

INFORMATION BROCHURE

The information in this brochure is a summary of the Residential Tenancies Act 1995, it does not replace it.

The *Residential Tenancies Act 1995* requires that a landlord or agent must give the tenant this information brochure at the time that a residential tenancy agreement is entered into.

This brochure sets out the general rights and obligations of landlords and tenants in respect of all residential tenancy agreements in South Australia.

A residential tenancy agreement is formed when a person (landlord/agent) gives another person (tenant), the right to occupy premises in return for payment.

The landlord/tenant relationship...

Landlords and tenants both have rights and obligations when a tenancy agreement is entered into. **Some of these rights and obligations cannot be changed, even if there is a mutual agreement made between the parties.** This brochure outlines the main requirements of both parties, for full details on rights and responsibilities; refer to the *Residential Tenancies Act 1995* (the Act). If you have a query about your rights or responsibilities, contact Consumer and Business Services (CBS) on 131 882.

The landlord/tenant relationship begins when a landlord agrees to rent residential premises to a tenant. "Premises" includes the land and buildings contained on it, and all things provided for use by the tenant. However, a landlord and tenant may agree at the beginning of the tenancy to exclude certain parts of the premises as being for the landlord's use only.

A tenancy agreement can be written, verbal or even implied. It does not need to be in writing to be binding. If parties wish to enter into a written agreement, a copy of a standard lease agreement is available free from CBS, or from www.sa.gov.au/tenancy/privaterentalforms

The landlord must pay any cost associated with the preparation of a written lease. There is to be no cost to the tenant.

The landlord is obliged to...

- inform prospective tenants of any intention to sell the property;
- provide the tenant with a written notice setting out the agent/landlord contact details;
- provide the tenant with a copy of the lease agreement if the landlord has required the tenant to sign a written agreement;
- complete and provide two signed inspection sheets and a copy of this information brochure to the tenant at the commencement of the tenancy;
- provide manuals, or written, or oral instructions for the operation of domestic appliances e.g. air conditioner. Domestic appliances must also be listed in the tenancy agreement;
- allow the tenant to pay rent by at least one means that doesn't involve the payment of cash, or the use of a rent collection agency;
- provide the premises in a clean and reasonable state;
- keep proper rent records and give proper receipts for any money received from the tenant. *If the tenant pays rent into an account that is kept by the landlord or agent at a financial institution and the landlord or agent keeps a written record containing the information normally required on a receipt, a receipt does not have to be given to the tenant;*
- pay charges for water usage and supply as agreed between the landlord and the tenant. In the absence of an agreement if the water supply is separately metered, the tenant is responsible to pay for all water usage and the water supply charge. If there are multiple properties on one meter, a special clause must be included in the lease agreement outlining how water charges are to be determined. *Sewerage charges are always the responsibility of the landlord;*
- pay council rates, land tax charges, sewerage charges and any levies;
- maintain and repair the premises (having regard to their age, character and prospective life);
- allow the tenant peace, comfort and privacy;
- provide and maintain locks to ensure the premises are reasonably secure.

The tenant is obliged to...

- pay the rent on time. *If the tenant receives a Centrelink payment, the landlord may agree for the rent to be paid using Centrepay. (For details on Centrepay contact the nearest Centrelink Office). If rent is paid electronically, it will be taken to be paid on the date the money is received in the landlord's account;*
- keep the premises in a reasonable state of cleanliness;
- pay charges for water usage and supply as agreed between the landlord and the tenant. In the absence of an agreement, if the water supply is separately metered, the tenant is responsible to pay for all water usage and the water supply charge. If there are multiple properties on one meter, a special clause must be included in the lease agreement outlining how water charges are to be determined. *Sewerage charges and any levies are always the responsibility of the landlord;*
- not intentionally or negligently cause or allow damage to be caused to the premises;
- notify the landlord of damage to the premises;
- notify the landlord when repairs are needed;
- not use the premises, or allow them to be used, for any illegal purpose;
- not cause or allow a nuisance or interference with the reasonable peace, comfort and privacy of anyone else living in the immediate vicinity of the premises;
- not fit any fixtures or make any alterations to the premises (including picture hooks, shelves and fences) without the landlord's permission.

Landlord's right of entry to rented premises...

