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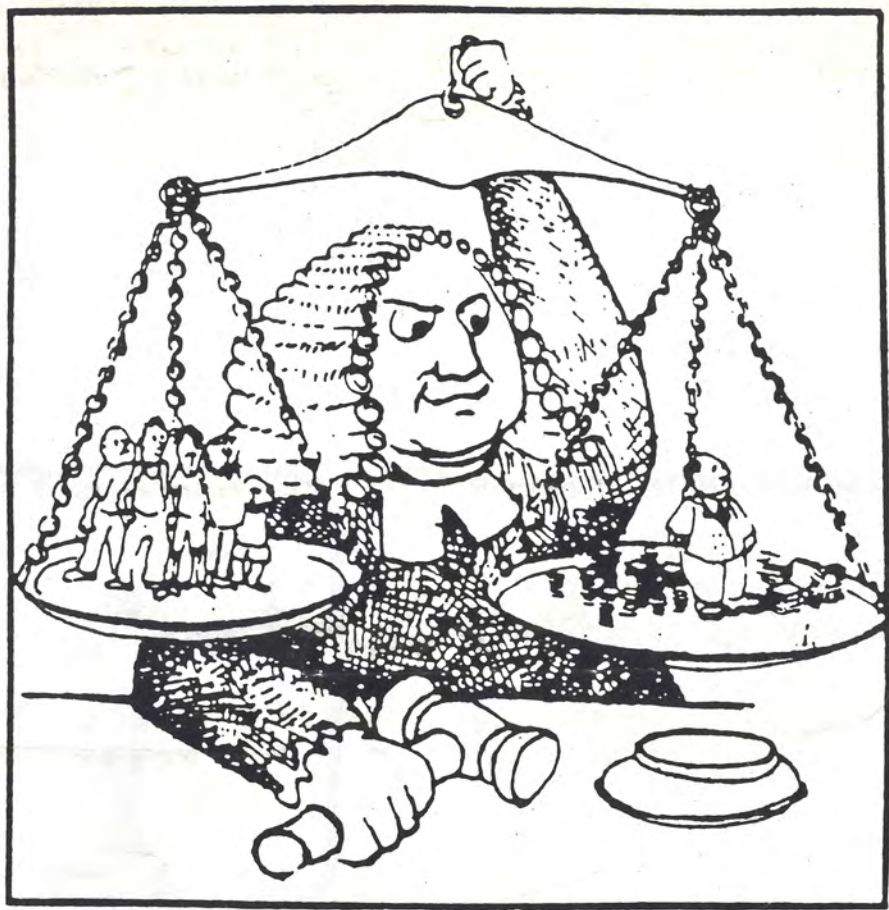
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T E N A N T

NEWS

TENANTS UNION OF NSW
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QUARTERLY NEWSLETTER OF THE TENANTS' UNION OF N.S.W.
 Number 38 October 1989



- Guide To Major Changes In Tenancy Law
- Outline Of The Residential Tenancies Act
- More Government Attacks On Housing
- Special Offer On Updated 'Your Rights' Handbook

TENANT NEWS

No. 38
October 1989

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The Tenants' Union of New South Wales represents tenants against unfair treatment by property owners and real estate agents.

We help tenants to work together for decent, affordable and secure housing by:

- * Resourcing tenants' advice services
- * Lobbying Governments on tenancy issues
- * Publicising tenants' problems and rights

We believe that good quality housing is a basic human right... This means security of tenure, houses in good repair and protection against excessive rents for all.

Solidarity in numbers is the only way that our rights can be fought for and won.

Join the Tenants' Union and help fight for tenants' rights in NSW



TENANT NEWS is produced by the Tenants' Union of NSW,
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GUIDE TO THE MAJOR CHANGES IN NSW TENANCY LAW

On Monday October 30th, 1989, the State Government introduced the Residential Tenancies Act. This Act covers virtually all tenants and landlords in New South Wales, including public tenants, caravan park dwellers, but not boarders and lodgers. The new law introduces new rights and obligations relating to rent, repairs, special lease conditions, privacy, access rights, eviction, and other items.

1. Timelimit

Where disputes or breaches have occurred before 30th October 1989, parties have *only 30 days* to apply to the Tribunal to have the problem resolved. No other action can be taken regarding such "pre-existing" problems after that time, unless the Tribunal specifically grants an extension.

2. Standard Form Agreement

Leases will now be called Residential Tenancies Agreements. New Agreements must contain the same terms as those prescribed in the Act. Additional terms may be added as long as they do not contravene or are not inconsistent with the Act. A premises condition report must be filled out at the start and finish of the tenancy. If you moved in before October 30th and your existing lease contains terms which conflict with the Act, the terms in the Act will apply ie you are protected and covered by the Act.

3. Cost and Charges

The maximum amount that you can be charged for preparation of an Agreement is \$15. No other charges, such as stamp duty or solicitor's fees, are allowed. On top of this, tenants can only be asked to pay rent, bond, electricity, gas, excess water and prescribed fees eg. excess garbage charges. Tenants who share communal facilities (e.g. kitchens) can be asked to pay for the use of gas and electricity.

4. Rent in Advance

Where rent is less than \$300 per week, tenants may be asked to pay a maximum of 2 weeks rent in advance. Where the weekly rent is more than \$300, the landlord can ask for no more than 1 months rent in advance.

Private tenants must be given full rent receipts and their landlords must keep rent records for 12 months. The Housing Department has exempted itself from these provisions and is not required to give tenants rent receipts or keep rent records for 12 months.

5. Rent Increases

If tenants consider the increase to be too great, they can apply to the Residential Tenancies Tribunal to have their rent (or a proposed rent increase, if within 30 days of notification) declared 'excessive', and to have their rent reduced.

6. Bonds

For unfurnished premises, the maximum bond that can be charged is 4 weeks rent. For unfurnished premises, the maximum bond is 6 weeks if the weekly rent is under \$250, and if the rent is over \$250 there is no limit on the bond.

7. Repairs

The landlord/agent must provide and maintain the premises in a reasonable state of repair (having regard to the age of, rent payable for, and prospective life of, the premises). If they fail to do this, the tenant can apply to the Residential Tenancies Tribunal to order the landlord to do the repairs, or for the tenant to pay rent into the Tribunal until the problem is fixed.

If the landlord/agent is unable or unwilling to do an urgent repair within a reasonable time after being properly notified by the tenant, the tenant may get the repair fixed (by a specific trades-person, if nominated in the Agreement), and is entitled to be reimbursed by the landlord up to \$500. "Urgent" repairs are defined in the Act, and include:

- * a blocked or broken lavatory system;
- * a serious roof leak; or serious flood, storm or fire damage;
- * a gas leak or dangerous electrical fault;
- * a failure or breakdown of gas, electricity, or water supply;
- * a failure or breakdown of essential hot water, cooking, heating or laundering service;
- * any fault or damage that causes the premises to be unsafe or insecure.

8. Termination - No Grounds

A tenant cannot be forced to leave during the period of the Agreement, if s/he has not broken the Agreement. Once the term has expired, however, the tenancy can be terminated without giving any reason. The landlord/agent must give 60 days written notice, while a tenant must give 21 days written notice.

Only 14 days notice by the landlord need be given when a fixed-term agreement with no

holdover clause is concluded. Only 30 days notice by the landlord need be given when the landlord has entered into a contract of sale under which vacant possession is required.

Where either party has breached the agreement, the Act allows the other party to terminate the Agreement on 14 days written notice. Where the breach is non-payment of rent, the rent must have remained unpaid for 14 days before a 14 day Notice of Termination can be served.

