

Improving NSW Rental Laws – submission

Having parents who have been landlords over the years, and having been a renter myself in the past, I feel that rental laws should be fair and balanced for both parties – ie. they should both have some level of security with regards to the property in question.

I am not a fan of investment property owners setting rents at levels that fully cover their mortgage repayments or more. I would support a model that set a limit on the percentage of a mortgage any rent on the property can return – say 75-80% maximum. If an investment buyer cannot cover any portion of the mortgage repayment for their investment without relying solely on the rent from that property, then maybe they shouldn't be buying an investment property – leaving the market more open to those who want to buy a family home to actually live in.

I also believe that overseas investment buyers are having an impact on the market. There should be restrictions on overseas investment buyers during crisis times like we are seeing right now.

The other issue that we are seeing in recent times is the massive increase in the short term rental market – AirBnB, for example. Investment buyers are taking full advantage of the mostly unregulated market in short term rentals, and are raking in the dollars while families can't find stable housing options. This is a massive problem for the "touristy" areas, where local residents are being pushed out in favour of the short term holiday makers and the money they bring for investment owners. Local workers, and those who want to move to an area for work cannot find any reasonable term housing options, so the chances of people moving to regional/rural areas to work are decreasing – and this is stunting growth in such areas.

As for the questions raised in the discussion paper...

1. What is your preferred model for ending fixed term leases and why?

A reason for ending a lease should be given in ALL cases – especially if the tenant(s) have a good payment record and keep the property clean and in good repair.

2. Are there any other specific situations where a landlord should be able to end a lease?

I think the reasons listed (and the proposed new reasons) are comprehensive and cover most cases where a lease could/should be ended once the contracted period of time has been completed.

I would go so far as to suggest that there may also be certain cases that might require a shorter term (or immediate) eviction even if contracted under a lease agreement – such as wilful damage to property, or refusal to pay rent for more than 3 months without a valid reason.

3. What would be an appropriate notice period for the five proposed reasons (and for any other reasons you have suggested)? Why is it reasonable?

60-90 days would be a reasonable timeframe for the first 4 proposed new reasons.

As I have had the 5th option stated to myself as a reason to end a lease in the past, only to find that 2 weeks after I left, a new tenant (not the landlord or family member) moved in to the property, this option is already being used as a reason to end leases. In my case, I found that the rent had been increased by over \$100/week from what I had been paying, and the real estate agency had decided that I probably wouldn't have been amenable to the increase despite never asking me. I had been a regular (on time) paying tenant at that property for 3 years at that point, and kept the property in good condition, even paying for minor repairs myself.

4. What reasons should require evidence from the landlord? What should the evidence be?

All of the listed reasons should show evidence of occurring before a notice of termination of a lease. Evidence should be defensible in a Tribunal hearing if the tenant wishes to contest the termination – ie. hold up to legal scrutiny in a courtroom.

5. Should any reasons have a temporary ban on renting again after using them? If so, which ones, and how long should the ban be?

Temporary ban for whom... tenant or landlord/agent? There could be reasons where either party may be “at fault”, and should face some consequence for their action/inaction.

If a tenant is placed under a rental ban, where are they then supposed to live? I certainly would not like to see tenants with a record for being destructive or using a property for illegal activity housed on the taxpayer dollar while they serve any rental ban... it would be counterproductive at best.

As for landlords/agents, there could be a case made for bans on them re-renting a property if found in breach of legislation, but it will be very hard to police.

I’d like to see further development of how bans will be policed/enforced before I would commit to their introduction.

6. Is 21 days the right amount of time for a landlord to consider a request to keep a pet? If not, should the landlord have more or less time?

Surely landlords would have thought about this scenario before offering the property up for rental? In that case 21 days is not required in order to consider whether pets should or shouldn’t be allowed – the decision and grounds for approval or not should already have been set out, so the decision should be virtually automatic, and the tenant given a response within a week (5 business days) at most.

7. What are valid reasons why a landlord should be able to refuse a pet without going to the Tribunal? Why?

The reasons listed in Appendix A (Queensland model) seem fair and reasonable.

8. Should the Tribunal be able to allow a landlord to refuse the keeping of animals at a specific property on an ongoing basis? Please explain.

