal information, as well as several useful amendments relating to pets, information disclosure to renters and increasing penalties for offences.

Overall we welcome these reforms and recommend they be passed.

The recommendations provided in this briefing aim to improve outcomes and implementation, and ensure the Bill achieves its intended goals.

Protection of renters personal information reforms

The reforms introduced through the Bill will allow renters to retain control of their personal information and have confidence that its use is to their benefit. Personal information gathered during the application process will only be for the purpose of assessing whether the prospective tenancy agreement is likely to be sustained. Regulation of the application process for private rental housing is required to provide greater protection against discriminatory and/or intrusive requests for information at application, as well as greater transparency regarding the decision making process for applicants.

The Bill currently is missing any requirements for tenants identify verification information to be destroyed after it is no longer required.

The Tenants' Union recommends that this requirement is included for residential tenancy entities to ensure that data is protected from misuse, interference and loss especially in cases of data breach. In addition any data that is no longer needed for a permitted purpose must be deleted. As the data is collected purely for the purpose of verifying a tenants identity once that has been completed the information should be deleted within one business day, with a record noting the process occurred being sufficient for subsequent requirements

Our recommendation

1) Amend section 210E to

(1) A residential tenancy entity may collect identity verification information about a tenant only if the landlord—

(a) intends to enter into a residential tenancy agreement with the tenant, and

(b) before collecting the information, notifies the tenant in writing of the landlord's intent.

Maximum penalty—

(a) for an individual—50 penalty units, or

(b) otherwise—200 penalty units.

(2) Unless the regulations provide otherwise, a residential tenancy entity that holds identity verification information of a tenant, or documents or other evidence containing identify verification information of a tenant, must—

(a) hold the information, documents or evidence no longer than two business days after the tenants application has been approved

Maximum penalty—

(a) for an individual—50 penalty units, or

(b) otherwise—200 penalty units.

(3) Subsection (2) does not apply to a record of the tenant's name and date of birth.

The Bill removes from section 214 the standard 7 day time period for landlords and agents to notify database operators if information is inaccurate, ambiguous, out-of-date, incomplete, irrelevant or misleading. The notification process is online and therefore 7 days is more than enough time to meet this requirement. We also note that delay in doing so causes significant harm to tenants who may need the information to be updated in order to find housing. There should not be any extension of this time period and 7 days should remain as the standard.

The Bill also removes from section 215 the standard 14 day time period for database operators to make changes to listing when they have been advised the information is inaccurate, ambiguous, out-of-date, incomplete, irrelevant or misleading. There should not be any extension of this time period and we recommend the stipulated time period be reduced to 7 days.

Our recommendation

2) Remove the amendments to section 214 and retain 7 days as the requirements for landlords and agents to notify database operator if information is inaccurate, ambiguous, out of date, incomplete, irrelevant or misleading
3) Amend section 215 to require database operators to make changes to listings within 7 days

The Bill in section 216 now requires landlords and database operators to provide confirmation and copy of information listed within a prescribed period or if no period as soon as practicable. A standard time period is much better than as soon as practicable.

If residential tenancy databases are to continue to be entertained as part of the rental sector, they should be required to use their best efforts to provide the required information held about a person as soon as possible. This can be defined as providing the information as quickly as it can be provided to any other person requesting the information (such as a subscriber).

Landlords and landlord's agents have no obligation to participate in listing tenants on residential tenancy databases and many decline to do so. Landlords and landlord's agents who wish to participate in listing tenants on residential tenancy databases should do so with care. The impact of a listing on a person's ability to be safely housed is immense. It is

appropriate that they also be required to provide information as close to immediately as possible, and if they are concerned they will not be able to do so are free not to participate.

We also recommend the Bill be amended to include the ability for a person to nominate another to seek information on their behalf.

Our recommendation

4) Amend section 216(3) to the following effect:

(3) A landlord, agent of a landlord or database operator—

(a) must give the person the confirmation and a copy of the information, if any—

(i) as soon as possible, and

(ii) no longer than one business day, and

(b) must not charge a fee for giving the confirmation or a copy of the Information.

With penalties in line with others proposed.

5) Allow a tenant to nominate another person to receive information on their behalf from a database operator

The Bill amends section 187(2) to add in the ability for the NSW Civil and Administrative Tribunal (NCAT) to award economic loss compensation due to breach of the new requirements around personal information and databases. This is a welcome inclusion in the Bill but the Tenants' Union believes that it is too narrow to restrict compensation to economic loss only. Tenant losses may not materialise precisely in a financial way because the harm done by the breach could mean loss of opportunity, stability or safety (of identity). These are not impacts that can be neatly substantiated with a receipt. Access to non-economic compensation is an important element and it is important to let NCAT administer justice without undue restriction. This includes allowing for rightful compensation for actions that are not fair, cause disappointment and upset and are in breach of privacy principles but their losses cannot be demonstrated in a purely economic sense. Real deterrence is the point of this amendment, confining compensation to economic loss creates a situation for ongoing frustration and upset for renters and allows unscrupulous participants in the industry to undermine the privacy principles.