9. Residential Tenancies Tribunal

Where a dispute has occurred between the landlord and a tenant, or the Tenancy Agreement has been breached, either party can apply to the Tribunal to try to have the dispute settled or have the breach resolved.

NEED MORE INFORMATION OR WANT TENANCY ADVICE?

Phone the Tenants' Union's TENANTS' ADVICE HOTLINE ON (02) 251-6590.

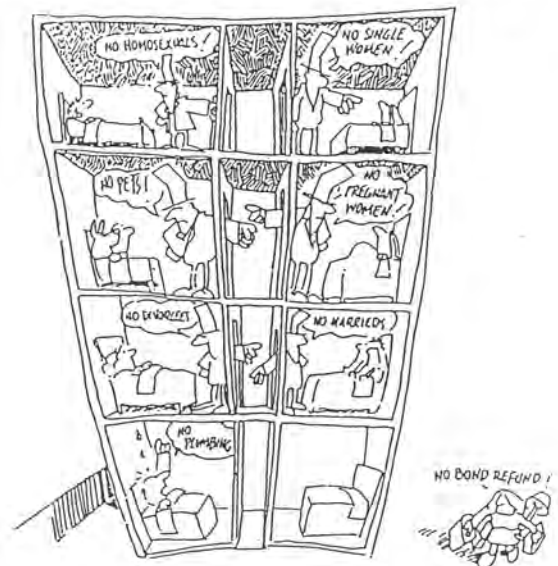
TRAINING ON TENANTS' RIGHTS

With the new legislation operating from October 30, training for the Tenants' Union's voluntary Hotline workers has been a priority. A special training workshop was held on 25th October to acquaint them to the new provisions of the Act.

The Tenants' Union is also conducting intensive one-day training sessions for voluntary and paid workers in the community who are dealing with people having tenants problems. These are being held every Wednesday in November at a cost of \$50 each, including training materials. An additional workshop is being held in December at Parramatta, but this one is already fully booked.

If you would like to join in one of the workshops, contact the office as soon as possible. Also if you have a group of 15 or so requiring training, the Tenants' Union is able to conduct specialised training on tenancy matters.

The new legislation introduces many changes to tenancy law in New South Wales and it is vital that all persons giving tenancy advice update their knowledge. Contact the Tenants' Union's Publications and Training Officer on (02) 247-3813.



WHO'S WINNING? PRIVATE TENANTS AND THE ASSISTANCE THEY GET FROM THE DEPARTMENT OF HOUSING

From the Department of Housing Tenancy Service newsletter, Residential Tenancies Update, comes the following information.

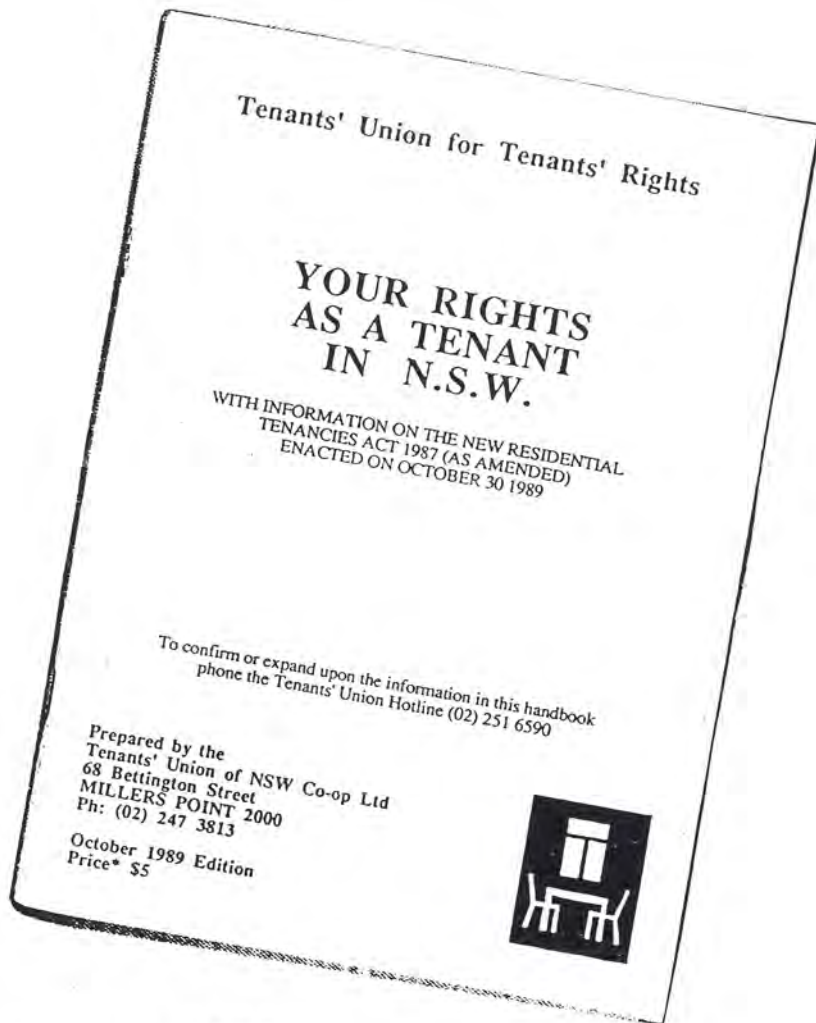
From July 1988 to June 1989 the Tenancy Service answered 31,631 telephone enquiries and attended to 1,046 counter interviews. Out of 724 written complaints made, 680 were finalised and 249 or 34% (of written complaints) were successfully resolved.

The Real Estate Services Branch investigates alleged offences under the relevant acts. Between July 1988 and June 1989, they investigated 200 offences and conducted 1,347 field visits, completing 16 prosecutions with fines totalling \$2,700 and a total of \$4,078 awarded in court costs.

The Residential Tenancies Tribunal between June 1988 and July 1989 heard 378 applications of which 32 were granted and 108 dismissed after hearing.

Of the balance, 3 applications were dismissed under Section 33, 14 as no parties appeared, and 14 as no applicant appeared; 24 were Section 34(2) order settled; 50 applications were withdrawn and another 11 were withdrawn as they had been settled; the Tribunal judged it had no jurisdiction in another 36 cases; 39 were adjourned, and a further 47 were adjourned due to possible settlement.

Special Offer



Offer closes 12th January, 1990

The new improved up-to-date "Your Rights As A Tenant in New South Wales" is now available!

As a special limited offer to members of the Tenants' Union, this totally new edition will be available to be ordered free of cost.

Please place your order at the latest by January 12th, to be eligible for this special offer. Further copies are available for purchase at \$5 each or bulk orders at a discount.

Make sure you state your membership number when ordering!

"YOUR RIGHTS AS A TENANT" ORDER FORM **Offer closes 12.1.1990**

Membership No.

Name.....

Address.....

.....Postcode.....

CREDIT CHECKS: THE REAL ISSUE

Over the years, the Tenants' Union has often heard of tenants being denied rental accommodation, ostensibly because of information provided by credit reference agencies.

By far the largest agency is the Credit Reference Association of Australia (CRAA). The amount of data stored on individual files collected by CRAA has grown significantly throughout the eighties. This same period has also witnessed rapid changes in information technology. This has meant that enormous amounts of personal information can now be accessed at the touch of a button.

Privacy Amendment Bill

These developments prompted the Federal Government in June of this year to introduce a Bill to amend the Privacy Act to provide privacy protection for individuals in relation to their consumer credit records.

