

NSW renting laws are under review!

Nearly 2 million people rent their home in New South Wales, subject to the *Residential Tenancies Act 2010*. NSW Fair Trading is currently reviewing this law, to see if it is meeting its objectives.

Tenants and other renters say this law should deliver greater **stability, liveability** and **affordability**. The Tenants' Union of NSW offers a number of improvements that need to be made to the law in order to achieve this.

The *Residential Tenancies Act 2010* sets a framework of rights and obligations between landlords and tenants. But even with a strong, clear framework, disagreements will arise. Access to independent, specialist **Tenants' Advice and Advocacy Services** forms a critical part of early dispute resolution services for tenants in New South Wales.

How can the law be improved?

1. Stability

Under the current law, landlords can **end tenancies without any reason**. This makes tenancies unnecessarily insecure, as tenants can be made to move without a good reason. And some renters are still **not even covered** by this law, including some people who live in **shared housing** without a written agreement.

Fair Trading asks: *Should landlords be required to provide a reason for terminating a tenancy? If so, what types of reasons should be considered?*

The Tenants' Union says: Yes! There is always a reason behind ending a tenancy. The law should allow for good reasons, and prevent tenancies ending for bad reasons like discrimination. The law already includes three reasons for ending a tenancy: where the tenant has breached their agreement, the property is sold subject to vacant possession, or the landlord will suffer hardship if the tenancy continues. Further reasons could include:

- where the landlord requires the property for use as their own residence, or for that of a family member;
- where the property is to be substantially renovated, such that a tenancy can not be accommodated for the duration of the work;
- where the landlord requires the property for any purpose that is sufficient to displace an occupying household.

Fair Trading asks: *Are there any types of occupancy arrangements which should be included or excluded from the Act? Does the Act adequately address the interests of sub-tenants/co-tenants and landlords in shared tenancy agreements?*

The Tenants' Union says: Every person who pays for their accommodation should have access to legally enforceable rights. Renters who are excluded from the Act should be covered by other appropriate legislation. And people who live in shared housing should have their agreements recognised for what they are, not for what they have written down.

2. Liveability

Many things can impact on the liveability of a rented home. The **state of the property** and the ability to **get repairs done**, and **inspections and the right to privacy** are two of the most important.

Fair Trading asks: *Is further guidance required in relation to whose responsibility it is to repair the premises and when the repairs must be carried out? Are there alternative ways to improve the standard of rental properties?*

The Tenants' Union says: Yes! Current repairs and maintenance obligations are clearly set out in the law, yet tenants often struggle to get repairs done. This can be addressed by giving tenants a broader range of remedies and easier enforcement options against landlords who do not meet these obligations. And a schedule of inspections for repairs and maintenance needs should be required for rental properties, with a written report produced at least once every five years.

Fair Trading asks: *Are any additional protections needed for tenants and landlords regarding inspections and privacy? Should there be specific provisions in the Act that deal with the use of photographs or videos showing a tenant's personal property to advertise premises for sale or lease?*

The Tenants' Union says: Yes! If a landlord or real estate agent insists on coming into a property without a tenant's permission, they should be required to do so at a time convenient to the tenant. And a tenant should always be able to refuse having photographs or videos taken inside their home.

3. Affordability

Under the current law, landlords can **increase rents** by as much as they like, as often as they like. If a tenant thinks a rent increase is too high, it is up to them to show why. But they can't say it is because they are unable to afford it.

Fair Trading asks: *Do the existing provisions governing rent increases strike the right balance between the interests of landlords and tenants? If not, how could they be improved?*

The Tenants' Union says: No! Affordability indexes show that tenants are struggling to pay high rents in New South Wales. Rents should not be allowed to go up more than once every 12 months, and where they are to be increased beyond a measure such as the Consumer Price Index, it should fall to landlords to show that the increase is reasonable.

How can Tenants' Advice and Advocacy Services be improved?

For **more than 20 years**, tenants in New South Wales have had access to independent, specialist advice and advocacy services. These services are funded by the interest on tenants' bonds – but they haven't had a proper funding increase since 2002. Since then, the number of people renting in New South Wales has increased by 25%.

There is over **\$1.2 billion** of tenants' money sitting in the Rental Bond Board, generating about \$60million in interest each year. Tenants' Advice and Advocacy Services receive 8 cents from every dollar of that interest. The NSW Government takes 66 cents from every dollar to contribute to other services, such as the New South Wales Civil and Administrative Tribunal. 10 cents in every dollar is put towards a growing surplus that currently stands at around **\$66 million**. Tenants themselves get less than half-of-one cent in every dollar earned.

Fair Trading asks: *Should a portion of the interest on rental bonds continue to be paid to tenants, or should this portion also be used to fund services for tenants?*

The Tenants' Union says: Let's do both! We're asking for an additional \$5.2million per annum to restore the real value of funding to Tenants' Advice and Advocacy Services, to be paid for from the \$66 million surplus of interest on tenants' bonds. We're also asking for more of that interest to be returned to tenants directly when they claim a refund of their bond. **This is both fair and affordable.**

Fair Trading asks: *Do the current information, advice and dispute resolution services operate effectively? Do you have any other suggestions to encourage the early resolution of tenancy disputes and reduce the number of tenancy disputes?*

The Tenants' Union says: Yes! But in order to remain effective, these services need to be funded properly. Tenants' Advice and Advocacy Services provide one-on-one support and assistance to tenants in a way that no other services do. They do this in tenants' interests only, and they are the only services who assist tenants in hearings at the New South Wales Civil and Administrative Tribunal. Because of this, they are unique in their understanding of dispute resolution processes. This is important when giving information or advice to tenants about the various ways a dispute could be resolved. Well-advised tenants' make well-considered Tribunal applications, and are also aware of when matters can be better resolved outside of the Tribunal.

How can you help?

Fair Trading has produced a **discussion paper** as part of the review of these renting laws. You can contribute to the discussion.

Write to Fair Trading and tell them why you want improved stability, liveability and affordability for tenants in New South Wales.

Write to Fair Trading and tell them why you want well funded Tenants' Advice and Advocacy Services.

Write to:

Statutory review of the Residential Tenancies Act 2010
Policy and Legislation
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Email:

policy@finance.nsw.gov.au

Online:

http://surveys.fairtrading.nsw.gov.au/Residential_tenancy_submission_form.asp