

Fact Sheet 1:

Residential Tenancy Databases (RTDs)

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

What are Residential Tenancy Databases (RTDs)?

RTDs are used to check the rental history of prospective tenants. A database may list personal information and any breaches of the tenancy agreement as alleged by the lessor.

Are RTDs regulated?

From 1 July 2013 RTDs will be regulated. The regulation of the databases will ensure that tenants are not unfairly excluded from the rental market due to petty or vague listings.

Could I be on a RTD?

1. If you apply to enter into a rental agreement and a lessor discovers that you are listed on the RTD they must, within 7 days, give you written notice:
 - That you have been listed on a database; and
 - The name(s) of the database(s); and
 - The name(s) of the person(s) who entered the listing; and
 - If and how you can try and have a listing amended or removed.
2. A lessor can only list personal information about you on a RTD if:
 - you are the person named as a tenant on the rental agreement; and
 - you have breached the rental agreement; and
 - because of the breach you owe the lessor an amount of money that is more than the security bond or if a court has made an order terminating the rental agreement; and

- the personal information only relates to the breach and is accurate, complete and unambiguous; and
 - the lessor has given you a copy of the personal information; and
 - the lessor has given you at least 14 days to review the personal information and also given you the opportunity to object to its entry on the database or to object about its accuracy, completeness and clarity.
3. A lessor must update or amend a listing if they become aware that the information is incorrect, ambiguous or out of date. Listings must be removed after three years.

What can I do if I am listed on a RTD?

If your name has been listed on a RTD you can:

1. Write to the lessor who you think listed you on a RTD. Ask them if you are listed, who with and why. Keep a copy of the letter and any reply you receive. The lessor must give you a copy of the information within 14 days of you making the request.
2. If you find out you are listed, write to the lessor again, or the database operator (see contact details below). If the information is wrong, or it involves a past problem that has been fixed, explain your case and ask the lessor or the database operator to correct the information. Keep a copy of the letter and any reply you receive. Lessors who subscribe to database companies are able to remove listings from the database as well as amend listings.
3. You can apply to the Magistrates Court for an order to remove a listing if the information held on the database is inaccurate, incomplete, ambiguous, out of date or if the information is unjust in the circumstance.
4. Make a complaint to the Privacy Commissioner.

Contacting RTD companies?

Lessors must let you know, in writing, which databases they usually use for their rental history checks and how to contact the database operator.

The two largest database companies in Australia are TICA (Tenancy Information Centre of Australia) and NTD (National Tenancy Database). There are also many other smaller database companies operating in Australia.

1. **Tenancy Information Centre of Australia (TICA):** You can phone, fax or write to obtain a copy of the personal information TICA has about you on file. Beware that TICA will charge you to access your information. As of 10 June 2013 TICA's charges are:

- Phone request costs \$5.45 per minute (higher from a mobile or pay phone).
- Mail request costs \$19.80 - include a stamped self addressed envelope for return (bank cheque or money order only).
- Fax request charge is \$33 (credit card payment only).

All requests must be accompanied by your name, date of birth and drivers licence number. You can write to TICA at PO Box 120, CONCORD NSW 213 or phone on 190 222 0346 or fax on (02) 9743 4844. For further information go to www.tica.com.au

Note: Under section 82I (4) of the Residential Tenancies Act 1987 a fee charged by either the lessor or database operator for giving personal information must not be excessive and must not apply to lodging a request for information.

2. **National Tenancy Database (NTD):** To obtain a copy of the personal information NTD has about you on file, download a form from www.ntd.net.au. You can print and mail, fax or email your completed form to NTD along with a photocopy of identification (i.e. drivers licence).

NTD will charge a small administration fee for this service of \$15.00 (including GST) to cover immediate processing. If you are prepared to wait up to 10 working days, the information will be returned free of charge. You can write to NTD at GPO Box 13294, George Street, Brisbane QLD 4003 or phone on 1300 563 826

or fax on (07) 3009 0619 or email at info@ntd.net.au

Making a complaint

If you wish to make a complaint to the Privacy Commissioner about RTDs on the grounds that the database listing is a breach of your right to privacy as set out in the Privacy Act, you can write to:

Director of Compliance
Office of the Privacy Commissioner
GPO Box 5218
SYDNEY NSW 2001

A complaint may also be lodged via fax (02) 9284 9666 or email privacy@privacy.gov.au. Complaint forms can be downloaded from www.privacy.gov.au/complaints

When making a complaint, bear in mind that you may have signed a disclosure form which consents to your details being put on a tenancy database.

What if the lessor is threatening to list me on a RTD?

If the lessor is threatening to list you on a RTD to force you to do something that you don't have to do, they may be committing an offence (under section 338A of the Criminal Code).

For example, an lessor may say: "If you don't agree to sign the bond disposal form for all of your bond to be paid to me, I will put you on a database and you will never be able to rent in this state again", even though the tenant had a right for the bond to be refunded (in whole or part).

If the lessor is threatening to put you on a tenancy database, contact the Department of Commerce on 1300 30 40 54 or go to www.commerce.wa.gov.au

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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