

# Starting a residential tenancy

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Before renting a property, landlords and tenants should make sure they understand their rights and responsibilities.

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## 1. Before starting a tenancy

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### Property condition

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A landlord must ensure that the property is safe, secure, reasonably clean and fit to live in. The landlord must maintain the property in a reasonable condition considering:

- the age of the property
- the amount of rent the tenant is paying, and

- the expected life of the property.

This does not mean that the property must be in a perfect condition.

The state of the property and level of repair expected should consider the property's age and the amount of rent being paid.

### **What are the minimum 'standards'?**

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The property must:

1. be structurally sound
2. have adequate natural or artificial lighting in each room, except storage rooms or garages
3. have adequate ventilation
4. be supplied with electricity or gas, and have enough electricity or gas sockets for lighting, heating and other appliances
5. have adequate plumbing and drainage
6. have a water connection that can supply hot and cold water for drinking, washing and cleaning
7. have bathroom facilities, including toilet and washing facilities, that allow users' privacy.

The property could have other issues that may make it unfit for a tenant to live in, even if it meets the above seven minimum standards. Before the property is rented out, the landlord or agent should take steps (such as make repairs) to make sure the property is fit to live in.

### **Choosing a property**

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When choosing a property, tenants should consider whether the property suits their needs.

Important points to consider when looking for or inspecting a property:

- how much is the rent and who pays for electricity, gas or water usage for the property? The rent cost will depend on the type of property and the location
- is the property the right size, and is it suitable for children or elderly or disabled people?
- does the property have the necessary facilities or amenities (e.g. the type of internet connection available, storage, parking, air-conditioning)?
- is the property in the right location for work, schools, medical centres, and is it close to public transport?
- is the property suitable for pets (e.g. enough room, fencing for outdoor dogs)?

If you're interested in a strata property, like a townhouse or an apartment, visit the [NSW Government](#) website. There you will find useful information to help you get the most out of living in a strata community.

## **Use the rental tracker postcode tool**

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The Tenants' Union of NSW have a [Rent Tracker Postcode Tool](#) that can be used to check the latest rent prices for different property types and number of bedrooms in any postcode in NSW.

The tool can help a tenant and landlords work out how much is fair rent. A tenant can also use this tool to understand how much they might save or lose moving to a different area.

## **What tenants must be told**

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Before signing a tenancy agreement, a landlord or agent must **tell** the tenant if the property is:

- planned to be sold
- subject to court action where the mortgagee is trying to take possession of the property
- in a strata scheme and a strata renewal committee is currently established for the strata scheme.

A landlord or agent must not persuade or influence a potential tenant to sign an agreement by making false or misleading representations or statements, or by knowingly hiding that the property:

- has been affected by flooding from a natural weather event or bushfire in the last five years
- has significant health or safety risks that would not be apparent to the tenant
- has been the scene of a serious violent crime (e.g. murder or aggravated assault) in the last five years
- is listed on the [loose-fill asbestos insulation register](#)
- has been used to manufacture or cultivate a prohibited drug or prohibited plant in the last two years
- is part of a building where a fire safety or building product rectification order (or a notice of intention to issue one of these orders) has been issued for external combustible cladding
- is part of a building where a development or complying development certificate application for rectification has been lodged for external combustible cladding
- is in a strata scheme where scheduled rectification work or major repairs will be done to common property during the fixed term of the agreement
- is affected by zoning or laws that will not allow a tenant to obtain a parking permit, and only paid parking is available in the area
- is provided with any council waste services that are different to other properties in the council area
- has a driveway or walkway that others can legally use.

A tenant can give a termination notice or apply to the [NSW Civil and Administrative Tribunal](#) (the Tribunal) to end the tenancy if landlords or agents don't follow these rules.

## Applying to rent a property

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Prospective tenants will normally be asked to fill out an application form in a paper or digital format. Tenants could be asked to complete this form and return directly to the landlord or agent, or provide their responses through a third party platform. The landlord or agent will consider the applications for the property and offer the property to a tenant.

Generally, landlords or agents are looking for a tenant who is able to pay the rent and has a good tenancy history.

