



New South Wales

# Residential Tenancies Amendment (Tenant Protections and Flood Response) Bill 2022

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

This Bill amends the *Residential Tenancies Act 2010* (*the Act*) to provide protections for tenants, including tenants in areas impacted by the 2022 NSW floods.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

## Schedule 1      Amendment of Residential Tenancies Act 2010 No 42

**Schedule 1[1]** restricts rent increases to once every 12 months for all residential tenancy agreements, rather than only for periodic agreements.

**Schedule 1[2]** restricts rent increases to the lesser of the public sector wage increase and the CPI number for Sydney.

**Schedule 1[3]** requires the landlord for a residential premises to ensure the premises is free of mould.

**Schedule 1[4]** requires the landlord for a residential premises to ensure the premises has adequate waterproofing as well as plumbing and drainage.

**Schedule [5]** inserts a definition of *member of the landlord's family*.

**Schedule 1[6] and [7]** remove the concept of no grounds terminations of residential tenancy agreements and specify certain grounds on which a landlord may give a termination notice in relation to fixed term tenancies and periodic agreements. Schedule 1[6] also makes it an offence for a landlord or other person who takes possession of residential premises following a termination to use, or permit the use of, the premises other than for a use that is in accordance with the grounds for termination.

**Schedule 1[8]** provides that the Tribunal must, rather than may, declare that a termination notice has no effect or refuse to make a termination order if satisfied that the termination notice, or the application made by the landlord for a termination notice, was a retaliatory notice or a retaliatory application.

**Schedule 1[9]** provides for the Tribunal to consider any reason the Tribunal considers relevant in satisfying itself that a landlord was wholly or partly motivated to give a retaliatory notice or application.

**Schedule 1[10]** provides that despite a finding by the Tribunal that a termination notice is a retaliatory notice, the Tribunal is not required to make an order declaring that the termination notice has no effect if the landlord establishes that a termination notice was not given in retaliation.

**Schedule 1[11]** prevents a landlord from giving a further termination notice for a fixed term or periodic agreement within 12 months after the Tribunal has made orders that a termination notice is a retaliatory notice and has no effect.

**Schedule 1[12]** inserts proposed Part 13 in response to the 2022 NSW floods. Proposed section 229 specifies the local government areas which comprise the *flood impacted area*, and provides that an *impacted lease* means a residential tenancy agreement for premises located in the flood impacted area. Proposed sections 230 and 231 provide the following protections for impacted leases during the period of 12 months that commences on the day on which the proposed Part commences (the *moratorium period*)—

- (a) an exemption from a provision of the Act that would result in the termination of an impacted tenant's residential tenancy during the moratorium period, except in certain circumstances,
- (b) an exemption from rental increases for impacted leases during the moratorium period,
- (c) certain other restrictions on increases in rent payable for premises located in the flood impacted area.