Our recommendation

6) Amend section 187(2)(b1)

(b1) Economic and non economic loss suffered by a person as a result of a contravention of a provision of Part 11, Division 1A or 1B or the regulations made under Part 11, Division 1A, 1B or 3.

Pet reforms

The Bill introduces a new pet provision in section 73B(1)(1A) that allows 7 days for tenants to apply to have a pet after they move in and can keep the pet until the landlord responds to their application under 73G. The TU is supportive of this additional term as it accounts for common circumstances where a tenant moves into a rental property and they already have a pet(s).

Our concern with the new provision is the short time frame provided. A 7 day timeframe may not be long enough, noting particularly that regular mail service is now 7 days. If a tenant has to mail the pet application form to their landlord, this reduces their effective timeframe to 0 days. We recommend this be extended to 14 days. There also needs to be consideration given to allowing the tenant to keep their pet if they have decided to challenge any refusal by making an application under section 73G at NCAT. We note that due to the Government's decision to deviate from the standard process set in the majority of Australian jurisdictions, the Act does not prevent an unreasonable refusal in the first instance, it instead allows that an unreasonable refusal can be overturned by the Tribunal. Allowing the tenant to keep the pet while they are challenging the landlord's refusal will give more purposeful effect to the NCAT process and recognition that the Tribunal can override the landlord's refusal, without the risk of a breach notice of termination being served in the meantime, or the breach being recorded in future references. If the pet/animal is forced to be removed because the initial 7 day time period is up the tenant may feel it pointless to challenge the refusal at NCAT.

Our recommendation

7) Amend section 73B(1) to include

(1A) A tenant who, within 14 days after entering into a residential tenancy agreement, applies under section 73C for the landlord's consent to keep an animal at the residential premises may keep the animal at the premises until the landlord gives a written response to the tenant under section 73D,

(1B) If the landlord has refused to give consent and the tenant who made an application under 73C within 14 days of entering into a residential tenancy agreement has applied to NCAT under section 73G, the tenant may continue to keep the animal at the premises until the NCAT proceedings are completed.

Additional disclosure reforms

The Tenants' Union welcomes the new disclosure requirements in the Bill. Disclosure at advertisement is a much more useful point of disclosure than the current requirements at section 26, being potentially mere seconds before the agreement is to be signed. Early disclosure reduces time wasted by both tenants and agents, and allows the market to more accurately price the property on offer.

We would recommend that in addition additional disclosures of certain matters in advertisement be required under section 22CB. In particular, we believe additional disclosures will help smooth the process of allowing pets in suitable properties and reduce disputes. Disclosures can assist in preventing situations where the tenant moves into a property where the landlord asserts there are reasonable grounds to refuse a pet and are known to the landlord prior to the commencement of a tenancy. While we note that the landlord's assertion may not be valid and a tenant may still determine that they will move in and challenge the assertion, they will do so in a more informed manner being aware that doing so may be risky. We expect few tenants to take the risk where the declaration appears reasonable. We note that while there is now a restriction on landlords or agents advertising premises as 'no pets', there is no restriction on landlords or agents advertising that they will refuse pets on some ground. Providing guidance to industry participants can also help guide the development of this and avoid sharp practice intended to deceive renters about their ability to apply for a pet.

Inadequate fencing, the landlord living at the property and any applicable legal instruments are potentially lawful grounds to refuse consent for an animal that relates to the property independent of the particular animal. They are outside of the control of the tenant and should be disclosed at the point of advertising the premises. This will reduce the number of disputes, by avoiding situations where renters move into premises that are not suitable. The other grounds for reasonable refusal are about the particular animal and the renter is the only party with the ability to consider and control those aspects prior to a pet application being made.

Our recommendation

8) Amend section 22B to include terms to the effect that:

A landlord or landlord's agent must not advertise or otherwise offer for rent residential premises where the landlord lives at the property unless it is stated in the advertisement or offer that the landlord lives at the property.

A landlord or landlord's agent must not advertise or otherwise offer for rent residential premises where the fencing is inadequate to keep an animal outside unless it is stated in the advertisement or offer that the fencing is inadequate to keep an animal outside.

A landlord or landlord's agent must not advertise or otherwise offer for rent residential premises where animals are not permitted because of the operation of:

- *(i) an Act or other law,*
- *(ii) a local council order,*
- *(iii) for premises forming part of a scheme—a by-law of the scheme that has legal effect,*
- *(iv) for premises forming part of a residential community—a community rule of the residential community,*

unless it is stated in the advertisement or offer that such restrictions exist.

9) Make necessary amendments to the rest of Section 22B regarding regulation-making power and reasonable defences.