One of the proposed amendments would deny access to central credit records to individuals and organisations who are not actually credit providers. This would include Real Estate agents and landlords.

The Tenant's Union supports this move for several reasons:

- * agents and landlords do not advance credit - tenants pay rent in advance;
- * access to credit files for tenancy purposes is an unjustifiable invasion of privacy;
- * credit files do not contain information relevant to assessing tenancy "worthiness";
- * information stored on credit files is often inaccurate, incomplete or out of date.

Real Estate Campaign

The Real Estate Institute of NSW (REI) has waged a concerted campaign based on misrepresentation to overturn the proposed amendment. Landlords and agents have been told that these changes would deny them rights to control and protect their properties.

Nothing could be more misleading. The amendment would not encourage tenants to wilfully start destroying their home, as has been suggested by some agents. Moreover, landlords hold sizeable bonds plus insurance to protect them if rent arrears or damage were to occur.

The REI also claims access to credit files is vital to process tenancy applications. If this is the case, why have less than 8% of agents Australia-wide found it necessary to use the CRA data base?

The Hidden Agenda

The truth of the matter is the issue is not about credit worthiness, it is about discrimination. Many tenants are denied access to rental housing due to the misguided prejudices of landlords and agents about their rent-paying capacity. Access to credit files unfortunately allows them to disguise such discrimination - discrimination which would be illegal in most other arenas.

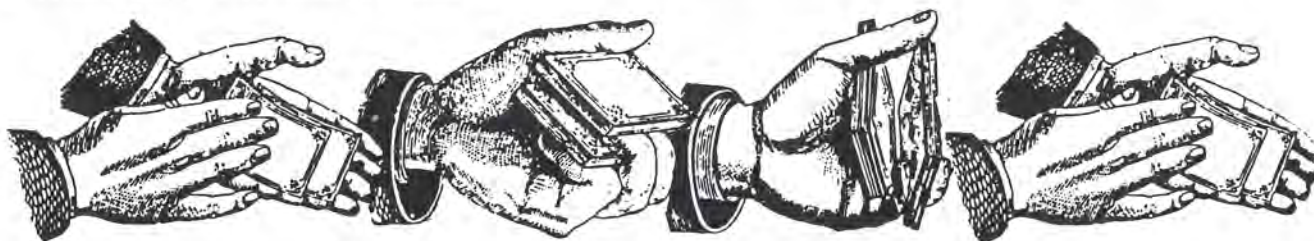
What You Can Do

The Government needs to be told that tenants *do* support the amendments.

If you feel credit records have unfairly denied you access to rental accommodation, or that your credit "record" has been used to mask discrimination against you when applying for a place, or you simply agree with the Government's proposed amendment, put your complaint/support in writing and forward to:

- Senator Nick Bolkus
Minister for Consumer Affairs
Parliament House
Canberra, ACT 2600;
- your local member of parliament;
- Democrat members (state and federal).

Tenants must be protected from such gross invasions of privacy and disguised discrimination. Help us in our struggle to stamp out these dodgy practices.



AN OUTLINE TO RESIDENTIAL TENANCIES

by Philip Kellow of Marrickville Legal Centre

INTRODUCTION

This paper is an outline of the laws relating to private residential tenancies in New South Wales. Generally speaking, the same laws also apply to public tenancies.

It will focus on the new Residential Tenancies Act 1987 (which in these notes is referred to as the "1987 Act") which came into effect on 30 October 1989.

The structure of this outline is based on the format in Chapter 10 of The Law Handbook. However, much of that Chapter is superseded by the new Act.

THREE KINDS OF TENANCIES

1. Public Tenancy
Tenancy of premises owned by the Department of Housing.
2. Private Tenancy of Protected or Controlled Premises
Tenancy between a private landlord and tenant subject to the Landlord and Tenant (Amendment) Act 1948.
3. Private Tenancy
Tenancy between a private landlord and tenant subject to the Residential Tenancies Act 1987 (as amended).

WHAT IS A TENANCY?

A tenancy is defined by section 3 of the 1987 Act as "the right to occupy residential premises under a residential tenancy agreement".

A residential tenancy agreement is defined by section 3 as "any agreement under which a person grants to another person for value a right of occupation of residential premises for the purpose of use as a residence -

- (a) whether or not the right is a right to exclusive occupation;
- (b) whether the agreement is express or implied; and
- (c) whether the agreement is oral or in writing, or partly oral and partly in writing, and includes such an agreement granting the right to occupy residential premises together with the letting of goods"

This definition is broader than that under the

old laws. The 1899 Act did not define a "tenancy" so the common law definition applied. Under the common law a tenancy usually exists where a person pays money to another for the right to exclusively occupy the latter's premises for a defined period of time.

Boarders and lodgers do not have an exclusive right to occupation and therefore fall outside the common law definition. Section 6 of the 1987 Act states that the Act will not apply to boarders or lodgers. Boarders and lodgers are therefore "licensees" and are not protected by tenancy laws.

TERMS OF A RESIDENTIAL TENANCY AGREEMENT

The 1987 Act allows for a standard form of Agreement to be prescribed in the regulations. All Agreements will have to be in, or to the effect of, the standard form Agreement.

Part 3 of the 1987 Act introduces a number of terms which are deemed to be part of any Agreement and which cannot be avoided by "contracting out". The Landlord and Tenant (Rental Bonds) Act requires all bond moneys to be lodged with the Rental Bond Board. This requirement cannot be avoided, even if both parties agree.

Subject to the above, Agreements may be made by deed, orally, in writing or implied. The most common Agreements are in writing, usually in a standard form prepared by the Real Estate Institute of NSW. Additional terms to those specified by the 1987 Act may be included in an Agreement provided they do not contravene the Act.

FIXED TERM OR PERIODIC RESIDENTIAL TENANCY AGREEMENTS

A fixed term tenancy or Agreement exists where the parties agree on a single, definite length of time for the tenancy to operate (eg. 6 months). The tenancy will finish on the day the term ends provided the necessary notice have been given to terminate the tenancy.

A periodic tenancy is one which has a recurring period. For example, week to week or month to month.

"Holding Over" occurs when a fixed term tenancy continues after the day on which the term ends and no notice of termination has been given. The tenancy becomes a periodic tenancy subject to the same terms as the Agreement (other than any term relating to termination of the Agreement). See section 14 of the 1987 Act.

SUB-TENANCIES

A tenant may sub-let the residential premises to another person provided the landlord consents to such an arrangement (see section 33(1) of the 1987 Act). The landlord can refuse to consent, even if she or he has no reasonable grounds for such refusal (section 33(2) of the 1987 Act).

Where there is a sub-tenancy, the tenant remains liable to the landlord in accordance with the terms of their Agreement. The sub-tenant is similarly responsible to the tenant as though they were tenant and landlord.

BECOMING A TENANT

Leaving aside the practical aspects of finding accommodation, there are a number of matters now covered by legislation relating to the formation of a residential tenancy agreement. Some of these matters are discussed below.

1. The Residential Tenancy Agreement

As stated above, the Agreement is deemed to contain a number of terms set out in the 1987 Act, and cannot be inconsistent with the Act or the Landlord and Tenant (Rental Bonds) Act. It is, however, still possible for the parties to negotiate other terms, such as whether pets are allowed and so on.

The Agreement becomes enforceable if the tenant has signed it, given a signed copy to the Landlord or his or her agent, and the landlord has accepted rent (section 13).