No. These matters should be determined on a case-by-case basis – unless any of the conditions in Appendix A apply on an ongoing basis.

For example, the keeping of rats or reptiles as pets is rather different to the keeping of a dog or cat, and husbandry conditions should come into play when considering what types of pets should or shouldn’t be allowed at any particular property.

9. What other conditions could a landlord reasonably set for keeping a pet in the property? What conditions should not be allowed?

I would understand that the keeping of any pet that requires construction of facilities to house them would come into play here, such as erecting an outdoor cat enclosure or bird aviary. Conditions regarding any enclosure affixed to permanent structures, such as house walls/eaves, or

fences would have to be stipulated as allowed or not, and whether the tenant must remedy any alterations affecting such structures upon leaving the property at the end of a tenancy, returning them back to their original state.

I have rented properties (with dogs) where the owner had stipulated that the dogs were to not be inside, and I found that to be fair enough, as they may have had tenants with destructive pets in the past, and are only wanting to ensure the property is not damaged unnecessarily. It was not difficult to provide my dogs with suitable accommodations outside the house(s) in question.

Other conditions could be to ensure that neighbours are not inconvenienced by a tenant's pets – be that noise, smell, or other issues that may inconvenience neighbours from enjoying their own properties. There is nothing worse than having a neighbour with dogs that set up a racket when you want to have a barbeque, or don't clean up uneaten food or faecal matter causing smells or rodent infestations.

For pets allowed indoors, I fully support the condition that the tenant perform all remedies required to return the property in a clean and well-maintained manner at the end of a lease.

10. Do you support limiting the information that applicants can be asked for in a tenancy application? Why/why not?

All that a tenant should need to provide should be proof of identity, proof of ability to pay the rent specified, and possibly proof that they have been a "good" tenant at any previous rental property (if applicable).

I support a condition of a "pet reference" or some such indication from a previous landlord/agent in their reference that the tenant left the previous property (where they also had the pet) in a clean and well maintained manner.

11. Do you have any concerns with landlords or agents only being able to collect the information set out in the table above to assess a tenancy application? Please explain.

As noted above, the only financial proof that should be required is proof of ongoing income that ensures that a tenant can cover the rent and utilities for the property. Asking for savings records or bank statements is a bit of a stretch – and a big NO to providing tax return information.

With regards to previous rental history documentation, a reference from the previous landlord/agent detailing payment of rent/utilities on time, and leaving the property in a clean and well maintained state at the end of the tenancy, should be all that is required.

For first time renters, a character reference could possibly be asked for, in addition to the base identity and financial evidence documentation.

12. Do you support the use of a standard tenancy application form that limits the information that can be collected?

Yes.

13. Do you think that limiting the information that may be collected from rental applicants will help reduce discrimination in the application process?

In many cases, yes.

14. Do you support new laws that set out how landlords can use and disclose renters' personal information? Why/why not?

Use of and/or disclosure of sensitive personal information must ONLY be with the renter's written consent – and only after being advised fully as to how that information may be used/disclosed.

15. What should applicants be told about how their information will be used before they submit a tenancy application? Why?

Applicants should be informed of any/all possible use of or disclosure of their information to/by any third party (other than the property owner, if the information is requested by an agent) before they fill in an application that may ask for sensitive/personal information.

16. Do you support new laws to require anyone holding renter personal information to secure it? Why/why not?

Yes! All personal/sensitive information should be secured against possible misuse by any party.

I would go as far as requiring agents not to store such information on cloud-based storage or insecure internal networks. A stand-alone server/computer in the office that is not connected to the internet would be a place that would be the most secure from unlawful intrusions from third parties.

17. How long should landlords, agents or proptechs be able to keep renter personal information? Please explain.

No longer than 12 months after a tenancy has ended, and/or the tenant is no longer a client.

Records relating to the actual tenancy can be kept longer, such as rental payment history, and general information like whether the tenant left the property in a clean and well maintained manner at the end of the tenancy – information that can be used to provide a reference for future applications by that tenant.

18. Do you support requiring landlords, agents or proptechs to:
- Give rental applicants' access to their personal information,
 - Correct rental applicants' personal information?
- Please explain your concerns (if any).

