

AUSTRALIA, New South Wales

Organisation: Tenants Union of NSW

Rapporteur: Ned Cutcher, Senior Policy

E-mail: ned.cutcher@tenantsunion.org.au

Tenure structure, 2011 Census

Owner occupied housing: 66%

Rental housing:

(i) social rental: 5%

(ii) private rental: 26%

(iii) others: 3%

Australia has no national rent control; tenancy law is administered by the states.

In NSW, the initial rent when a new tenant moves in, is not regulated, and there legally are no limitations on how much rent the landlord can ask for. No motive is necessary.

Two kinds of leases in NSW

A fixed-term agreement is for a specified period (e.g. 6 months).

A periodic agreement is one where the fixed term has expired or no fixed term is specified.

How often can the landlord increase the rent, for sitting tenants?

The landlord can increase the rent once a year in a fixed term contract of greater than 2 years.

There are no limits for contracts outside the fixed term, like for periodic leases.

Rent increases must be presented in writing. The applicable date is at least 60 days hence.

How can a sitting tenant challenge rent increases?

A tenant can apply to the NSW Civil and Administrative Tribunal (NCAT) within 30 days of receiving the notice of increase.

For what reasons can a tenant challenge a new rent?

If the new rent is greater than market rent and other factors (7 of) excluding affordability.

When deciding if a rent increase is excessive, NCAT will consider:

- rents for similar premises in the same or a similar area ('general market level of rents')
- the landlord's outgoings under the tenancy agreement
- any fittings, appliances or other goods, services or facilities provided with the premises
- the state of repair of the premises
- the accommodation and amenities provided in the premises
- when the last increase was
- any work you have done to the premises

There is an application fee of AU\$47, or AU\$5 if the tenants is on statutory minimum wages income

Duration of leases

1. Periodic agreements are indefinite, i.e. after the fixed term.

2. Fixed terms are not usually greater than 99 years.

Most residential tenancies start with a fixed term less than 2 years.

Notice periods

Normally 90 days without grounds (i.e. no reason), or from 14 days for breach of contract.

Security deposit, bonds

4 weeks' rent.

Often landlords claim damage or cleaning costs. In 2014-2015, 53% of bonds were returned entire to tenants, 9% went entirely to landlords and 38% were divided between the parties.

Other information

The Residential Tenancies Act 2010 (NSW) is currently under review.

Rent increases are a feature of discussion from advocacy groups and tenants.