Before signing the Agreement a tenant should read it carefully. The prescribed form of Agreement includes a condition report relating to the premises which is to be completed by the landlord at or before the time of entering the Agreement. The tenant must indicate agreement or disagreement with the report within 7 days after receiving 2 copies of the report from the landlord.

2. The Costs of Becoming a Tenant

There are a number of costs which a tenant incurs when first entering an Agreement. Under section 12 of the 1987 Act, a landlord or

his or her agent is obliged to provide the tenant with a statement of the costs of preparing the Agreement and other related charges.

These costs include:-

- Reservation fee - section 36 prohibits the receipt of a reservation fee except as provided by the regulations. A landlord may ask for a reservation fee not exceeding one week's rent, with some provision for the landlord being able to retain the fee (or part of it) if the prospective tenant does not proceed with the tenancy. All money is refunded to the tenant if the landlord decides not to proceed.
- Rent in advance - section 38 prevents a landlord from requiring rent in advance of more than 2 weeks rent where the rent under the proposed Agreement is less than \$300 or 1 month's rent if the rent under the proposed Agreement is more than \$300.
- Bond - [the regulations state that the maximum charge for unfurnished premises is 4 weeks rent, while for furnished premises under \$250 rent per week the maximum bond is 6 weeks, or if furnished and over \$250 there is no limit to the bond that may be charged]
- Preparation costs - section 12 states that the preparation costs for a written Agreement are payable in equal shares by the landlord and the tenant. However, the regulations can prescribe the maximum amount payable by the tenant (currently, this has been set at \$15.00).

RIGHTS AND OBLIGATIONS

The 1987 Act introduces many rights and obligations which did not exist under the old laws. In particular, Part 3 of the 1987 Act deems a number of rights and obligations to be terms of the Agreement. Three main areas are discussed below.

1. Tenant's Right To Quiet Enjoyment

Section 22(1) of the 1987 Act makes it a term of every residential tenancy agreement that

- (a) the tenant shall have quiet enjoyment of the residential premises without interruption by the landlord, and
- (b) the landlord or his/her agent shall not interfere, or cause or permit any interference, with the reasonable peace, comfort or privacy of the tenant in using the premises.

The tenant has the right to exclude anyone from

entering the property, even the landlord, except in the circumstances listed in section 24 of the Act.

Section 24 allows a landlord or his/her agent to enter the premises in certain circumstances such as an emergency, to inspect the premises (but no more than 4 times a year), to carry out necessary repairs, or to show the premises to prospective purchasers or tenants. He or she may also enter with the tenant's consent or in accordance with an order of the Residential Tenancies Tribunal.

2. Repairs

Under the old laws, there was no legal obligation for a landlord or tenant to repair or maintain the premises unless the lease imposed such an obligation. The 1987 Act imposes obligations on both the landlord and tenant and introduces the concept of 'urgent repairs'.

The landlord must provide the premises in a reasonable state of cleanliness and fit for habitation by the tenant, and must also provide and maintain the premises in a reasonable state of repair having regard to the age of, rent payable for and prospective life of the premises (section 25 of the 1987 Act).

The tenant must keep the premises in a reasonable state of cleanliness, notify the landlord of any damage, not intentionally or negligently cause or permit damage to the premises, leave the premises in the same condition (fair wear and tear excepted) as at the start of the tenancy (section 26). The tenant must not alter, add or remove any part of the premises without the landlord's consent (s.27).

Urgent repairs: Under section 28 of the 1987 Act, the landlord must reimburse the tenant for any reasonable costs (up to a maximum of \$500.00) incurred by the tenant in making urgent repairs, provided the tenant has made a reasonable attempt to notify the landlord of the state of disrepair and given the landlord a reasonable opportunity to make the repairs.



3. Rent

a. Payment of Rent and General Matters

It is a term of the Agreement that a tenant shall pay the rent (section 18). Any attempt by a tenant to withhold rent without the landlord's consent (such as a rent strike) is a breach of the Agreement.

Part 4 of the 1987 Act provides for a number of matters concerning rent. These provisions include.

Section 40, which requires the landlord to issue receipt and specifies the details which must be recorded on those receipts;

Section 41, which requires the landlord to keep a record of rent received;

Section 42, which prevents the landlord from charging penalty rent; and

Section 43, which prevents the Agreement from containing a term reducing the rent to be paid provided the tenant is not in breach of the Agreement or any Act. Thus, an Agreement cannot contain a term stating that the rent is \$250.00 per week, but the tenant need only pay \$200.00 if the payment is made on the date when rent is due.

If rent is paid late then a landlord may seek to terminate the tenancy for breach of the Agreement (if the rent was more than 14 days late) and/or apply to the Residential Tenancies Tribunal for an order compelling the tenant to pay the rental arrears.

b. Rental Increases and Excessive Rent

If the Agreement is for a fixed term, rent can only be increased during the fixed term if the Agreement provides for a rent increase and sets out the amount, or a method of calculating the amount, of the increase (section 45(4)).

In all other cases, the rent can be increased provided the landlord gives the tenant at least 60 days written notice of the proposed increase (section 45). It is an offence for the landlord to contravene this section of the Act.

If a tenant considers the proposed rent increase is excessive then he or she can apply to the Residential Tenancies Tribunal (section 46). The application must be made within 30 days of the tenant receiving the written notice of the rent increase.

A tenant can also apply to the Residential Tenancies Tribunal if he or she believes the rent is excessive having regard to the reduction or withdrawal by the landlord of any goods, services or facilities provided with the premises (section 47). For example, this may arise

where the landlord has failed to keep the premises in a reasonable state of repair.

When determining whether or not rent is excessive, the Residential Tenancies Tribunal must have regard to the general market level of rents for comparable premises in the locality or a similar locality and must also have regard to a number of other factors listed in section 48. The ability of a tenant to pay the proposed rent is NOT a factor which the Tribunal can consider.

If the Tribunal determines that the rent or rent increase is excessive, it may order that the rent not exceed an amount specified by the Tribunal. The order will have effect for such period, not exceeding 12 months, as is specified by the Tribunal (section 49).

ENFORCEMENT OF TERMS OF THE RESIDENTIAL TENANCY AGREEMENT

Under the old laws the only remedy for a breach of a term of the lease was to terminate the tenancy and seek damages. There was no way a tenant could compel a landlord to repair the premises or to stop him or her from interfering with the tenant's quiet enjoyment.

The 1987 Act provides for a number of ways in which disputes between a landlord and tenant can be resolved.

It creates a Tenancy Commissioner who has a number of functions including the function of investigating, and attempting to resolve, complaints by landlords and tenants. Under section 16, a landlord or tenant may refer their dispute to the Commission who will attempt to bring the parties to an agreed settlement of the matter.

The Act also confirms the establishment of the Residential Tenancies Tribunal and gives it a wide range of powers.

ENDING A TENANCY

Section 53 of the 1987 Act sets out a number of situations where the tenancy can be ended. The most common situations will be when a Notice of Termination has been given by one party to the other and the tenant vacates the premises. The following Notices may be given:-

Notices of Termination on Ground that Premises are Being Sold - Section 56.

A landlord may end the tenancy on this ground

by giving 30 days written notice. This section does not apply to fixed term tenancies.

Notice of Termination on Ground of Breach of Agreement - Section 57

Either the landlord or tenant may terminate the tenancy by giving 14 days written notice. If the landlord is claiming a failure of the tenant to pay rent, the rent must have remained unpaid for at least 14 days. This section applies to all tenancies.