Landlords or agents may ask tenants to provide information to support their application. In deciding what information to request from prospective tenants, agents and landlords should consider the [Fair Trading Commissioner's Guidance for dealing with personal information from tenancy applicants and tenants](#).

If an application is successful, the landlord or agent will tell the prospective tenant and take steps to sign a tenancy agreement.

## Rent bidding

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From 17 December 2022, real estate agents in NSW:

- must advertise a residential rental property with a fixed price, and
- cannot invite or solicit any offers of rent higher than the advertised price.

This means properties can no longer be advertised with a price range (such as \$500 - \$550), or with text like 'offers from' or 'by negotiation'.

Signs used on or near the property may advertise that it is available for rent without listing a price.

Properties that were advertised before 17 December and are still currently being advertised do not need to meet the new requirements.

An agent can still accept a higher rental offer if it is made freely and voluntarily by a prospective tenant.

For more information please see our [rent bidding general fact sheet](#).

## Discrimination

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A landlord or agent can choose the most suitable applicant for the property but they are not allowed to unfairly discriminate. In NSW, it is against the law to discriminate based on:

- race
- sex
- pregnancy
- age
- disability (includes diseases and illnesses)

- marital or partner status
- carer or parental status
- sexual orientation
- gender identity.

This also means that a landlord or agent cannot apply a rule, policy, practice or procedure that adversely affects a group of people. Examples of this are:

- offering a property on different terms, such as a higher than necessary income
- having an across the board 'no pets' policy which also excludes the needs of disabled tenants, such as those with a guide dog
- placing unrealistic restrictions on the number of occupants allowed, which for example, could exclude those who are pregnant
- having a complicated and long application form which may, for example, make it harder for recently arrived migrants to apply.

It is not against the law if the landlord or agent chooses not to rent the property to smokers, tenants with poor tenancy history, or people who have had an issue with rent payments.

Visit the [Department of Communities and Justice website](#) for more information about types of discrimination.

If you would like to make a complaint about discrimination, please contact the [NSW Anti-Discrimination Board](#) on 1800 670 812.

## **Holding deposits**

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A landlord or agent may ask a tenant to pay a holding deposit (also known as a holding fee) if they have approved the tenant's application and are offering the tenant the property. Holding deposits cannot be more than one week's rent.

If a tenant has paid a holding fee, the landlord or agent cannot sign a tenancy agreement with any other person within seven days of receiving the payment (or longer if agreed to). The landlord or agent must also provide a receipt.

If a tenant signs the agreement, the holding deposit must be paid towards rent.

If the landlord does not sign the agreement, the holding deposit must be given back to the tenant.

If the tenant does not sign the agreement, the landlord or agent may keep the holding deposit unless the tenant did not sign the agreement because the landlord or agent did not inform them of any '[material facts](#)' or made a false or misleading representation.

## **2. Starting a tenancy**

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Before a tenant signs an agreement or moves into the property, the landlord or agent must give the tenant:

- a copy of the [tenant information statement](#) (available in [other languages](#))
- a copy of the proposed tenancy agreement – we suggest you use our [standard residential tenancy agreement \(PDF, 987 KB\)](#)
- two copies, or one electronic copy, of the [condition report](#) completed by the landlord or agent
- a copy of the by-laws, if the property is in a strata scheme
- an invitation to lodge the bond using [Rental Bonds Online](#).

At the time the agreement is signed, the landlord must give the tenant:

- the signed [tenancy agreement](#)
- certificates of compliance for any swimming and spa pools [read more](#).

Landlords must read and understand the [landlord information statement](#), (available in [other languages](#)) which sets out their rights and responsibilities.

### **Payments at the start of a tenancy.**

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At the beginning of the tenancy, a landlord or agent can only ask a tenant to pay:

- a holding deposit/fee
- a bond (maximum four weeks rent)
- up to two weeks rent in advance
- a fee for registering the agreement with [NSW Land Registry Services](#) (if the tenancy agreement is for a fixed-term of more than three years).

Tenants should get a detailed receipt for any payments made.

Landlords or agents must not charge a tenant:

- for the cost of preparing the tenancy agreement
- to show them a property
- more than two weeks rent in advance
- more than four weeks rent as a rental bond
- for keys or other opening devices
- a bond to allow the tenant to keep a pet on the property.

