

Tabled, by leave, Ms Shape

RESIDENTIAL TENANCIES AMENDMENT BILL 2024

STATEMENT OF PUBLIC INTEREST

Clerk of the Parliaments

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

About one third of the NSW population are renters, and renting is becoming a longer-term option for more people of all ages and life circumstances.

Ensuring access to stable, affordable housing and the ability to make the house into a home is fundamental to the wellbeing of the NSW population. This is why the NSW Government made election commitments to end no grounds evictions and make it easier for renters to keep pets.

The ability of a landlord to end a lease without a reason means renters have no stability and can have their lives upended at any time. They cannot forge strong links with their community and are often forced to move away from schools, family and friends. The costs associated with frequently moving are also significant.

Further, the existence of no grounds evictions means renters are fearful of asserting their rights in case it leads to eviction. Ending no grounds evictions is therefore the foundational reform that is necessary to enable renter rights to operate effectively.

For many years housing and renter advocates have argued that the most important rental reform is to end no grounds evictions. Many other Australian and international jurisdictions have already taken this step.

The ability for renters to keep pets has also long been argued to be a crucial reform. Pets have enormous positive impacts on wellbeing and are a part of people's family. With more people renting for longer and for life, it is fundamentally unfair that renters are unable to enjoy the companionship of pets.

The other reforms in the Bill are necessary to assist renters cost of living pressures. The Bill will limit rent increases to once every 12 months for all leases, ban renters and prospective renters from being asked to pay for background checks, and ensure renters have free and convenient ways to pay rent, by requiring landlords to allow the option of payment by electronic bank transfer and Centrepay.

The Bill also appoints the NSW Rental Commissioner to the Rental Bond Board, which aligns with the Commissioner's role in advising the Government on rental reform and working with stakeholders to rebalance the rental market.

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

The Bill is in the public interest as it aims to:

- provide renters with more security and certainty of tenure and make it easier for them to enforce important existing rights, such as requesting repairs to a rental property,
- provide renters with the same rights as others in the community to enjoy the companionship of pets,
- assist with cost of living concerns,
- strike a fairer balance between the rights of landlords and renters in the residential tenancy laws.

The Bill will achieve these aims by, for example:

- requiring landlords to have a valid genuine reason for ending a lease,
- introducing a process for renters to seek their landlord's consent to have a pet, including providing limited grounds on which consent can be refused,

- applying the limit of one rent increase every 12 months to all leases,
- banning renters and prospective renters from being required to pay for background checks, and
- ensuring renters have a free and convenient way to pay their rent.

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

The NSW Government considered the following options for the issues addressed by the Bill:

1. Option 1 - Take no action and maintain the status quo.
2. Option 2 - Implement the Government's election commitments and ensure a fairer rental market by addressing unfair practices.

Option 2 requires legislative amendment to the Residential Tenancies Act and cannot be delivered through alternative mechanisms.

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

Option 1, to take no action and maintain the status quo, is not preferred. Option 2, to implement the Government's election commitments and ensure a fairer rental market by addressing unfair practices, is the preferred option.

Taking no action (option 1) would mean that the NSW residential tenancy laws remain outdated and fail to strike a fair balance between landlord and renter interests. Renters would continue to experience instability and reluctance to enforce their rights for fear of having their lease terminated. Renters would still incur unfair costs, such as payments for background checks, fees for paying rent, and would be able to have their rents increase more than once in 12 months.

Implementing the changes to the laws in the Bill (option 2) means the Government will be delivering its election commitments to require landlords to have a valid reason to end a lease and make it easier for renters to have pets. Identified cost of living issues unfairly impacting renters will be addressed, renters will have more certainty and strengthened protections. The residential tenancy laws will strike a better balance between landlord and renter interests.

The changes will deliver important benefits for renters, especially in the current challenging rental market, while ensuring landlords' interests are also accommodated.

For example, the changes to end no grounds terminations will improve security of tenure for renters and their ability to access existing rights, such as the right to request repairs to a rental property. The changes also provide certainty for landlords on when they can end a lease and take back possession of their property for a range of genuine reasons.

The changes in the Bill will also reduce the frequency of rent increases and cost of paying rent for some renters. These changes will help reduce the financial burden on renters and make renting fairer.

There will be some regulatory impact on landlords and real estate agents from option 2. Landlords will have less flexibility to end a tenancy when they choose, less opportunities for frequent rent increases, will be required to provide supporting documents or information that a termination ground is genuine, and will have less ability to refuse pets. Agents will likely need to update their standard forms and processes to comply with the new provisions.

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

NSW Fair Trading (Fair Trading) within the Department of Customer Service administers the Act.

Most of the Bill's provisions will commence on a date set by proclamation.

The NSW Government must amend the Residential Tenancies Regulation 2019 to provide supporting detail for the no grounds and pets reforms in the Bill before those changes can commence. This includes, for example, prescribing the supporting information that must accompany a termination notice and a standard pet application form. It is anticipated that these changes will be progressed as a priority in late 2024 and early 2025.

The Government will also need to give the property management industry some time to understand the changes and adapt their own processes and forms, so they align with the new requirements. An exact commencement date for these changes will be set once the Regulation changes have been made and in consultation with stakeholders.

Three reforms in the Bill will commence on assent. These are:

- prohibiting renters and prospective renters being required to pay for background checks (Schedule 1[5]),
- limiting rent increases to once every 12 months for all leases (Schedule 1[7]), and
- appointing the Rental Commissioner to the Rental Bond Board (Schedule 1[20] and [21]).

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

In 2023 the NSW Government held a public consultation on rental reforms, including requiring landlords to have a valid reason to end a lease and making it easier for renters to have pets. This consultation received around 16,000 survey responses and over 400 written submissions.

The NSW Rental Commissioner has also met with a range of stakeholders about rental reforms, including renters, renter advocates, landlords, real estate agents, industry bodies, stakeholders from academia, the animal welfare sector, housing market analysts and other organisations.

Fair Trading undertook targeted consultation with key stakeholders on a draft of the Bill in September 2024. Key external stakeholders consulted include:

- The Real Estate Institute of NSW,
- Property Council of Australia,
- Tenants' Union of NSW,
- The Law Society of NSW,
- Shelter NSW,
- Better Renting,
- Homelessness NSW,
- UNSW City Futures Research Centre,
- Choice,
- Property Investors Council of Australia,
- Redfern Legal Centre,
- Women's Legal Service NSW,
- RSPCA,
- Animal Care Australia,
- Proptech Association Australia,
- Community Housing Industry Association NSW, and
- Representatives from real estate agencies including Ray White, LJ Hooker, Laing + Simmons and Harcourts.