Notice of Termination by Landlord Without Any Ground - Section 58

A landlord may end the tenancy by giving 60 days written notice. This does not apply to fixed term tenancies.

Notice of Termination by Tenant Without Any Ground - Section 59

A tenant may end the tenancy by giving 21 days written notice. This section does not apply to fixed term tenancies.

Notice of Termination of Fixed Term Without Any Ground - Section 60

Either the tenant or landlord may terminate the tenancy by giving written notice to the other which specified a date 14 days after the notice is given or the day the term of the Agreement ends, whichever is the latter.

All proceedings for the recovery of premises which was the subject of an Agreement (which were not commenced before October 30th) must be conducted in the Residential Tenancies Tribunal (section 71), which has the power to terminate a tenancy (section 68) and to order that a warrant for possession be issued (s. 72).

SOME REFERENCES:

1. Current legislation -
Residential Tenancies Act 1987 (as amended)
Landlord & Tenant (Amendment) Act 1948
Landlord & Tenant (Rental Bonds) Act 1977
Former Legislation -
Landlord and Tenant Act 1899
Residential Tenancies Tribunal Act 1986
2. Books and Articles
The Law Handbook
Andrew Lang, Residential Tenancies Handbook (NSW)
Andrew Lang, Residential Tenancies Act 1987 - College of Law Paper 89/44.1
Public Tenants Rights Manual (2nd Edn)
Tenants' Rights Manual; & Your Rights as a Tenant in NSW - both published by Tenants' Union of NSW
Andrew Haesler, 12 Legal Service Bulletin 152

TENANTS' UNION PRESS CONFERENCE FOR LAUNCH OF NEW LEGISLATION



THE NEW ACT
Repairs now up to landlord
TAX SLUG ON HOME BONDS FOR RENTERS
D.M. 2.11.89

New ballgame between tenant and the landlord

[ADVERTISEMENT]

LANDLORD BIAS IN NEW RESIDENTIAL TENANCIES ACT

The new Residential Tenancies Act 1987 (As Amended), which comes into operation from 30 October 1989, misses the opportunity to gain significant changes to the unequal landlord-tenant relationship. Despite some improvements for private and public tenants, its bias towards landlords and the real estate lobby is revealed by its notable omissions.

- It fails to give tenants security of tenure.
- It fails to give them protection against sharply rising rent levels.
- It fails to give tenants with children protection against discrimination.
- It fails to establish an acceptable minimum standard of housing conditions.
- It fails to cover boarders and lodgers, the most vulnerable of renters.
- It fails to allow representation for tenants in the Residential Tenancies Tribunal, but allows this privilege to landlords.

Tenants in NSW cannot afford to wait another 90 years for adequate tenant law reform. The undersigned are amongst those who urge the State Government to bring about these required changes.

Tenants' Union of NSW; Australian Consumers' Association; Combined Pensioners' Association NSW; Uniting Church Board for Social Responsibility; Catholics in Coalition For Justice & Peace; Fair Share NSW; Disabled People's International; Aboriginal Legal Service; Association of Children's Welfare Agencies; Youth Accommodation Association NSW; Community Child Care Co-op Ltd; NSW Council of Social Services; Public Tenants' Development Project; Shelter NSW; Combined Community Legal Centres Group NSW; Women's Legal Resource Centre; Kingsford Legal Centre; Inner City Legal Centre; Redfern Legal Centre; Redfern Legal Centre Intellectual Disability Rights Service; Social Welfare Workers Union NSW; Building Workers Industrial Union, NSW Branch; Western Information & Tenancy Service; Manly Warringah Interagency; Housing Information & Referral Service; Northern Suburbs Tenants Advice & Housing Referral Service; South Eastern Tenants Advice & Housing Referral Service.

Further information: Tenants' Union of NSW (02) 247 3813

Lodgers miss out in tenant law reforms
S.M.H. 31.10.89

THE NEW ACT

Tenants kept in the dark
Unspent housing funds a disgrace
S.M.H. 31.10.89

New tenancy laws slammed
D.T. 30.10.89
Clauses cannot be changed
M.A. 11.11.89

Home prices drop while rent market gets tighter
S.M.H. 1.11.89

On Monday 30th October at State Parliament House a high-powered Press Conference organised by the Tenants' Union explained to the media the problems with the new Act. The panel consisted of Simon Rice (Combined Community Legal Centres Group of NSW), Ron Dyer (Opposition Spokesperson on Housing), Clover Moore (Independent Member for Bligh), Richard Jones (MLC), John Nicolades (Uniting Church Board For Social Responsibility), and Sue Creek (Tenants' Union of NSW).

The panel ran through the major points of criticism of the new Act, as had also been outlined in an ad taken out by the Tenants' Union (and supported by many others) on page three of that day's Sydney Morning Herald.

Of interest at the Press Conference was Ron Dyer's commitment to the refunding of the TAHRS network if and when Labor is returned to office. The Tenants' Union will be following up this matter, so stay tuned.

Mr Joe Schipp, the present Minister for Housing, was caught on the hop by the Tenants' Union's Press Conference. He hurriedly convened his own press conference for late on the afternoon of the same day, and also did a one-sided interview on the radio with John Tingle. It is interesting to note that the TU was refused right of reply to the Schipp slant in the radio interview, especially given the ads that Tingle has since been doing for the Department of Housing.

TENANCY LEGAL WORKING PARTY

In the vacuum created by the axing of the specialist local tenancy workers, the Tenants' Union perceives an urgent need to pull together individuals and organisation who are currently involved in giving tenancy/legal advice or who have an interest in working on issues of concern to tenants in the private rental market.

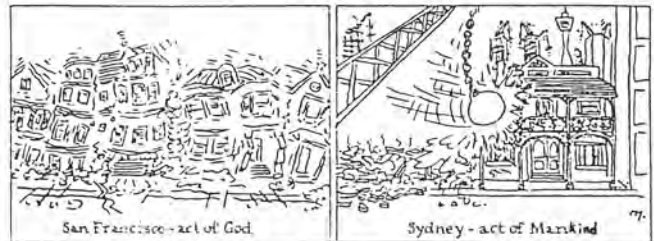
To address these matters the Tenants' Union has established a 'legal group' to:

- * discuss how tenancy advice can best be handled (now that the local Tenancy Advice & Housing Referral Services have closed);
- * identify test cases arising under the new Act;
- * identify training needs for workers;
- * initiate campaign/media coverage around important issues; and
- * take up policy issues (eg: tenancy rights for boarders and lodgers).

The most pressing priority for the group would be to come to terms with the new Act (what it sets up, who it covers, who it does not cover, how to use the Residential Tenancies Tribunal etc). However, the Tenants' Union legal worker would also like to see the group operate as a reference point for other tenancy matters which the Tenants' Union gets asked to address from time to time.

A reasonably detailed understanding of tenancy issues and legislation, and of procedures for enforcing tenancy rights is required. Obviously, involvement by sympathetic lawyers and workers handling tenancy advice in community organisations (plus ex-TAHS workers!) would be of great benefit.

If you would like to put your talents to good use and join the Tenants' Union Tenancy Legal Working Party, contact the T.U.'s Legal Worker, Sue Creek (02) 247-3813.



PLANNING PARANOIA

Whilst a raft of housing policy changes are weekly being announced by the Greiner government, further, but equally important changes, to planning regulations are being prepared for N.S.W. Inc.