### **Rental bonds**

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The bond is money a tenant pays as security in case they do not follow the terms of the tenancy agreement. It is paid at the start of the tenancy.

Most landlords ask for a bond, though it is not compulsory. All bonds must be lodged with NSW Fair Trading.

The bond will be refunded at the end of the tenancy unless there is a reason for the landlord to make a claim against it.

### Did you know?

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- A rental bond cannot be more than four weeks rent.
- Higher bonds cannot be charged for tenants with pets or children.
- A bond covers the tenancy of the whole property, not each individual tenant.
- If a landlord agrees, the bond may be paid in instalments.
- A landlord cannot request or receive additional bond payments (or 'top-ups') during the tenancy. The only exception is under Housing NSW issued tenancy guarantees. These guarantees help people with a limited or poor rental history to rent a place in the private rental market.
- A landlord or agent cannot require that the bond be paid before signing the tenancy agreement. However, if the tenant wants to use Rental Bonds Online, they must lodge the bond with us before the agreement is signed.

### How to lodge a bond

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A tenant can choose to lodge a bond using [Rental Bonds Online](#) or using a paper form.

[Rental Bonds Online](#) is our secure online service to manage and refund bond money easily and directly.

For all new tenancies, a landlord or agent **must** offer the tenant the option of using [Rental Bonds Online](#).

The landlord or agent should also give the tenant the [getting started with Rental Bonds Online](#) guide.

To use [Rental Bonds Online](#), a tenant needs:

- details of the bond amount to be paid
- an email address
- a mobile number or a phone number capable of receiving SMS messages
- access to the internet (using a standard browser such as Internet Explorer, Firefox, Chrome or Safari)
- the ability to pay using Visa, Mastercard or BPAY
- bank account details for a bank account with an Australian financial institution, usually a bank or credit union.

If a tenant chooses to lodge their bond using a paper form, their landlord or agent needs to give them a Rental Bond Lodgement form to sign. This form is available through the landlord's or agent's Rental Bonds Online account.

The landlord or agent must then lodge the completed form and the bond with us.

### Tenancy agreements

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A residential tenancy agreement is a legal, binding agreement between a landlord and a tenant.

It must be in writing and landlords can be fined if this is not done.

Verbal agreements are still binding between landlords and tenants.

There is no cooling-off period.

The landlord or agent cannot charge a tenant for their copy of the agreement or the costs associated with filling it in.

### **Fixed-term and periodic agreement**

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A fixed-term agreement is for a period of time and has a specific end date (e.g for six or 12 months).

A periodic agreement is where a fixed-term has not been specified in an agreement or where the fixed-term of an agreement has expired.

If a fixed-term agreement ends and a new agreement is not signed, a tenant will automatically move to a periodic agreement (also known as a continuing agreement). A periodic or continuing agreement has no specific end date.

### **What about adding or changing terms in an agreement?**

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An example of an additional term is to allow pets. A landlord may decide if they want this term to stay in the agreement. If not, the term should be deleted before the agreement is signed.

Additional terms may be included as long as they:

- follow NSW tenancy laws or any other laws,
- are consistent with the terms in the standard form and
- are not a term that is prohibited from being added to a tenancy agreement.

For fixed-term agreements of 20 years or more, landlords can remove or change the terms of the standard agreement, except for the following terms:

- the responsibility of the landlord to pay rates, taxes and charges
- the limit of no more than one rent increase per year
- a tenant's right to apply to the Tribunal
- the grounds on which the agreement may be terminated
- the landlord's responsibility to repair smoke alarms, and
- a tenant's responsibility for their visitors' or co-tenants' damage to a property, where damage is caused by a co-tenant when committing a domestic violence offence.

