

RESIDENTIAL TENANCIES AMENDMENT (PROTECTION OF PERSONAL INFORMATION)  
BILL 2025

STATEMENT OF PUBLIC INTEREST

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

Personal information is sought from residential rental applicants as it enables the applicant's identity to be verified, establishes their ability to pay the rent and demonstrates that they are likely to look after the property. This information is sought by property owners, agents, and property technology companies (PropTech) engaged to manage rental applications. Personal information is also collected for different purposes at other stages of the tenancy.

Personal information can include a broad range of information about a person. It can include their name, address and phone number, financial information, and sensitive identification documents such as a driver's licence or passport. It may also include another person's opinion, such as a character reference, as well as inferences that may be drawn about the person from their activities, such as where they use their credit card or their web browsing history.

While Australian privacy laws apply to larger organisations and organisations that trade in personal information, the rules are general and not specific to different sectors. NSW also does not have specific laws regulating how information is collected, used, disclosed, stored or destroyed when collected from renters or rental applicants.

Currently rental applicants are routinely required to provide more personal information than necessary. As rental applicants often apply for multiple properties, their personal information is held by multiple agencies and across multiple application platforms. The volume of personal information unnecessarily collected from renters increases the risk of their personal information being compromised, such as through cyber attacks or data breaches.

The introduction of specific laws will protect renters from overcollection of personal information and reduce the risk of their data being compromised. This also reduces the risks for real estate agencies and others who hold renter information. Many Australian and international jurisdictions have already taken this step towards 'data minimisation' to reduce privacy and security risks and impacts.

Other reforms in the Bill are necessary to strengthen existing provisions in the *Residential Tenancies Act 2010* (the Act) to create a fairer, more modern rental market that balances improved protections for renters with the rights and interests of owners.

**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:

- give renters greater control over their personal information in connection with the residential tenancy process,
- reduce the risk of renters' personal information and privacy being compromised by reducing the amount of information collected and held, limiting the use and disclosure of renters' information, and requiring the information to be securely stored and disposed of,



- protect renters against the risk of discrimination by limiting the collection of irrelevant data about them,
- ensure renters are not unfairly impacted by incorrect information on residential tenancy databases (databases), and
- ensure renters are provided with sufficient information about embedded networks before entering into a tenancy and are alerted to any misleading advertising images.

The Bill will achieve this aim by:

- applying the Australian Privacy Principles to all owners, real estate agents and other third-party providers, such as PropTechs,
- regulating the collection, use, disclosure, storage and disposal of renters' personal information in connection with a residential tenancy,
- ensuring databases respond to a renter's request to confirm and correct information in a timely manner,
- requiring disclosure of embedded networks in advertising and prior to entering an agreement so that renters are informed, and
- requiring disclosure of digitally altered or generated images in rental advertisements that could reasonably mislead or deceive a person.

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

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

- Option 1 - Non-legislative options such as non-binding guidance and directives.
- Option 2 - Implement the Government's election commitments by introducing data protection measures for renters, owners and agents, supported by enforcement measures.

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, non-legislative action such as non-binding guidance, education on risks and promoting voluntary changes to achieve best practice is not preferred.

This approach was trialled through non-binding guidance issued by the Fair Trading Commissioner to the rental sector in March 2023, supported by awareness raising activity.

Option 1 would not achieve the public interest objective of improving the protection of renter information. Under this approach, renters would remain at a higher risk of having their personal information compromised and NSW would not be adhering to its National Cabinet commitments under 'A Better Deal for Renters'. It would be difficult to achieve effective change without regulatory powers to ensure compliance.

Option 2, implement the Government's election commitments and introduce legislative protection measures for renters, owners and agents, supported by enforceable penalties for non-compliance, is the preferred option.

Option 2 addresses the overcollection of renters' personal information and reduces the risk of data becoming compromised. It also enhances transparency in the rental application and advertising process, improves fairness and clarity for renters and reduces misleading practices.

In addition to supporting renter protections, the legislative option benefits owners, agents and PropTech companies by providing certainty and consistency in how personal information is to be managed. By reducing the volume and sensitivity of information collected, the risk to businesses of holding compromised data is lowered. The reforms strike a balance between the rights of renters to privacy and the need for owners and agents to collect relevant information to assess rental applications.

The changes under option 2 will have some regulatory impacts. The introduction of a standard rental application form and prescribed requirements for collecting and handling personal information will affect how agents and PropTechs operate. Forms and processes will need to be updated to align with the new requirements, and PropTechs and tenancy databases will need to update their digital systems. These impacts are considered proportionate, given the strong public interest in protecting renters' personal information and the reduced exposure of businesses to cyber attacks and data breaches.

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

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

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

Before the changes commence, the NSW Government must amend the Residential Tenancies Regulation 2019 to provide supporting details that are required for the reforms to operate. This includes, for example, prescribing the type and quantity of information that can be collected for specific purposes. It is anticipated that these changes will be progressed as a priority in late 2025 and early 2026.

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

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

In 2023, the NSW Government held a public consultation on a number of rental reforms, including protecting renter's personal information. This consultation received around 16,000 survey responses and over 400 written submissions.

NSW Fair Trading conducted extensive consultations to develop the Bill. This process involved convening an expert Industry Reference Group, chaired by the NSW Rental Commissioner and included real estate agents, industry representatives, advocates, academics, and the NSW Privacy Commissioner. Further consultations were carried out with diverse renters in six locations across NSW, as well as dedicated engagements with the Office of the Australian Information Commissioner, the Insurance Council, and relevant government agencies. Additionally, targeted consultation on a draft Bill took place in May 2025.

The views of stakeholders were given close consideration and informed the development of the policy and the drafting of the Bill.