Arising from the market dominance of last years' Raine Report on Homelessness, the government is manoeuvring to either abolish or substantially change provisions which act to

- (i) require developers to provide contributions to social and community infrastructure (Sect. 94, Environmental Planning & Assessment Act).
- (ii) put a partial brake on complete redevelopment of boarding house and other low income private rental housing (State Environmental Planning Policy No. 1).

Already the government has announced its decision to revoke a freeze on redevelopment in the Eastern Distributor area (Woolloomooloo, East Sydney, Darlinghurst) which will savagely dislocate 900 low income earners.

In all these cases, 'Putting People First : Managing N.S.W. Better' continues to mean putting some people first and forget the rest.

Changes to the planning regulations as proposed by various State Government Ministers will continue to disadvantages faced by low income tenants in many areas and increase the absence of proper community facilities and services in other areas.

The Tenants Union would urge you to write to the Premier, the Hon. N.F. Greiner and demand that such changes to planning regulations which disadvantage low income tenants not proceed. For further information, you can contact Sue Creek on (02) 247-3813.

FURTHER GOVERNMENT ATTACKS ON TENANTS

Inner Sydney Community Legal Centres have condemned the recommendations of the State Government's Housing Committee Review of Protected Tenancies in New South Wales.

Estimates put the number of protected tenancies at between 5,000 and 10,000. This number has dropped significantly over the past decade. The Report recommends that all remaining protected tenancies should be abolished within the next five years, and in the interim, a new income threshold of \$16,152 be established.

Other recommendations include:

- a register of protected tenancies be established;
- protected tenants no longer be given first option to buy their home;
- succession rights to protected tenancies be narrowed immediately to cover only the spouse not the children living with the tenant immediately before their death.

These recommendations are a sledge-hammer approach to a situation which is grossly exaggerated and for which remedies already exist.

The Report states that many landlords are stuck with exceptionally low rents - often as low as \$16 per week. However, if landlords use the rent setting mechanisms specified in the Act, they would rarely get a rent set today at less than \$50.

The examples of alleged rorts contained in the Report are patently ludicrous. In order to obtain a fair rent, household income must be below the poverty line. Even the most unscrupulous tax cheat would have difficulty in maintaining a low income purely to remain a protected tenant.

There is also ample provision within the current legislation for landlords to gain vacant possession of their property. Moreover, it is exceptionally difficult to inherit a protected tenancy. Once a waged person occupies the premises, immediate measures can and are regularly made to evict such tenants.

Landlords who cry poor as a result of protected tenancies conveniently ignore the fact that they have either inherited the property or purchased at a substantially discounted price due to the controlled status of the property and are sitting

on windfall gains. Most of these properties will not attract capital gains tax on resale.

The requirement that protected tenants register with the Government on penalty of being crossed off the Housing Department's priority allocation list is harsh and unjust. The register, which will only be open for 6 months, has already started, but very few tenants will be aware of this. Such registration is a property management function and should be the responsibility of the landlord.

Mr. Merton, Chairman of the Committee, claims that both parties will be looked after by these changes. This is not the case for tenants. The assumption made in the Report that protected tenants will be adequately accommodated in public housing runs counter to the newly adopted stringent allocation policies of the Department of Housing.



Waiting lists are long and many of these tenants are elderly and have lived in their homes for a lifetime. Displacement or rehousing without choice of location will cause such people severe hardship.

Existing protected tenancies legislation created a balance whereby it was acknowledged that the property, while being an investment for one party, was the other party's home.

The proposed recommendations, however, heavily favour property owners at the expense of tenants. Tenants are being scapegoated by the government because their landlords are either fools or badly advised - hardly a balanced attempt at reform.

PUBLIC HOUSING CAMPAIGN COMMITTEE

In recent months, the Greiner Government has embarked on a series of actions to undermine and discredit public housing as a viable form of housing in this state. Almost weekly statements and decisions have emanated from the office of the Minister for Housing, Mr. Joe Schipp, that seek to reduce the rights of public housing tenants; cut back on the services offered by the Department of Housing; and convince the people of NSW that public tenants have had it too good for too long.

Specifically, the government has reduced the already limited rights and choices of public tenants; closed Departmental offices and proposed the closure of many more; instituted a Client Services Review to look at further "rationalisation" of services; consistently refused to adequately consult the public, tenants' groups and others affected by these changes; jeopardised continued funding of public housing by refusing to sign the new Commonwealth-State Housing Agreement; consistently attacked the subsidies on public housing while ignoring the massive subsidy presents it gives to home purchasers. And this is by no means a complete list.

In response, a coalition of public tenants' groups, community services agencies, church groups, unions and other interested groups has been established to attempt to put some balance back into the debate on public housing.

The Committee presently comprises; Public Service Association of NSW, Australian Social Welfare Workers Union, Building Workers Industrial Union, Uniting Church, Shelter NSW, Tenants' Union of NSW, NSW Public Tenants' Council and a wide range of other community organisations.

Over the next couple of months the PUBLIC HOUSING CAMPAIGN COMMITTEE will be distributing information on what is really happening in the public housing sector and staging a series of actions to highlight the concerns over Greiner and Schipp's attacks on public housing.

The Committee urges all those who are equally concerned to support and get involved in these actions. It is only by concerted and broad-

based action that we can oppose the dismantling of the public housing system in NSW.

For further information contact:
Peter Rogers (Public Housing Campaign Committee) (02) 220-0941
John Nicolades (Uniting Church)(02) 267-7399
Lee Carsley (PSA of NSW) (02) 220-0937

CAN YOU HELP?

IF YOU CAN SWING A HAMMER WITH ANY ACCURACY THE T.U. NEEDS YOU TO REPAIR OUR BACK GATE. RING THE OFFICE IF YOU CAN HELP.

GOVERNMENT WANTS INCREASE IN PRIVATE TENANTS ?

In a recent letter to the Sydney Morning Herald (29th August), the Tenant' Union made comment on the State Government's wideranging attacks on public housing tenants. The text of that letter titled "No benefits for the public" follows:

The Greiner Government's current flurry of activity in the public housing arena begs the question of who will ultimately benefit. Will it be those on the waiting lists who accept the one and only offer made to them and are forced to move to totally inappropriate areas far from their family, schools, employment and support networks? Or current public tenants who have to travel long distances to pay their rent because their local Housing Department office has been closed? Or public tenants who can't seek transfers despite valid personal, family or economic reasons? Or possibly public tenants forced out because new departmental rent policies have made some public housing more expensive than renting on the private rental market?

NSW Inc. appears unrelenting in divorcing itself from social responsibility in the housing arena. Far from housing policy based on equity consideration, are we now to have one larger private rental sector in NSW but with two names?

What did public tenants do to receive this offer of a lifetime?

AFTER THE BUDGET

The 1989/90 NSW Budget papers, like many of their predecessors, were long on rhetoric and short on detail when it came to the housing dollar.

The State government's attitude to public housing and private tenancy has become well known in recent months through publicity surrounding its frequent attacks on public housing tenants, its courting of major inner city and coastal development, its review of planning regulations and its introduction of disappointing tenancy reform.

The Budget papers strongly indicate a decreasing role for the Department of Housing in the direct provision of public housing. Despite a 10% increase in allocations, public housing commencements will fall in 1989/90. There is also a drop in completions during 1989/90 as the Department of Housing has not replaced the 1,200 public housing dwellings sold to sitting tenants.

The Budget reinforced the trend towards privatising of public housing with a new trust arrangement heralded to purchase/construct and lease back the housing stock to the Department of Housing. The existing Rental Property Trust in NSW has offered no joy to low income private tenants to date, because rents have been too high so the affordability of this new arrangement for public housing tenants will have to be carefully analysed.