- in an emergency;
- at a time previously arranged with the tenant, but not more often than once every week to collect rent;
- to inspect the premises (not more often than once every four weeks) after giving seven to fourteen days **written notice** specifying the date, purpose of entry and an entry period of up to two hours;
- to carry out garden maintenance at the request of the tenant, or at a time previously arranged with the tenant no more than 7 days before the day of entry, or after giving seven to fourteen days **written notice**;
- to carry out necessary repairs (other than in an emergency) or maintenance (other than garden maintenance) at the request of the tenant or after giving at least 48 hours' notice;
- to show the premises to prospective tenants at the request of the tenant, or after giving reasonable notice to the tenant during the last 28 days of a tenancy;
- at a time agreed by the tenant, or after giving reasonable notice to the tenant to show the premises to prospective purchasers no more than twice weekly;
- to determine whether a breach has been remedied after the landlord has given the tenant notice of a breach of agreement. No less than 7 and no more than 14 days **written notice on a prescribed form** must be given;
- if it is believed on a reasonable ground that the tenant has abandoned the premises;
- for some other genuine purpose after giving seven to fourteen days **written notice** specifying the date, time and purpose of entry, or with the consent of the tenant.

All entries, unless agreed, must take place between normal hours i.e. 8am and 8pm on any day other than a Sunday or public holiday.

At the beginning of a tenancy...

A landlord has the right to choose a suitable tenant. Under the Act, it is illegal to discriminate against tenants with children. **This does not apply if the landlord or agent lives in the premises the tenancy relates to.**

Other laws against discrimination also exist under the Equal Opportunity Act. For information about discrimination laws visit the Equal Opportunity Commission's website at www.eoc.sa.gov.au.

Residential tenancy databases...

A Residential Tenancy Database (RTD) is a commercial database containing information about tenancies, not a database kept by an entity for use of its officers, employees or agents.

A landlord or agent must tell a prospective tenant if they intend to use the services of a RTD to decide whether an agreement should be entered into. They must also tell the prospective tenant if they find that an RTD contains information about them and how the tenant can have the information amended or removed.

A landlord or agent must not list information on an RTD unless the tenant is given at least 14 days to review this information. A listing must be removed after three years.

Types of lease agreements...

There are two types of residential tenancy agreements.

- [1] **Periodic** - an agreement (written, verbal or implied) for an indefinite period until it is lawfully terminated;
- [2] **Fixed term** - a specific start date and end date agreed upon at the beginning of the tenancy (e.g., six or twelve months).

The landlords and tenants rights and obligations under both types of agreements are exactly the same. There are differences, however, in the conditions of **termination**.

A landlord must keep a copy of a written agreement and any variation of the agreement (in paper or electronic form) for two years after the tenancy has ended.

Bond...

For rental properties where the rent payable is \$250 per week and under, the landlord cannot ask for a bond that is more than four weeks' rent. For rent over \$250 per week, a landlord cannot ask for a bond that is more than six weeks' rent. Money received as a bond must be receipted within 48 hours. The receipt must show the date, the person's name, the amount and address of the premises for which the bond has been paid. All bonds (including any part payments) must be lodged with CBS within two weeks (or in the case of registered land agents, four weeks) of receipt. The bond may be lodged together with a bond lodgement form (payment by Direct Debit, or cheque to the Residential Tenancies Fund), or online at www.sa.gov.au/residentialbonds.

A bond may be increased if at least two years have passed since the bond was paid or last increased. Where a bond is increased, the increase must be lodged with CBS within the required time frame.

Housing SA issue bond guarantees to approved tenants; this guarantee is used in the same way as a cash bond and provides the same security for landlords. Bond guarantees do not become valid until they have been lodged with CBS and have received a lodgement number. Housing SA will cancel a bond guarantee if it is not lodged with CBS by the 'lodge by' date shown on the front of the form.

Whether or not a bond is paid, the Act applies to all residential tenancy agreements in South Australia.

Inspection sheets...

At the beginning of the tenancy the landlord is required to provide the tenant with two signed inspection sheets, which must include comprehensive details of fixtures, furniture and other contents in the premises and their condition at the commencement of the tenancy. After both inspection sheets have been completed and signed by the tenant, the tenant must keep one and return the other copy to the landlord. The inspection sheets may be adapted to suit particular premises. Care should be taken when completing these forms, as they may be called upon in the event of a dispute or for repayment of the bond at the end of the tenancy.

***Inspection sheets should be kept throughout the tenancy.
Care should be taken so that they are not lost or destroyed.***

Rent in advance...

Besides paying a bond at the beginning of the tenancy, a tenant can be required to pay the first two weeks' rent. If two weeks' rent is paid at the start of the tenancy, no rent is due until those two weeks have passed. Besides a bond and two weeks' rent, the landlord cannot ask for any other money at the start of the tenancy.

