



Government of **Western Australia**
Department of **Commerce**

CONSULTATION PAPER

Proposed amendments to the
Residential Tenancies Regulations 1989

Department of Commerce
Consumer Protection Division
March 2012



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1. INTRODUCTION

Progress is underway to draft amendments to the *Residential Tenancies Regulations 1989* (the Regulations). The purpose of this paper is to consult with key stakeholders on the more substantial amendments that are required prior to finalising the drafting instructions.

The need for the amendments arises from the following:

- the statutory review of the *Residential Tenancies Act 1987* (the Act) that made recommendations for amendments to the Regulations;
- new regulations to support the implementation of the *Residential Tenancies Amendment Act 2011*(the Amendment Act); and
- corrections required to the existing Regulations.

Amendments to the Regulations other than those outlined in this discussion paper are proposed. These amendments are more minor or administrative in nature. Stakeholders will be given the opportunity to provide feedback on these amendments once draft amendment regulations have been prepared.

Stakeholder feedback on the issues presented in this paper will assist in developing Regulations that meet the needs of both consumers and lessors and promote a fair and efficient rental marketplace.

Please note that because your feedback forms part of a public consultation process, the Department of Commerce may quote from your comments in future publications. If you prefer your name to remain confidential, please indicate this in your submission. As submissions made in response to this paper will be subject to freedom of information requests please do not include any personal or confidential information that you do not wish to become publicly available.

Submissions should be forwarded no later than COB 17 May 2012.

Please address your submissions to:

The Director, Legislation and Policy, Consumer Protection Division, Department of Commerce, Locked Bag 14, Cloisters Square, Perth, WA 6850 or by email to **responses@commerce.wa.gov.au** noting “Residential tenancy regulations” in the subject line.

2. PRESCRIBED TENANCY AGREEMENT

2.1 What the Amendment Act requires

New section 27A provides for a standard tenancy agreement to be prescribed. Under section 27A:

“A lessor must not enter into a written residential tenancy agreement except in the prescribed form”.

2.2 Policy rationale

Consultation carried out with stakeholders during the statutory review of the *Residential Tenancies Act 1987* demonstrated that problems are experienced by tenants, property managers and lessors throughout the tenancy process regarding the disclosure of information and the understanding of the respective rights and obligations of each party to a tenancy agreement.

One of the primary aims of prescribing a standard tenancy agreement is to protect the rights of lessors and tenants and to inform each about their obligations under the Act. It is expected that a greater understanding by the parties of their respective rights and obligations will result in reduced disputes.

2.3 Other jurisdictions

Prescribed standard tenancy agreements are required under New South Wales and Victorian residential tenancy laws. The agreements follow a similar form in so far as they are divided into three parts as follows:

- the first part contains the details of the parties and description of the premises, along with such matters as the rent to be paid and the term of the agreement;
- the second part contains the standard terms that apply to all residential tenancy agreements as set out in their respective residential tenancies legislation; and
- the third part is for the additional terms agreed to by the parties which cannot contradict any terms of the relevant residential tenancy Act or purport to contract out of rights or obligations set out in that Act. These terms must also comply with the Unfair Contract Terms of the Australian Consumer Law applicable in each jurisdiction.

2.4 Recommended drafting

It is proposed that the prescribed lease agreement will be comprised of three parts as is described in 2.3. The intention is to draft a document using plain language, in a format that is user friendly.

A draft of the proposed agreement as it is likely to appear in the Regulations is at **Attachment A**.

It is also intended to produce a web-based version of the prescribed lease agreement that will be freely available to lessors and tenants from the Department of Commerce's website. The form will be able to be completed on-line and then printed and saved to disk. A mock version of the web based form is included at **Attachment B**.

2.5 Implications for Schedule 2 document

The proposed prescribed lease agreement contains the majority of the same information that is contained in the current information for tenants document (Schedule 2). One of the reasons for moving this information into the prescribed lease document is to ensure that tenants will receive the information when entering into a written residential tenancy agreement and, therefore, removing the need to also provide a tenant with a separate copy of the Schedule 2 document.

Oral agreements however, are still used within the community, in particular, where leases exist between family members or with friends. The standard terms as set out in Division 2 of Part IV of the Act apply to all agreements, including oral agreements. It is important that both lessors and tenants operating under oral agreements are aware of their rights and obligations under the Act. It is intended, therefore, to continue to require the lessor to provide the tenant with a copy of the Schedule 2 document where there is an oral agreement between the parties.

A copy of the proposed updated version of the Schedule 2 document for oral agreements is included at **Attachment C**.

2.6 Feedback sought

Feedback is sought from stakeholders on the content and the order of content of the prescribed tenancy agreement. Furthermore, feedback is sought on whether the Schedule 2 document should continue to be required for all residential tenancy agreements or only for oral agreements.

The following questions may be of assistance in providing feedback. These questions are a guide only and stakeholders are encouraged to provide feedback more broadly if it is appropriate to do so. In particular, examples of preferred agreements may be useful in demonstrating concerns or preferred drafting.