The major Budget announcement affecting low income people is the proposed land tax holiday for owners and proprietors of boarding houses. Estimated to cost \$2 million in 1989/90, the initiative is designed to provide an investment incentive to halt the continuing loss of boarding house stock.

This land tax holiday will supposedly only apply to boarding houses where rental costs are affordable by low income earners. To date, no details of the mechanism to enforce this have emerged from the government. Whether this form of incentive will have any effect on the loss of housing stock to more lucrative forms of investment remains to be seen.

What is certain is that boarders and lodgers will remain vulnerable to investment dictates, and continue to face evictions as they have been excluded from the protection of the new Residential Tenancies Act, at precisely the same time as the Government is loosening planning

controls which were designed to retain low income stock.

The Budget papers provide no details about the level of resources available for the introduction of the new Residential Tenancies Act and the expanded Residential Tenancies Tribunal.

For private tenants, the accessibility and affordability of the Tribunal and associated services will be of critical importance in the months ahead. Stay tuned to forthcoming issues of Tenant News about its progress.



NEW NIGHT-TIME TENANCY ADVICE

The Inner City Legal Centre at 68 Oxford Street, Darlinghurst, now runs a "Tenancy Night", every Thursday, dealing with the many concerns of people who are living in rented premises. The Centre offers free legal advice to the people of the inner city as well as those areas not covered by other legal services such as North Sydney, northern beaches, and the inner-west.

It is available for those who cannot afford private solicitors and who do not qualify for other legal aid. It is staffed by volunteer lawyers, law students, social workers and typists.

Beside the many types of legal advice, the centre also offer financial counselling services to help with household budgeting and personal debts. The legal centre is open Monday to Friday from 9 am to 5 pm and Tuesday, Wednesday and Thursday from 6 pm to 8 pm.

It is also a source of information, with brochures freely available explaining aspects of the law, government policies, social welfare benefits and Streetwise Comics. Ring (02) 332-1966 and (02) 332-1982 for an appointment.

INTERPRETER SERVICES FROM THE DEPARTMENT OF HOUSING

The Department of Housing introduced in September a new interpreter service to assist people of non-English speaking backgrounds with enquiries on housing issues.

The interpreters are provided by the Ethnic Affairs Commission and the service is available through the Department of Housing's Regional Offices, at Hurstville, Liverpool, Parramatta, Sydney and Wollongong.

The languages targeted for inclusion at this stage have been selected based on existing client demand, and will be available on a regular basis. The Department will also continue to engage professional interpreters on request for language groups not included in the block booking arrangements.

The interpreters will be available to help staff and clients with general enquiries, covering a range of areas such as home purchase, public housing, rental arrears, new applications and the rent assistance scheme. The time interpreters are available are listed in the table shown here.

As well, the Department of Housing's Tenancy Service employs bi-lingual information officers who speak Tagalog (Philippines), Polish, German and Croation with Arabic, Spanish, Vietnamese and Chinese soon available.

This service is available on (02) 229-0011 or 008-45-1301

Tenants needing general interpreter assistance should also remember the Telephone Interpreter Service available 24 hours per day on (02) 221-1111 and 008-11-2477

Block-booking Interpreter Arrangements

	ARABIC	SPANISH	TURKISH	VIETNAMESE	CHINESE	GREEK	KHMER	MACEDONIAN
MONDAY	1:30-4:30 HURSTVILLE	10:00-1:00 LIVERPOOL	1:00-4:00 SYDNEY	9:00-12:00 WOLLONGONG 1:00-4:00 LIVERPOOL	10:00-1:00 SYDNEY			
TUESDAY	1:00-4:00 LIVERPOOL	10:00-1:00 SYDNEY	1:00-4:00 PARRAMATTA	1:00-4:00 SYDNEY	10:00-1:00 PARRAMATTA			
WEDNESDAY			9:00-12:00 WOLLONGONG					
THURSDAY	9:30-12:30 SYDNEY 1:30-4:30 PARRAMATTA	1:00-4:00 LIVERPOOL		10:00-1:00 LIVERPOOL			10:00-1:00 PARRAMATTA	
FRIDAY	10:00-1:00 SYDNEY	9:30-12:30 LIVERPOOL 1:30-4:30 PARRAMATTA		10:00-1:00 PARRAMATTA	1:00-4:00 LIVERPOOL	1:00-4:00 SYDNEY		9:00-12:00 WOLLONGONG

Hurstville
2 Woodville St
585 3311

Liverpool
23-31 Moore St
821 6111

Parramatta
106 Church St
891 8111

Sydney
725 George St
282 7111

Wollongong
2 Rawson St
(042) 24 5711

Source: D.O.H.

Freedom of Information Legislation

Private tenants who have had dealings with the State Government or are applicants to the Department of Housing, can now gain access to their departmental files, under recently passed legislation. However some claim that the legislation ought be called Freedom FROM Information.

On July 1, 1989 the State Government's Freedom of Information (FOI) legislation came into effect.

For the first time under State legislation, people in NSW can obtain access to information held as records by State Government agencies, Government Ministers, local government and other public bodies.

In addition to rights of access, the legislation gives people an opportunity to amend records of a personal nature that they consider are incorrect, misleading or out-of-date.

Under the State FOI legislation, wherever possible, agencies are required to make information available. However, you may be denied right of access to information where, for example, there is a legitimate need for confidentiality or where another person's privacy may be invaded. Such information is called "exempt" and includes such things as State Government cabinet and executive documents (with some exceptions); documents exempt under existing Commonwealth and Victorian FOI legislation; documents concerning law enforcement and public safety; documents subject to legal professional privilege; and documents subject to secrecy provision in other legislation.

The FOI Unit in the Premier's Department has produced two leaflets which explain the procedure necessary to request information under the FOI legislation.

There is, of course, a snag. The information is not free! An application fee of \$30 is charged when you apply for information under the FOI legislation. There is also a processing fee of \$30 per hour to cover time for locating the information, decision-making, consultation and photocopying.


For information of a personal nature you are entitled to up to 20 hours of free processing time. For "non-personal" information there is

no free processing time. There is no upper limit either on the processing fees that can apply.

The message therefore is: use the legislation wisely. The information may cost you more than it is worth.

For further information or a copy of the leaflets, contact the FOI Unit on (02) 223-6200 or (008) 04-4501.

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YOURS NOW! RING (02) 247 3813**

CHILD POVERTY CAMPAIGN

Poverty is not merely an issue of income. High rents are enough to plummet many to below the 'after housing' poverty line. The NSW Council of Social Service has just launched its child poverty campaign.

1990 was the deadline set by the Prime Minister for the promise that "no child shall live in poverty". Increases in child support payments in the last two years indicate that the Commonwealth Government may well squeeze low income earners over the poverty line by the deadline date. But poverty is about much more than income support, important though this is.

Poverty can stem from, and be prolonged by poor housing, lack of education, unemployment, poor health services and limited access to social services. These broader issues are the focus of the NCOSS Child Poverty Campaign.

The Campaign is part of a national campaign sponsored by the Brotherhood of St. Laurence of all state Councils of Social Service. The intention is to take advantage of the public focus created by the Prime Minister's pledge to broaden public understanding of poverty issues and the measure necessary to alleviate child poverty.

In NSW the Campaign is being organised through a management committee chaired by the Rev. John Livingstone, head of the Anglican Home Mission Society's Careforce. Other members are from non-government agencies primarily concerned with child welfare.

