

**Submission  
No 2**

**RESIDENTIAL TENANCIES AMENDMENT (PROHIBITING NO GROUNDS  
EVICTIONS) BILL 2024**

**Organisation:** Homelessness NSW

**Date Received:** 21 June 2024

## **Inquiry into the Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024.**

*June 2024*

Homelessness NSW welcomes the opportunity to provide comment to the New South Wales Assembly Select Committee inquiry into the *Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024* (the inquiry)

Homelessness NSW is a not-for-profit peak agency that exists to build the capability of people and the capacity of systems to end homelessness. We have a commitment to a future where everyone has a safe home and the support to keep it. Our 200+ members include specialist homelessness services, people with lived experience, allied organisations and services working to end homelessness. We work with our members, people with lived experience and a broad network of partners to understand drivers of homelessness, advocate for solutions, build skills and knowledge, and scale innovation.

Amid a homelessness and housing crisis in NSW, fair rental laws that ensure security and safety for renters are more crucial than ever.

In summary, Homelessness NSW makes the following recommendations to the inquiry:

**Recommendation One:** That the *Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024* remove no grounds terminations.

**Recommendation Two:** That any additional ‘no fault’ grounds for termination under the *Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024* be limited to circumstances of:

- The landlord or immediate family moving in
- Demolition and reconstruction of a property
- Change of Use of a property.

**Recommendation Three:** That the *Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024* remove no grounds terminations remove no fault evictions for both periodic tenancy agreements and in fixed term tenancy agreements

Further detail on each of these recommendations and comments in relation to the inquiry’s terms of reference are provided below.

### **On what grounds should an eviction be reasonable?**

#### *a) Ending no grounds terminations*

Currently, sections 84 and 85 of the *Residential Tenancies Act 2010* allow landlords to seek termination without grounds. Although Australia is a signatory to international agreements

ensuring that evictions do not lead to homelessness<sup>1</sup>, data indicates that the practice of no-grounds terminations significantly contributes to the high rates of homelessness in NSW.

More than 35,000 people in NSW are currently experiencing homelessness<sup>2</sup>, and over 68,000 people seek support from specialist homelessness services annually.<sup>3</sup> Tellingly most of those who are seeking support from specialist homelessness services are at risk of becoming homeless rather than already homeless, and one third of people currently at risk of homelessness are currently residing in the private market.<sup>4</sup>

A “housing crisis” (a synonym for eviction)<sup>5</sup> is the primary reason people seek assistance from specialist homelessness services in NSW, with 40% citing it as their main reason for seeking support.<sup>6</sup>

The issue of unfair evictions leading to homelessness was recently highlighted in the report by the Tenants Union of NSW, “*A Constant Worry: Renters Confront the Impact of Unfair Evictions*”. The report found that 86% of respondents who had experienced a no-grounds eviction struggled to find new accommodation, with many going onto periods of homelessness.<sup>7</sup> The report also found that the risk of homelessness following unfair eviction was vulnerable renters including renters with disabilities, households with children, and aged pensioners.

It is imperative that the NSW Government addresses this issue by eliminating no-grounds terminations and ensuring that evictions only occur for legitimate reasons, supported by adequate notice and evidence requirements. This change is crucial to preventing homelessness and providing stability for renters in NSW.

**Recommendation One:** That the *Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024* remove no grounds terminations.

*b) Additional no fault grounds for termination under the Residential Tenancies Act 2010*

Homelessness NSW notes that the current act provides landlords with a considerable number of grounds on which they can terminate a tenancy.

However, if the NSW Government intends to introduce additional 'no fault' grounds for lease termination, Homelessness NSW supports the Tenants Union of NSW’s submission that the

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<sup>1</sup> International Covenant on Economic, Social and Cultural Rights, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976)

<sup>2</sup> Australian Bureau of Statistics. (2023). Estimating homelessness: Census 2021. Available at <https://www.abs.gov.au/statistics/people/housing/estimating-homelessness-census/2021>

<sup>3</sup> Australian Institute of Health and Welfare. (2023). Specialist homelessness services annual report 2022-23. Available at <https://www.aihw.gov.au/reports/homelessness-services/specialist-homelessness-services-annual-report/contents/about>

<sup>4</sup> AIHW. (2023).