Terms that must not be added to an agreement include:



- requiring a tenant to have the carpet professionally cleaned, or pay the cost of cleaning, at the end of the tenancy (except as part of a separate arrangement to allow the tenant to keep a pet on the property),
- requiring a tenant to take out any form of insurance, such as home contents or public liability insurance,
- exempting a landlord, agent or any other person from legal liability for any negligent act or omission,
- requiring the tenant to pay a higher rent, a penalty or some other form of damages if they breach the agreement,
- giving the tenant a reduced rent or rebate for not breaching the agreement,
- requiring the tenant to use the services of a particular person or business to carry out their obligations under the agreement, such as a nominated lawn mowing or pool cleaning company, and
- requiring the tenant to use a specific utility provider if there is no restriction on utility providers available for the property.

Any additional terms that are not allowed under the law are invalid and cannot be applied. Landlords can face penalties for including such terms in an agreement.

## **Use our standard tenancy agreement form**

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We provide a standard tenancy agreement as a fillable PDF.

While landlords and tenants do not have to use this standard agreement, we recommend that they do.

This is because every tenancy agreement must contain the standard terms that cannot be changed or removed, and certain terms that must not be included in an agreement.

[Download our standard tenancy agreement](#)

## **Condition reports**

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A condition report records the general condition of the property, room by room, including fixtures and fittings.

A landlord or agent must fill out a condition report before a tenant moves in. They must give two paper copies, or one electronic copy, to the tenant either before or at the time the agreement is given to the tenant to sign.

Tenants must then complete their part of the condition report and return a copy to the landlord or agent within seven days of moving in. Tenants should also keep a copy of the condition report.

The report should be filled out with as much detail and accuracy as possible. If there is a dispute about missing items or damage, the condition report can be used as evidence.

## **Did you know?**

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- all damage, including minor damage, should be noted and described on the report
- a landlord or tenant can take photos or videos to support the condition report
- the report can be adapted to suit an individual property
- a new condition report is not needed if the same people renew the tenancy agreement, or if a new co-tenant or occupant moves in
- you should note any visible hazards relating to electricity (e.g. a loose or damaged electricity outlet socket, loose wiring or sparking power points)
- Information on whether smoke alarms are installed (as required by legislation) and the dates that they were last checked and had battery replacement needs to be included
- You need to confirm if there are any safety switches and if they are working, which can only be done if the agent or landlord and tenant has done a test.

Find out more about [electrical safety in the home](#).

[Download a blank condition report](#)

## Landlord contact details

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A landlord must give the tenant the landlord's name and a way for the tenant to directly contact the landlord.

The landlord's contact details can be a telephone number or other contact details such as an email address.

If the landlord lives outside of NSW, they must include the state, territory or country (if outside of Australia) in which they usually live.

A landlord must give this information to the tenant even if the landlord uses an agent.

A landlord can't give the agent's contact details instead of their own.

If a landlord doesn't use an agent, the landlord will also need to give the tenant their residential or business address to receive mail.

The above information must be given to tenants in writing before or when the tenant signs the tenancy agreement, or can be included in the tenancy agreement.

The tenant must also be informed, in writing, within 14 days of any changes to these details.

## Keys

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The landlord or agent must give **each** tenant named in the agreement a set of keys or other opening devices (e.g. swipe cards or garage remote controls) or information (such as an access code), so the tenant can access any part of the rented property or common property.

This can include keys to any door, window, garage or letterbox.

Tenants cannot be charged for this

## **Setting up utilities and services**

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### **Electricity, gas and water**

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Electricity, gas and water are essential services that must be supplied to the rental property. Tenants only have to pay for electricity or gas charges if the property is separately metered.

If a tenant is responsible for paying electricity or gas, they will need to open an account with the energy retailer before they move in, so they can pay for the energy they use.

To find a retailer or compare prices, visit [energymadeeasy.gov.au](http://energymadeeasy.gov.au). To compare energy plans and receive help to switch, visit the NSW Government's free [Energy Switch website](#).

Water is different to other utilities as it is always connected, and the account for the water supply will be in the landlord's name.

Visit [paying for water, electricity or gas](#) for more information on electricity, gas or water at the rental property.

### **Telephone and internet**

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Landlords do not have to provide telephone or internet connections as part of the tenancy.

Tenants are responsible for setting up their own telephone and internet account when they move into a rental property, as needed.

We recommend tenants contact a service provider as early as possible as it may take time for services to be connected.