During the next three months the Campaign secretariat will circulate information material through a variety of networks including trade unions, business, service clubs, churches and community organisations. At the same time a mainstream media campaign will seek to draw attention to the multiple causes of child poverty.

But the campaign aims to go beyond simply telling people about poverty. It also aims to stimulate action at all levels to tackle aspects of child poverty in a practical way.

At the state and local government levels there are many possible policy initiatives which would practically address the needs of disadvantaged children and young people. A part of the Campaign will be developing these proposals and lobbying governments for their

implementation. Already the Minister for Family and Community Services has welcomed the initiative of the Child Poverty Campaign and we look forward to taking specific proposals to the State Government.

But it is at the local level that most can be done in the short term. The Campaign will focus on seven regions based on Illawarra, Hunter, Cabramatta, Marrickville, Orange, Walgett and Penrith. In each of these regions public meetings will be convened to draw together local action groups to carry out public education and develop local initiatives.

The bulk of this work will be completed by the end of 1989 but our hope would be that the issue of child poverty would develop sufficient momentum to continue with local action and initiatives well beyond the formal period of the Campaign.

The Campaign has been funded by the Brotherhood of St. Laurence and by donations from organisations in NSW. The campaign also welcomes further donations. Action Kits and advice and information are available from:

Adam Farrar or Peter Cockcroft,
NSW Council of Social Service,
66 Albion Street,
Surry Hills 2010 or Ph: (02) 211-2599

PRIVATE ENTERPRISE SOLVES HOMELESSNESS

In the wake of the Federal Government's 'solving' of child poverty in Australia, comes news that homelessness will soon become obsolete.

A recent report in the Sydney Morning Herald (17th October) reveals that a Melbourne manufacturer has launched what it described as "a disposable sleeping bag made from recycled paper to help homeless people".

Those homeless people keen on sleeping out no matter what the weather, will be pleased to know that the sleeping bag is both insulated and water-resistant.

We anxiously await the banishment of unhappiness and the long-awaited curing of death, that the unregulated free-market forces of the private sector have so long promised.

TENANTS' UNION OF NSW

PUBLICATIONS AND RESOURCES

***Your Rights As A Tenant in NSW** A survival guide for tenants in the private rental market (Oct, 1989). Organisations may choose to sell the guide to tenants or distribute it free of charge depending on their own resources.

Individual non-members.....\$5.00

Bulk orders for community organisations, unions, local councils, etc.....\$3.00

Tenants' Union members at joining.....free

***Tenant News** - The Tenants' Union quarterly newsletter with all the latest news on life and the law in the private rental market. Distributed free to members

Latest Issue\$1.00

***Tenants' Rights Manual** - A comprehensive guide to the new tenancy legislation, operation of relevant bodies, and strategies to assist tenants in dealing with the law - the principal source document for organisations dealing with tenancy matters (Oct, 1989).....\$48.00

***Tenancy Training Lesson Notes** - A resource kit including case studies for tenancy advisers (Nov, 1988).....\$35.00

***Tenants' Union Lease** - A lease for ideologically sound landlords.....\$1.00

***Tenants' Union T-Shirt** - Don't Go Mental Over Rental.....\$15.00

***Tenants' Union Poster** - It's Your Home, Defend It.....\$8.00

***Tenants' Union Stickers** - Don't Go Mental Over Rental & Slum Landlord In Boot\$1

***Residential Tenancies Tribunal Project Report** - A look at residential tenancy tribunals in Australia from a tenants' perspective.....\$25.00

***Going Nowhere** - A report on permanent caravan park residency. (Produced by Central Coast TAHRS, Sept, 1988).....\$5.00

***Informal Tenancies** - A report on informal tenancies among tenants of non-English speaking background.(J.Fong, TRAC, 1988).....\$3.00

***Membership Package** - Tenants receive a membership package when they join which includes a Tenants' Union membership card, the latest edition of *Tenant News* and a copy of *Your Rights As A Tenant In NSW*.

***Migrant Community Education Kit** A kit for use by community workers to inform tenants of non-English speaking background about their rights and responsibilities as tenants in the private rental market. VHS Videos and brochures available in 12 languages: Arabic, Cantonese, English, Khmer, Laotian, Macedonian, Samoan, Serbian, Spanish, Tagalog, Turkish, Vietnamese.

Workshop Kit and Video in one language.....\$70.00

Each additional language video.....\$30.00

Full set of 12 videos.....\$400.00

***Tenants' Union Membership Forms & Fair Rent Brochures**.....free

ORDER FORM

Send order to:

Tenants' Union of NSW,
68 Bettington Street,
MILLERS POINT, 2000.

Show number of copies:

___ *Your Rights As A Tenant in NSW*.....\$3.00/\$5.00

___ *Tenant News* (latest issue)\$1.00

N.A. *Tenants' Rights Manual*\$48.00

___ *Tenancy Training Lesson Notes*\$35.00

___ *Tenants' Union Lease*\$1.00

___ *Don't Go Mental Over Rental (T-Shirt)*.....\$15.00

___ *It's Your Home, Defend It (Poster)*.....\$8.00

___ *Slum Landlord in Boot (Sticker)*.....\$1.00

___ *Don't Go Mental Over Rental (Sticker)*.....\$1.00

___ *RTT Project Report*\$25.00

___ *Going Nowhere Report*\$5.00

___ *Informal Tenancies Report*\$3.00

___ *Membership Forms & Fair Rents Brochure* free

___ *Migrant Community Education Kit*:

___ *Workshop Kit and one Video*\$70.00

___ *Each additional language Video*\$30.00

___ *Languages:*.....

___ *Full set of 12 videos*\$400.00

Please send the above resources to:

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Address.....

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.....P'code.....

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 (Note ammended fee structure)

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 Ethnic Background _____
 Occupation _____

Please tick
 * Is this a: New Membership? ___ OR Renewal? ___
 * Are you a: Tenant? ___ Squatter? ___ Home Owner? ___
 Other?(specify) _____
 * Can you assist the Tenants' Union in any way? Yes/No
 Details _____

Fees
 Membership fees apply from January 1 to December 31 each year. New members joining after June 31 may pay half fees.

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 (5 shares + annual service fee based on income)
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- * Donations.....\$ _____

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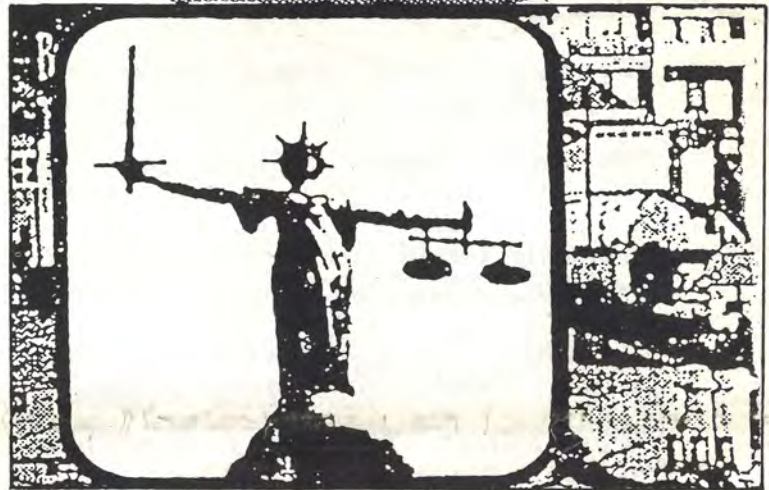
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