

Fact Sheet 3: Signing the Tenancy Agreement

As a tenant you have rights under the *Residential Tenancies Act 1987* (the Act). This fact sheet explains the law in Western Australia about signing the tenancy agreement and incorporates the changes made to the Act, which came into effect on 1 July 2013.

What is a Tenancy Agreement?

From 1 July 2013 a standard tenancy agreement (Form 1AA) must be used if there is a written residential tenancy agreement between you and the lessor.

The tenancy agreement is a legal contract between you and the lessor. It gives you the right to live in rental housing in exchange for rent (money).

The tenancy agreement sets out the conditions of your tenancy including things like:

- Whether you can stay in the property for a fixed amount or an open amount of time.
- How much rent you have to pay and how often.
- Who pays the water costs (The lessor must pay the water rates and the tenant pays for the water usage).
- How many people can live in the property. If you are a family of five people then your tenancy agreement will state five people e.g. two adult and three children.

A tenancy agreement can be for a fixed or an open amount of time:

- A **periodic** tenancy is for an indefinite amount of time. There is no definite end date.
- A **fixed term** tenancy is for a definite amount of time. A fixed term tenancy has a start date and an end date.

A tenancy agreement can be written or verbal:

A **written tenancy agreement** must be in the prescribed form (Form 1AA). None of the conditions in the prescribed form can be contracted out of, but additional conditions can be added. Make sure any additional 'verbal' conditions are included in the written agreement.

A **verbal tenancy agreement** can be made but it is best to avoid verbal or partially verbal agreements because they are hard to prove should you ever go to court.

What does the agreement say?

The tenancy agreement is a legally binding contract that sets out the conditions of the tenancy. The agreement guides what happens if either you or the lessor breaks one of the conditions.

There can be serious consequences if either party breaks or breaches the agreement. It is important that you understand and agree with the conditions and obligations that are in the agreement before you sign it.

Read the agreement carefully and get a friend to read and 'witness' (sign) your signature.

How does the *Residential Tenancies Act 1987* relate to my agreement?

The *Residential Tenancies Act 1987* is the law that regulates tenancy agreements.

From July 1 2013 both you and the lessor will **not** be able to 'contract out' of any of the terms and conditions in standard tenancy agreement (Form 1AA). Additional conditions can be added to the standard agreement, but must not conflict with the conditions already in the agreement and/or break the law as set out in the Act.

Not all agreements are covered by the Act. Check with the Department of Commerce on 1300 30 40 54 if you are not sure, especially if you live with the owner or in a shared tenancy. You can also contact your local tenancy advocate for further information.

The Residential Tenancies Act (1987) sets out the rights and responsibilities of you and the lessor and how tenancy agreements may be ended. These rules are not always written into your agreement but they will automatically apply to your tenancy.

What you must know about your tenancy

When you move in you must be given the following by the lessor:

- If it is a written tenancy agreement, a copy of the agreement in the prescribed form (Form

1AA) within 14 days of you moving in and a copy of 'information for tenant' (Form 1AC).

- If it is a verbal tenancy agreement a copy of the information sheet 'Information for the tenant with a non-written residential Tenancy Agreement' (Form 1AD) within 14 days of moving in.
- Two copies of the property condition report (PCR) within 7 days of you moving in.
- A bond lodgment form for you to sign (if you are paying a security bond).

You must be provided with the full name and address of the lessor. If the lessor change address they must provide the tenant with the new address in writing within 14 days.

What are the upfront costs?

You are not required to pay:

- More than two weeks rent in advance
- More than four weeks rent as a security bond (if the rent is less than \$1200 per week)
- More than \$260 for a pet bond (if you are allowed to keep pets on the premises)
- Any other amount.

Make sure you get a receipt for any money you pay. Your receipt should show how much you paid, the date you paid it, and exactly what it was for.

If you have any questions about the topics discussed in this fact sheet please contact your local tenancy advocate or the Department of Commerce on 1300 30 40 54 or go to www.commerce.wa.gov.au

METROPOLITAN: Fremantle Community Legal Centre (Fremantle) (08) 9432 9790 www.fremantle.wa.gov.au | Gosnells Community Legal Centre (Gosnells) (08) 9398 1455 www.gosclc.com.au | MIDLAS (Midland) (08) 9250 2123 www.midlas.org.au | Northern Suburbs Community Legal Centre Inc. Mirrabooka: (08) 9440 1663 Joondalup: (08) 9301 4413 www.nsclegal.org.au | SCALES, Rockingham: (08) 9550 0400 www.law.murdoch.edu.au/scales | Sussex Street Community Law Service Inc. (Victoria Park) (08) 6253 9500 www.sscls.asn.au | Welfare Rights & Advocacy Service (Perth) (08) 9328 1751 www.wraswa.org.au **REGIONAL:** Albany Community Legal Centre Inc. Albany: (08) 9842 8566, Free call: 1800 606 060 www.albanyclc.com.au | Agencies for South West Accommodation (ASWA), Bunbury: 08 9791 1877 www.glcl.com.au | Geraldton Resource Centre, Geraldton 08 9938 0600 www.grc.asn.au | Goldfields Community Legal Centre, Kalgoorlie: (08) 9021 1888 www.glcl.com.au | Kimberley Community Legal Services, Kununurra: (08) 919 3100 Free Call: 1800 686 020 | Peel Community Legal Service Inc. (Mandurah) (08) 9140 1613 www.peelclc.com.au | Pilbara Community Legal Service Karratha: 08 9185 5899 Newman: 08 9177 8708 Roeburne: 08 9182 1169 South Hedland: (08) 9140 1613 | Wheatbelt Community Legal Centre Inc. (Northam) (08) 9622 5200 www.wheatbeltclc.com.au | State wide legal telephone advice line Metro: (08) 9221 0088 Regional: 1800 621 888

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