A tenant may be able to transfer existing services they have at their current home to their new home. They should contact their service provider about this. Existing services that will not be transferred should be cancelled.

If a telephone or internet line is not connected, the tenant will need to get the landlord's permission before getting a line installed.

This type of work is a '[minor change](#)' where the landlord cannot unreasonably refuse consent. The service provider may charge a connection fee.

## **3. Managing a rental property**

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Landlords can choose to manage their rental property or have an agent manage it for them.

Regardless of who manages the property, landlords remain responsible under the residential tenancy laws.

### **Self-managed landlords**

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There are advantages to managing a rental property yourself, such as having control over the process and saving on agent fees.

All landlords, including those that manage the property themselves, must make sure they follow residential tenancy laws.

It is essential that all landlords, including self-managing landlords, have read and understood the landlord information statement before entering into any tenancy agreement.

### **Using an agent**

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Landlords who do not live near the rental property, are busy or do not know the law very well may wish to use an agent to find a tenant and manage the property on their behalf.

An agent who manages residential property for a landlord must either be:

- a licensed real estate agent (e.g. they hold a real estate licence)
- an assistant real estate agent (e.g. they hold a real estate certificate of registration and work under the supervision of a licensed real estate agent).

A landlord can make sure they are using an appropriately licensed agent by doing a licence check or by calling 13 32 20.

### **Selecting a licensed agent**

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When selecting a licensed real estate agent, consider asking:

- How much are the management fees and what is included and excluded?
- How long have they been a property manager?
- How many properties do they currently manage?
- How long has the property manager been with that agency?
- What systems are in place to check compliance with health and safety requirements?
- How do they handle requests for repairs from tenants?
- Do they check repairs once they have been carried out?
- What systems are in place for locating and screening prospective tenants?
- What steps do they take if the tenant is late with the rent?
- How many times have they been to the Tribunal and what is their success rate?

### **Agency agreement**

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A landlord who uses an agent will need to enter into a written management agency agreement.

The fees and conditions of the agreement are negotiable.

Only a licensed real estate agent can sign an agency agreement with the landlord.

A landlord should make sure all the agent's responsibilities are clearly specified in the agency agreement.

When making an agreement, the landlord should consider:

- How often do they want inspections to take place?
- Would they like a copy of inspection reports and other documents to be sent to them?
- Do they want to be contacted about all repairs or only repairs costing more than a nominated amount (e.g. \$200)?

A management agency agreement usually contains a notice period clause if either party wants to end the arrangement.

### **What to expect of an agent**

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A managing agent's responsibilities include:

- finding suitable tenants
- ensuring the tenancy agreement is correctly completed and signed
- lodging the rental bond
- managing the tenancy for the landlord on a day-to-day basis, including:
  - arranging repair or maintenance work
  - collecting the rent and maintaining rent records
  - conducting regular property inspections
  - handling any disputes
  - paying bills on the landlord's behalf (e.g. water and council rates)
- paying the rent to the landlord, less any authorised expenses (e.g. agency fees).  
This must be done at the end of each calendar month, unless the landlord instructs the agent otherwise.

### **Agency fees**

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Most agents charge a letting fee and a management fee based on a percentage of the gross weekly rental.

This is usually between five and 12 per cent, plus other fees set out in the agency agreement.

This fee could include advertising costs, preparing the tenancy agreement and representing the landlord at the Tribunal if there is a dispute.

## **Changing arrangements**

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Bond records need to be updated if management of the tenancy changes.

## **4. Further information**

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Subscribe to [The Letterbox eNewsletter](#) to receive updates and more information to help you understand your renting rights and responsibilities.

### **Tenancy databases**

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Tenancy databases are used by agents to screen prospective tenants by checking the person's rental history.

These databases hold information about tenants and strict rules apply on who, when and why a person can be listed. Tenancy databases are sometimes referred to as 'blacklists' or 'bad tenant databases'.

There are a number of tenancy databases that operate in NSW, including TICA, National Tenancy Database and Trading Reference Australia. These databases are run by private companies, not by the Government or the Tribunal.