Rent increases...

The landlord may increase the rent under the following circumstances:

- where there is a **fixed term** agreement, the rent cannot be increased during the term, unless the agreement includes a condition that specifically provides for an increase in rent and indicates how any rent increase will be calculated (e.g. in accordance with CPI). If the agreement provides for an increase, the rent can be increased after giving at least sixty days written notice, specifying the amount of the increase and the date on which the increase is to commence. The date fixed for an increase must be at least twelve months after the commencement of the agreement or, at least twelve months since the last increase in rent;
- where there is a **periodic** agreement, the rent can be increased after giving at least sixty days written notice, specifying the amount of the increase and the date on which the increase is to commence. The date fixed for an increase must be at least twelve months after the commencement of the agreement or, at least twelve months since the last increase in rent;
- with an offer of extension or new agreement, provided the rent was not increased in the last twelve months;
- anytime by mutual agreement between the landlord and the tenant.

Where specific rent increases are set out in the lease agreement and the dates on which the increases will occur are clearly defined, 60 days written notice is not required.

Repairs and maintenance...

The tenant must not cause damage to the premises. If damage does occur, the landlord should be notified as soon as possible. If a tenant intentionally or carelessly causes (or allows damage to be caused) to the premises, it is the tenant's responsibility to repair the damage.

If damage or repairs are needed due to normal wear and tear, or in any way that is not the tenant's fault, the landlord should be notified immediately. The landlord is responsible to repair and maintain the premises under these circumstances. If the landlord has not attended to the repair, or if the tenant has not been able to contact the landlord, the tenant may have **emergency** repairs carried out by a licensed tradesperson. If this happens, the tenant must get a written report from the tradesperson.

Termination...

The prescribed forms, which must be used when issuing a notice of termination, are available from CBS and at sa.gov.au/tenancy/privaterentalforms

Periodic tenancy -

- **The tenant** may give 21 days' **written notice** or a period equivalent to a single period of the tenancy, (whichever is the longer), to the landlord at any time. For example, if the rent is paid weekly or fortnightly, the tenant is required to give 21 days' notice. If the rent is paid calendar monthly, the tenant would need to give a calendar month's notice.
- **The landlord** may give **written** notice of termination at any time, as follows:
 - the landlord requires possession of the premises for the landlord's own occupation, or occupation by the landlord's spouse, child or parent, or occupation by the spouse of the landlord's child or parent - 60 days;
 - premises required for demolition - 60 days;
 - where the premises have been sold, to be given any date from the signing of the contract of sale - 60 days;
 - possession of the premises is required for repairs or renovations that cannot be carried out conveniently while the tenant remains in possession of the premises - 60 days;
 - notice where no reason is given - 90 days.

Fixed term tenancy -

- Unless mutually agreed, neither the landlord nor the tenant can terminate a fixed term agreement before the end of the term without being held responsible for costs associated with finding a new tenant. For further information, contact CBS for advice;
- Either the landlord or the tenant may terminate a fixed term agreement at the end of the term after giving at least 28 days **written** notice. If this notice is not given by either party, the agreement will continue as a periodic tenancy;
- At the end of a fixed term tenancy, if 28 days notice is given to a tenant and the tenant has not vacated the premises, the landlord may apply to the South Australian Civil and Administrative Tribunal (SACAT) for an order for possession of the premises.

Termination for breach of agreement...

Both the landlord and the tenant can give a termination notice on the prescribed form to the other for a breach of the conditions of the lease. A breach of an agreement must be remedied within at least seven clear days from the date the notice is given.

If the landlord has served a valid termination notice for breach of contract or rent arrears of more than 14 days and the breach or rent arrears is not rectified within seven days, the tenancy may terminate when the notice expires. If vacant possession is not given by the requested date, the landlord may apply to SACAT for an order of possession. Only a SACAT bailiff can enforce an order for vacant possession.

If a party (*the respondent*) disputes the termination notice, they can apply to SACAT for an order stating that they are not in breach or that the breach has been fixed.

If a notice of termination is served for rent arrears on at least two occasions in a 12 month period, the landlord may make application to SACAT for vacant possession without first serving a third breach notice on the tenant.

Termination for frustrated agreement...

A landlord or tenant may terminate a residential tenancy agreement if the premises or a substantial portion of the premises are uninhabitable, or are no longer able to be used for residential purposes, or have been acquired by compulsory process.

The landlord must provide at least 60 days notice to the tenant and the tenant may provide notice that the agreement will terminate immediately.

