

Rent Increases

As a tenant you have rights and responsibilities under the *Residential Tenancies Act 1987* (the Act). This fact sheet explains the law in Western Australia about rent increases and incorporates the changes made to the Act, which came into effect on 1 July 2013. Please note that while changes were made to the Act effective 1 July 2013, some of the old laws may still apply to you. If, for example, you entered into a lease prior to 1 July 2013, the old laws may still be valid. Accordingly we strongly encourage you to get appropriate legal/tenancy advice from your local tenancy service concerning the application of the new laws.

The amount of rent you pay under your tenancy agreement may only be increased according to the process set out in the Act.

In the Residential Tenancies Act the landlord is referred to as the lessor.

There are different rules depending on whether you have:

1. a fixed term lease
2. a periodic lease
3. a lease where your rent is calculated by reference to your income (usually in public housing and community housing).

If you are not sure which type of agreement you have, a tenant advocate can advise you.

FIXED TERM AGREEMENTS

If you are in a **fixed term tenancy** the rent can only be increased during the fixed term if the amount of the increase, or the method of calculating the rent increase, is set out in the tenancy agreement.

If your fixed term tenancy is for longer than 12 months, your agreement may have an additional term relating to subsequent increases. It is important to check your agreement for these clauses.

If your fixed term tenancy is coming to an end and you want to enter into a new agreement for the same property, the lessor does not have to give you 60 days' notice, but the **rent increase cannot take effect for the first 30 days of the new tenancy agreement.**

PERIODIC AGREEMENTS

Rent must not be increased more than once every six months and the lessor must give you 60 days' notice of the rent increase.

Notice must be on the prescribed Form 10: [Notice to Tenant of Rent Increase](#)

WHAT IF YOU ARE NOT GIVEN THE CORRECT NOTICE?

The Act requires that a lessor provides 60 days' notice of a rent increase in a periodic lease, and the notice should be in a Form 10.

If your lessor seeks to increase the rent without complying with these requirements, and you do not agree to pay the increased rent, you should seek advice about your options.

BY HOW MUCH CAN YOUR RENT BE INCREASED?

For the lessor to be able to increase the rent during the term of a fixed term tenancy, the agreement must set out the amount of increase (e.g. \$20 per week) or the method of calculating the amount of the increase (e.g. increase by CPI or a percentage amount).

RENT INCREASE FOR TENANTS WHERE RENT IS CALCULATED BY YOUR INCOME

This usually applies if you are renting from the Department of Housing or a community housing provider.

The method by which your rent is calculated from your income may be changed, leading to an increase in rent. For example, if the lessor currently calculates the rent as 25% of gross income and were to increase the percentage, it would lead to an increase in rent. Recently the rent setting policy for the community sector changed, allowing community housing providers to claim more rent on some types of income. This could lead to increased rents, and the lessor must give you 60 days' notice of the change to the calculation method. The method of calculation may not be changed in the first 6 months of the tenancy or, within 6 months of the last time it was changed.

Notice must be on the prescribed Form 11: [Notice to Tenant of Rent Increase Calculated by Tenant's Income](#).

Your rent may increase (or decrease) at any time in accordance with the tenancy agreement, e.g. if it is 25% of your income, and your income increases, then so will your rent.

This applies to both **periodic** (no fixed end date) and **fixed term** tenancies, if your rent is calculated by reference to your income.

Some community housing providers work out the rent based on the tenant's income, and then provide the tenant with a fixed term lease with a set amount for rent. This is a normal fixed term lease, and is covered by the rules for a fixed term lease, not the rules for a lease with rent set with reference to the tenant's income. If you are in this situation and the lessor seeks to increase the rent, you can seek advice from a tenant advocate.

EXCESSIVE RENT

There are limited circumstances when you may be able to argue that the rent is excessive. These include where there has been a significant reduction in the facilities in the property after you entered into the lease or where rent has been increased excessively.

If you think a rent increase is excessive, you can:

- negotiate with the lessor to lower or withdraw the increase
- apply to the Magistrate's Court for an order that the new rent is excessive (the application must be made within 30 days of receiving the rent increase notice).

In deciding whether rent is excessive, the court will take into account:

- rents for similar premises in the same or a similar area
- the estimated capital value of the premises at the date of the application
- the lessor's outgoings in respect of the premises
- the estimated costs of any services provided by the lessor or tenant under the agreement
- the value and nature of furnishings, fixtures and facilities provided with the premises for use by the tenant

- the accommodation provided in the premises
- the general condition and state of repair of the property
- any other relevant matter.

If you decide to make an application to Court you will need to bring evidence about each of these factors.

A Court will not make a rent reduction order simply where the market has declined and surrounding rents have dropped.

RELEVANT FORMS

[Form 10 Notice to Tenant of Rent Increase](#)

[Form 11 Notice to Tenant of Rent Increase Calculated by Tenant's Income](#)

FURTHER HELP – TENANTS' ADVICE AND ADVOCACY

Tenancy WA provides state wide telephone advice services and referrals.

Metro: (08) 9221 0088 • Country: 1800 621 888 (free call) • www.tenancywa.org.au

Department of Commerce 1300 304 054

METROPOLITAN COMMUNITY LEGAL CENTRES	REGIONAL COMMUNITY LEGAL CENTRES
<p>Fremantle CLC (Western Suburbs) 9432 9790 www.fremantle.wa.gov.au</p> <p>Gosnells CLC (South Eastern Suburbs) 9398 1455 www.gosnellsclc.com.au</p> <p>MIDLAS (Eastern Suburbs) 9250 2123 www.midlas.org.au</p> <p>Northern Suburbs CLC (Northern Suburbs) 9440 1663 www.nscslc.org.au</p> <p>SCALES (South Western Suburbs) 9550 0400 www.law.murdoch.edu.au/scales</p> <p>Sussex Street CLS (South Central Suburbs) 6253 9500 www.sscls.asn.au</p> <p>Welfare Rights & Advocacy Service (North Central Suburbs) 9328 1751 www.wraswa.org.au</p>	<p>Albany CLC (Great Southern) 9842 8566 www.albanyclc.com.au</p> <p>AccordWest (South West) 9729 9000 www.accordwest.com.au</p> <p>Geraldton Resource Centre (Mid-West/Gascoyne) 9938 0600 www.grc.asn.au</p> <p>Goldfields CLC (Goldfields) 9021 1888 www.gclc.com.au</p> <p>Kimberley CLS (Kimberley) 9169 3100</p> <p>Peel CLS (Peel) 9581 4511 www.peelcls.com.au</p> <p>Pilbara CLC (Pilbara) Karratha - 9185 5899 Newman - 9175 0148 Roebourne - 9182 1169 South Hedland - 9140 1613 www.pcls.net.au</p> <p>Wheatbelt CLC (Wheatbelt) 9622 5200 www.wheatbeltclc.com.au</p>

Disclaimer: This fact sheet is intended as general information only and should not be relied on as a substitute for legal advice. You may wish to seek advice from a tenant advocate or lawyer about your particular circumstances. Tenancy WA does not accept responsibility for any consequences, including damage or loss, arising from your use of, or reliance on, the information contained in this publication. Tenancy WA does not accept responsibility for the accuracy of any information obtained from third party website links. © Tenancy WA