If a landlord or agent discovers that a potential tenant has been listed on a database, they must tell the potential tenant in writing within seven days:

- that the tenant is listed on the tenancy database
- of the details of the landlord or agent who listed them and how they can get a copy of what the listing says from that person
- contact details of the database operator and how they can get information from the operator
- how to have the listing changed or removed if the tenant disagrees with the listing.

Landlords or agents do not have to inform the tenant of the reason for the listing.

Tenants are entitled to a copy of the information (free of charge) from the person who listed them, or they can get this information direct from the database operator.

The database operator cannot charge tenants a fee for this information.

Visit [ending a tenancy](#) for more information.

### **If a tenant is listed on a tenancy database**

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If a tenant applies for a tenancy and the landlord or agent discovers they have been listed on a database, they need to let the tenant know in writing. The landlord or agent should inform the tenant of the contact details of the person who has listed them and how they can go about checking what the listing says. The landlord or agent do not have to advise the tenant of the reason for the listing.

A tenant can make a written request to the person who listed them or to the database operator for a copy of their personal information listed on the database. These parties must give the tenant the information:

- within 14 days of the tenant making the request
- free of charge.

### **Removing old, incorrect or unjust listings**

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Listings on a tenancy database must be:

- removed if they are older than 3 years
- removed or changed if a landlord, agent or database operator become aware that the information is incorrect, incomplete, unclear or out-of-date
- removed or changed where a tenant has been unable to resolve the matter with the landlord or agent and obtains an order from the Tribunal that the listing is unjust, incorrect or out-of-date.

If a landlord or agent becomes aware that a listing needs to be removed or amended, within seven days they must either correct the database themselves or notify the database operator.

If a database operator is notified by a landlord or agent that a listing should be changed or removed to make it accurate or complete, they must do this within 14 days.

The Tribunal can award compensation to a tenant if they have suffered a loss as a result of inaccurate, unclear or out-of-date information being listed on a tenancy database.

### **Application of residential tenancy laws**

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Residential tenancy laws apply to most residential tenancies in NSW.

These groups are covered:

- private tenants
- sub-tenants of a tenant under a written tenancy agreement with the tenant
- social housing tenants (some exemptions apply for certain matters)
- people who rent a home in a residential land lease community
- people who rent a villa (like a private tenant) in a retirement village.

These groups are not covered:

- homeowners in residential land lease communities
- 'protected' tenancies
- residents in aged-care, nursing homes or retirement villages
- boarders or lodgers
- tourists and visitors in serviced apartments, hotels, motels and backpacker hostels
- people who have a holiday park occupation agreement

- people who live in refuge or crisis accommodation
- people with a short-term rental accommodation arrangement in residential properties for a period of no more than three months for a holiday.

This isn't a complete list of excluded people.

[Contact us](#) for more information.

## **Contacts**

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### **Resolving disputes**

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- Tenants, landlords and agents can use our [free tenancy complaint service](#), if they are unable to resolve a dispute about a tenancy agreement.
- The [Energy & Water Ombudsman NSW](#) is the government approved dispute resolution for NSW electricity and gas customers, and some water customers.

### **Financial help for private tenants**

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- The Department of Communities and Justice offers rental assistance for eligible tenants looking for private rental housing. Their [Rentstart Bond Loan](#) program can also help eligible tenants start a tenancy with an interest-free bond loan. Call the [Housing Contact Centre](#) on [1800 422 322](#), or visit the [Department of Communities and Justice website](#) for more information.
- Financial or other assistance may also be obtained from charities, churches or other local non-government organisations. Tenants can contact their nearest [Tenants' Advice and Advocacy Services](#) for more information.

### **Social housing tenants**

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Social housing tenants can contact the [Department of Communities and Justice Housing](#) for general information on their rights and responsibilities.

### **Advocacy**

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- [Tenants' Advice and Advocacy Services](#) provide free independent information, advice and advocacy to tenants in NSW.
- The [Tenants' Union of NSW](#) provides legal advice, assistance and information to tenants, tenant advocates and community workers.

### **Industry**

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- The [Real Estate Institute of NSW](#) is the peak industry body for real estate agents in NSW.
- The [Property Council of Australia](#) advocates for members of the property industry.

[Next](#) During a residential tenancy