Termination by tenant if premises for sale...

The tenant can terminate a tenancy if within two months after the start of the agreement the landlord enters into a contract for the sale of the premises and the landlord did not advise the tenant of the intention to sell before the agreement was entered into.

Termination for undue hardship...

Under the Act, if continuing the tenancy would cause undue hardship to either the landlord or the tenant, an application can be lodged with SACAT for termination of the tenancy. Generally 'undue hardship' does not include financial difficulties.

Refund of bond...

- ***The bond money belongs to the tenant. It is important for the tenant to arrange for the bond to be refunded when the tenancy ends.***
- ***It is important for the tenant to provide their landlord/agent or CBS with their forwarding address so they can be informed of the bond refund process.***

Where parties agree

At the end of the tenancy when the tenant and landlord agree how the bond is to be repaid, the bond can be refunded by lodging a bond refund form or submitting a claim online. If a bond refund form is lodged, it should be completed and signed by both parties (the signatures must be the same as those on the bond lodgement form). The bond can be paid via electronic funds transfer or a cheque may be posted.

Notice of claim

If a bond is **requested by the tenant without the landlord/agent's consent**, the landlord/agent is notified and given an opportunity to dispute it. If the refund is not disputed the bond will be paid to the tenant. If the refund is disputed the landlord/agent will be required to lodge an online application with SACAT.

If a bond is **claimed by the landlord/agent without the tenant's consent**, the tenant is notified and given an opportunity to dispute it. **If the claim is disputed**, the landlord/agent will be required to lodge an online application with SACAT. **If there is no response by the tenant/resident**, the landlord/agent will be required to provide CBS with evidence of their claim and if the claim is not substantiated it may be refused and the landlord/agent will then need to make an application to SACAT. **If the tenant agrees** with the claim the bond will be paid out.

Disputed bonds

A bond dispute will be referred to SACAT who will list the matter for a conciliation conference. If the matter cannot be conciliated, a full hearing may be set down for a later date.

If a dispute arises over how the bond should be refunded, either party can contact CBS on 131 882.

Tenants Information and Advisory Service (TIAS) can provide free and independent advocacy support at SACAT. For more information about their services contact TIAS on 1800 060 462.

Unclaimed money

If a bond has been paid for a property rented in the past and the refund of that bond has not been applied for, that bond may still be held in the Residential Tenancies Fund. After providing details about the tenancy in question (e.g. the exact address, the other party's name, the bond amount and proof of identity), CBS can refund the bond accordingly.

If you believe there is unclaimed money belonging to you held in the Fund, please contact CBS on 131 882.

Subletting and assignment...

A tenant has the right, with the landlord's written approval, to sublet the rental premises, or assign their interest to another party. The landlord cannot unreasonably withhold consent or charge for subletting or assignment, except for reasonable expenses in doing so.

To 'sublet' means that a tenant rents out all or part of the premises to someone else, and in effect becomes the landlord to the subtenant. To 'assign' means to transfer a tenancy to someone else. That does not mean, however, that the original tenant no longer has responsibility for the tenancy. Before subletting or assigning a tenancy, it is advisable to first contact CBS.

Dispute resolution...

Consumer and Business Services' role is to give advice to landlords and tenants and to resolve disputes. A party to a residential tenancy dispute may apply to CBS for conciliation of the dispute. Alternatively, SACAT may, either before or during the hearing of proceedings, appoint a mediator to achieve a negotiated settlement. SACAT may also refer the matter to a conciliation conference or hearing.

If you are a party to a tenancy dispute and require assistance, contact CBS on 131 882.

SACAT hearings...

SACAT is an independent specialist Tribunal that provides a prompt and informal way of determining disputes between landlords and tenants. Both landlords and tenants may apply to SACAT to have disputes determined. There is a cost to apply to SACAT. Members of SACAT conduct hearings with a minimum of formality. Both parties are expected to attend and usually present their own cases. SACAT is located at Level 4, 100 Pirie Street, Adelaide and can be contacted on free call 1800 723 767, or visit sacat.sa.gov.au.

Community Housing Organisations...

Housing co-operatives and housing associations are community managed organisations that provide rental housing for individuals and families on low incomes or with special housing needs.

The tenants of community housing organisations do not own the houses they live in, but rent them from the group. In some cases tenants may also be members of the group from which they are renting. Different rules apply for member tenants and non-member tenants.

Member tenants and non member tenants of community housing organisations are covered by the Act, but there are some sections of the Act where variations exist or which community housing organisations are not required to comply with.