<sup>5</sup> Martin, C., Lawson, J., Milligan, V., Hartley, C., Pawson, H. and Dodson, J. (2023) Towards an Australian Housing and Homelessness Strategy: understanding national approaches in contemporary policy, AHURI Final Report No. 401, Australian Housing and Urban Research Institute Limited, Melbourne, <https://www.ahuri.edu.au/research/final-reports/401>, doi: 10.18408/ahuri7127901

<sup>6</sup> AIHW. (2023).

<sup>7</sup> Tenants’ Union of NSW. (2024). A Constant Worry: Renters Confront the Impact of Unfair Evictions. Available at <https://www.tenants.org.au/reports/constant-worry>

following reasons should be considered valid for ending a tenancy, provided the landlord genuinely no longer intends to lease the property in the private rental market:

1. When the landlord or their immediate family intends to use the property as their principal residence.
2. When the landlord wants to demolish and reconstruct the property.
3. When the landlord wants to substantially change the use of the property (e.g., converting it to a business).

Homelessness NSW also supports the evidentiary requirements for the above reasons as outlined in the Tenants Union of NSW's submission. Additionally, we believe it is essential that appropriate notice provisions be applied to any new 'no fault' grounds to support tenants in locating suitable new rental properties.

**Recommendation Two:** That any additional 'no fault' grounds for termination under the *Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024* be limited to circumstances of:

- The landlord or immediate family moving in
- Demolition and reconstruction of a property
- Change of use of a property.

*c) Ending no grounds termination for both periodic and fixed-term leases*

Currently, renters can receive a no-grounds eviction notice during a periodic tenancy (or rolling tenancy) or at the end of a fixed-term agreement. For a no-grounds eviction, 90 days' notice is provided during a periodic tenancy, while only 30 days' notice is required at the end of a fixed-term lease. Current data reveals that most NSW renters are on a fixed-term agreement (58%). Evictions of renters on fixed-term agreements account for the majority (71%) of no grounds evictions.<sup>8</sup>

Homelessness NSW believes landlords should be required to provide a valid reason for ending the tenancy of renters, whether they are on periodic or fixed-term leases. In Queensland, Tasmania, and Victoria, where landlords can still evict at the end of a fixed-term lease or have exemptions to eviction restrictions, renters continue to face considerable insecurity.

In Queensland and Tasmania, no-grounds evictions were restricted only for periodic leases, while fixed-term agreements retained the ability to be ended without cause. Similarly, Victoria provided an exemption to the removal of no grounds evictions by enabling them at the end of the initial fixed term. Consequently, the Tenants Union of NSW has shown how these limitations have led landlords in these jurisdictions to transition renters onto shorter-term fixed-term leases to exploit these loopholes, thereby continuing housing insecurity for renters.<sup>9</sup>

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<sup>8</sup> Tenants' Union of NSW. (2023). End of tenancy survey. Available at <https://www.tenants.org.au/reports/end-tenancy-survey>

<sup>9</sup> Tenants Union of NSW (2024)

Rather than adopt similar caveats that continue to allow no-grounds evictions, Homelessness NSW recommends that restrictions on no-grounds evictions should apply to both periodic and fixed-term leases. Homelessness NSW also believes it is essential that appropriate notice provisions be applied to support tenants in finding suitable new rental properties, ensuring stability and security for all renters.

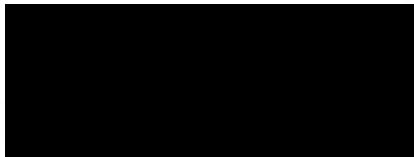
**Recommendation Three:** That the *Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024* remove no grounds terminations remove no fault evictions for both periodic tenancy agreements and in fixed term tenancy agreements

### **Conclusion**

The current provisions in the *Residential Tenancies Act 2010*, which allow landlords to terminate leases without providing a reason, are a significant contributor to the high rates of homelessness in NSW. To mitigate homelessness and enhance housing security, it is imperative that the NSW Government eliminates no-grounds terminations and ensures that evictions are justified and supported by adequate notice and evidence. Implementing these changes is not only crucial for preventing homelessness but also for fostering a more stable and equitable rental market in NSW.

Please contact [REDACTED], Policy and Research Manager, at [REDACTED] should you wish to discuss any element of our submission further.

Yours sincerely,



Dominique Rowe

Chief Executive Officer, Homelessness NSW