With regard to (a), yes. A tenant should have the right to know what information about themselves any third party holds.

As for (b), the only person who should be allowed to correct personal information is the person it refers to.

19. Are you aware of automated decision making having unfair outcomes for rental applicants? Please explain.

I am firmly against automated computer systems being used to "screen" applicants. This process should be done by a human, to ensure that quality applications that don't necessarily contain "buzzwords" such automated systems are coded to recognise are recognised properly and dealt with fairly.

20. What should we consider as we explore options to address the use of automated decision making to assess rental applications?

See answer above.

21. How long should a renter have to top up the new bond if some or part of the bond has been claimed by the previous landlord?

See answer to Q.25

22. What should happen if the renter does not top up the second bond on time? Please explain why.

See answer to Q.25

23. Should this scheme be available to all renters, or should it only be available to some? Please explain why.

See answer to Q.25

24. Who should have a choice on whether to use the scheme?

See answer to Q.25

25. What other (if any) things should we consider as we design and implement the portable bond scheme? Please explain.

Generally, a bond is only released to the tenant after they have left a property, and after the landlord/agent has done a property inspection to determine whether any of that bond needs to be withheld for any reason. This process can take up to 30 days (usually) after a tenant has left the property.

In order to vacate a property, the tenant must have secured another rental property, which includes the payment of a bond and first period of rent.

I am at a loss to understand how a bond transfer can work under the current rental processes, so will look forward to seeing more development as to how it can be applied to real life conditions.

26. Do you have any concerns about the NSW collecting information on rent increases and making it publicly available for renters? If yes, please provide details.

I don't see any major issues regarding collecting base level information about rents charged at periodic intervals. Providing that data as mean/average for specific areas would definitely be helpful for renters (and possibly landlords too).

27. What do you think is the best way to collect this information?

If such a collection of data is to provide the most reliable data, it would need to be mandatory, rather than voluntary.

28. Do you think the "one increase per 12 months" limit should carry over if the renter is swapped to a different type of tenancy agreement (periodic or fixed term)? Please explain.

It would certainly give tenants more peace of mind to know that their rent can only be increased once in any 12 month period – whether they be in a fixed term or periodic agreement.

29. Do you think fixed term agreements under two years should be limited to one increase within a 12 month period? Why or why not?

Yes – for the reason stated above.

30. What do you think of the above options? Please provide detail.

Currently, there seems to be a trend where a property owner may be seeking to cover the entirety of their mortgage repayments (or more) via rent payments. Rather than looking to CPI as a baseline for rental increases, maybe setting a limit of 75-80% of any mortgage repayment to be allowed to be covered by rent would be an option. This would ensure that property owners are not unfairly disadvantaged by interest rate increases, whilst still ensuring that renters aren't unfairly paying off someone else's property whilst never getting the chance to buy their own.

31. Do you support new laws to require landlords or their agents to tell rental applicants if a rental property uses any embedded network? Why/why not?

Yes. If a tenant has no choice regarding the network used, then that information should be provided.

32. When should a rental applicant be told that a property uses an embedded network?

This information should be disclosed as part of the advertising process, so all prospective tenants are aware of it before deciding whether to apply for a property or not.

33. What information should a renter be told about a rental property using an embedded network? Please explain.

Any/all information that may affect them.

34. What would be the best way to ensure that the free way for renters to pay rent is convenient or easy to use? Please explain.

Making it mandatory would be a start. Agents already get a percentage of rents as remuneration for managing a property, and adding extra fees for making a rent payment is simply double-dipping.

35. Should the law require a landlord or agent to offer an electronic way to pay rent that is free to use? Why/why not?

Yes – BPAY or direct deposit options for example. Even just a funds transfer option would suffice, as long as the rent is paid on or before the due date(s).

I support a small fee if rents are paid late, unless the tenant can prove financial stress as being the reason for a late payment.

36. What are the issues faced by renters when moving into a strata scheme? Would better disclosure about the strata rules for moving in help with this?

One would think that this sort of information would be mandatory already... especially when an agent or landlord has rented the property out before, and faced complaints from tenants being advised of obscure rules after the fact.