It is possible for community housing organisations to obtain further exemptions from provisions of the Act by making an application to SACAT.

For information about joining a community housing organisation contact:

Renewal SA

Telephone: 1300 700 561. Website: communityhousing.sa.gov.au

If you have difficulty in understanding this pamphlet ring the Translating and Interpreting Service on 131-450. Don't hang up, your call will be answered (Local call cost only).

Amharic / አማርኛ

ይህን መጽሔት ለመረዳት ችግር ካለዎት ፡ ለተርጉም አገልግሎት በቴሌፎን ቁጥር 131-450 ብላጃህ ደውሎ ። ደወለዎት ለሎሊሙላላዎት ፡ ቴሌፎን አትዘገገጥ ። (በውስጥ ጥሪ ዋጋ ብቻ)

Arabic / عربي

إذا كنت تجد صعوبة في فهم هذه النشرة ، إتصل هاتفياً بخدمات الترجمة الكتابية والشفهية (Translating and Interpreting Service) على الرقم 131-450. لا تقفل الخط ، لأنه سوف يتم الرد على مكالماتك (تكاليفه مكالمات محلية فقط)

Chinese / 中文

如果您不能理解本手册，請打電話到翻譯及傳譯服務處 (Translation and Interpreting Service)，電話號碼 131-450。請耐心等待，會有人接您的電話 (按當地電話收費)。

Croatian/Hrvatski

Ako Vam je teško razumijeti ovu brošuru, nazovite Službu tumačenja i prevođenja na 131-450. Nemojte spustiti slušalicu, na vaš poziv će biti odgovoreno (za cijenu mjesnog poziva).

Greek/ Ελληνικά

Αν δυσκολεύεστε να καταλάβετε αυτό το φυλλάδιο τηλεφωνείτε στην Υπηρεσία Μετάφρασης και Διερμηνείας Τηλέφωνο 131 450. Μην κλείσετε το τηλέφωνο, το τη λεφώνη μά σας θα απαντηθεί (Χρέωση για τοπικό κλήση μόνο).

Hazaragi

اگر دانستن این رساله بری تان مشکل، به خدمات ترجمه کتبی و شفاهی به شماره 131 450 زنگ بزنید. تلفون را قطع نکنید، به تلفون شما جواب داده موشه (صرف با هزینه تماس محلی)

Hungarian/Magyar

Ha nem érti ezt a nyomtatványt, mert nem beszél angolul, hívja a Fordító és Tolmács Szolgálatot a 131-450 telefonszámon (helyi hívásnak számít). Kérjük, várjon, amíg hívására valaki válaszol.

Italian/Italiano

Se avete difficoltà a capire questo opuscolo telefonate al Servizio Traduzione e Interpretariato (Translating and Interpreting Service) Tel. 131-450. Non mettete giù il telefono, qualcuno risponderà alla vostra chiamata (il costo è uguale ad una telefonata locale).

Khmer / ខ្មែរ

ប្រសិនបើអ្នក មានការពិបាក ទីងយល់សន្លឹកព័ត៌មាននេះ ចូរហៅទូរស័ព្ទ ទៅកម្មវិធីបំប្លែងប្រែភាសា តាម លេខ 131-450 ។ ចូរកុំដាក់ប្រដាប់ទូរស័ព្ទចុះ គេនឹងឆ្លើយតបទៅការហៅរបស់អ្នក (ការហៅទូរស័ព្ទរបស់អ្នក គិតតាមតម្លៃលោក្នុងតំបន់)។

Persian / فارسی

چنانچه مشکلی در فهم این جزوه دارید لطفا به اداره خدمات مترجمی به شماره 131 450 تلفن فرمائید. گوشی را زمین نگذارید ، جواب تلفن شما داده خواهد شد . (هزینه تلفن محلی)

Consumer and Business Services

For more detailed information and advice about tenancy matters, contact -

Consumer and Business Services

(GPO Box 965, ADELAIDE SA 5001)

Telephone: 131 882

Facsimile: 8204 9570

sa.gov.au/tenancy/renters

Regional offices

11 Helen Street, MT GAMBIER

9 Mackay Street, PORT AUGUSTA

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Bond lodgement facilities are available at Service SA offices located at:

- Berri
- Gawler
- Kadina
- Mount Gambier
- Murray Bridge
- Naracoorte
- Port Augusta
- Port Lincoln
- Port Pirie
- Whyalla

Please note, only cash, cheque or money orders can be taken at these offices.