



RESIDENTIAL TENANCIES AMENDMENT (RENTAL FAIRNESS) BILL 2023

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The current rental market in NSW is very challenging for renters. Based on the Australian Bureau of Statistics data from the 2021 Census, around 31 per cent of households in Australia and 33 per cent of households in NSW rented during the financial year 2019-20.

Rental vacancy rates in NSW have recently reached historic lows. This is supported by CoreLogic's Rental Pulse Report, released in May 2023, which shows that:

- the national rental vacancy rate has come down to 1.1 per cent, and
- Sydney's rental vacancy rate has fallen from 2 per cent in April 2022 to 1.2 per cent in April 2023.

Rental prices are also increasing. Median rent for all types of dwellings in Sydney is \$711 per week as of April 2023 (CoreLogic). This median rent is \$134 above the national median rent of \$577 per week.

In recognition of the challenges facing renters in NSW, the NSW Government is committed to having robust laws to protect and support renters. The Government is introducing the Residential Tenancies Amendment (Rental Fairness) Bill 2023 (the Bill) as a first step in a series of rental reforms.

The Bill makes key amendments to the *Residential Tenancies Act 2010* (the Act) to:

- ban real estate agents, landlords and third-party application platforms from soliciting offers of rent higher than the advertised rent for a property, and
- support implementation of a portable rental bond scheme by expanding the relevant regulation making powers.

The Bill also clarifies that amounts held in the Rental Bond Account are held on trust by the Rental Bond Board. This is a legal clarification as in practice these funds are already held on trust.

Objectives: What is the policy's objective couched in terms of the public interest?

The Government has committed to helping renters who are facing a tough rental market. It is in the public interest to take steps to improve affordability and fairness for renters who comprise a large proportion of the NSW population. This is especially important given the fundamental importance of housing to the wellbeing of the NSW population.

The Bill delivers on the Government's promise to improve protections for renters by making rental laws fairer, and to improve transparency and affordability.

The portable bonds amendments aim to alleviate financial stress on households by facilitating a scheme to allow renters to transfer a rental bond from their old rental property to a new rental property. As of 21 March 2023, there were 959,574 rental bonds held with NSW Fair Trading. This indicates that there are a large number of renters who could potentially benefit from a portable bond scheme.



This Bill is the first step in a series of rental reforms that the Government will bring forward to improve conditions for renters in NSW.

Options: What alternative policies and mechanisms were considered in advance of the bill?

Banning solicited rent bidding and implementing a portable bond scheme can only be achieved through legislative amendment.

Analysis: What were the pros/cons and benefits/costs of each option considered?

This Bill will strengthen the protections for renters across NSW by banning solicited rent bidding by landlords, agents and others so they cannot actively encourage renters to increase their rent price offers.

The Bill's support for rolling out a portable bond scheme will also benefit renters by alleviating the financial pressures renters face when moving rental properties.

The Government will direct the new Rental Commissioner to maintain oversight of how the reforms are working. The Bill includes a regulation making power to require people (including landlords and agents) to provide information to the Secretary for the purpose of monitoring the operation of the relevant provisions. This regulation making power will enable the Rental Commissioner to collect pertinent information to inform the Government's ongoing support to renters, owners and the property sector.

There will be costs to Government when implementing and administering the portable bond scheme. However, these costs will be minimised where possible and are considered to be justified by the benefits to NSW renters.

In developing the Bill, the Government examined rental caps to determine whether they would support addressing pressures in the current rental market. The *Residential Tenancies Act 2010* already provides some limits on rent increases. For periodic agreements and fixed term agreements of two years or more, rents can only increase once every 12 months. Increases for fixed term agreements of less than two years are also predictable, since any increases must be written clearly into the agreement, which is given to the renter to review before signing.

While placing a ceiling on rents in the short-term may appear attractive, rent freezes do nothing to address a lack of housing supply, and in the long run will worsen supply. Following consideration of how this approach has worked in other jurisdictions, the Government considers that this option would exacerbate the current pressures in the rental market by:

- **exacerbating supply problems** by reducing the price signals that guide development and investment, right at the time when the community needs more housing to be built
- **failing to recognise the individual circumstances** that apply to a particular property
- **reducing incentives for owners** to enter the market and to carry out repairs, renovations and upgrades
- **contributing to higher up-front rents** if owners seek to set initial rents as high as possible because they will be unable to increase them later



- **increasing the number of mortgage defaults** if owners are unable to recoup the cost of interest rate rises.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

Residential tenancy laws in NSW are regulated by NSW Fair Trading within the Department of Customer Service.

The Bill, except for the provisions banning solicited rent bidding, will commence on assent. The ban on solicited rent bidding will commence by proclamation. This is to give landlords and digital rental application tools time to comply with the new requirements.

NSW Fair Trading will continue to work on the design and implementation of the portable bond scheme this year.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Government has consulted with key stakeholders including the Tenants' Union of NSW, the Real Estate Institute of NSW, Shelter NSW, CHOICE, the Property Services Expert Panel and the PropTech Association Australia. Their feedback informed the final Bill.