Guidance questions

- a. Does the proposed content of the prescribed agreement address all of the necessary issues for a residential tenancy agreement? If no, what other content needs to be added?
- b. Is any of the proposed content unnecessary or inappropriate?
- c. Is the proposed order of content logical and easy to understand? Should any of the information be represented differently or contained in a different part of the agreement?
- d. Does the proposed drafting meet the policy objective of protecting the rights of lessors and tenants and informing each party about their rights and obligations under the Act?
- e. Is it sufficient, given the proposed content of the prescribed agreement, to only require that a Schedule 2 document to be given to a tenant where there is an oral agreement?

3. PROPERTY CONDITION REPORTS

3.1 What the Amendment Act requires

Under new section 27C(1) of the Act a lessor will have to prepare a property condition report and provide this to the tenant within seven days of the tenant entering into occupation of the premises. New section 27C(4) requires that, as soon as practicable after the conclusion of a tenancy agreement, or at the latest 14 days after the conclusion of the tenancy agreement, the lessor prepare and give to the tenant a final property condition report.

Section 27C(5) of the Amendment Act provides for the Regulations to prescribe the minimum information that must be included in a property condition report.

3.2 Policy rationale

The review of the Act noted that disputes relating to the condition of a property at the end of a tenancy are common. The purpose of requiring that property condition reports be completed at the commencement and conclusion of a tenancy agreement is to reduce the number of disputes of this type and also to assist in resolving disputes that do happen.

To achieve this, the property condition reports need to provide clear, accurate and comprehensive information that can be referred back to in the event of a dispute arising.

It should be noted, however, that the property condition reports do not, by virtue of section 27C of the Act, become the exclusive source of evidence as to the condition of the property. Section 21 of the Act continues to allow magistrates to inform themselves on any matter relating to a dispute in such manner as they think fit.

3.3 Other jurisdictions

In New South Wales, the residential tenancy legislation prescribes the content of the property condition report. In Queensland, the legislation requires that a report in the approved form be used. Other jurisdictions, including Western Australia currently, provide model property condition reports which the lessor and tenant can use as a guide.

The property condition reports utilised in the majority of the jurisdictions are very similar in that, for each item in each room, the lessor or property manager is required to indicate whether the item is:

- working;
- undamaged; and
- clean.

The report also allows for the property manager/lessor and the tenant to each make comment in relation to the listed items.

In addition to these standard provisions, the prescribed property condition report from New South Wales includes a section for the lessor or property manager to note when painting of the interior and exterior walls of the premises was last done, as well as when the flooring was last laid or replaced or when it was last cleaned.

The Department's experience is that a large number of disputes in relation to the disposal of the security bond relate to a difference of opinion as to damage versus fair wear and tear. By having this information in relation to painting and floor coverings readily available to all parties, disputes of this nature could possibly be avoided or, when they do arise, resolved more readily.

3.4 Recommended drafting

It is proposed that the prescribed minimum content for the property condition report be as per the drafting instructions contained in **Attachment D**.

It is also intended to produce a web-based version of the property condition report that will be freely available to lessors and tenants from the Department of Commerce's website. The form will be able to be completed on-line and then printed and saved to disk. However, parties will be free to use any property condition report of their choosing provided that the report contains the prescribed minimum content.

3.5 Feedback sought

Feedback is sought from stakeholders on the proposed minimum content for a property condition report. The following points may be useful in guiding responses:

Guidance questions

- a. Is different information required for the final property condition report as opposed to the ingoing property condition report? For example, should the final property condition report make note of the final meter readings for water, electricity and gas?
- b. Is it necessary to include any statements regarding photographic evidence of the condition of the property as prescribed minimum content? If yes, what information should be included in the statement?

In your feedback on the proposed minimum content for the property condition report, you may wish to provide examples of other property condition reports which may be useful in demonstrating your concerns or preferred drafting.

4. OPTION FEES

4.1 What the Amendment Act requires

Section 27 of the Act places restrictions on the monies that a lessor or property manager may require or receive from a prospective tenant in relation to entering into, renewing, extending or continuing a residential tenancy agreement. Subsection (2) provides that this restriction does not apply to the charging of an option fee.

The Amendment Act amends subsection (2) by prohibiting a lessor or property manager from charging an option fee that exceeds a prescribed amount.

In addition, if an option fee is charged, the Act has been further amended to require that the option fee be returned to unsuccessful applicants within 14 days of refusing their application, either in cash or by electronic transfer of funds.

4.2 Policy rationale

The purpose of the option fee is to ensure that the lessor takes into consideration the applicant's request to enter into a tenancy agreement and to show that applicant is genuine in lodging their rental application. Where a successful applicant for a property decides not to proceed to rent the property, the option fee may be forfeited to the lessor to offset losses suffered by the lessor as a consequence of the applicant's decision.

The review of the Act found that, while option fees provide some level of security for lessors, they are an unnecessary barrier to prospective tenants obtaining accommodation, particularly for low to middle income earners. The requirement to pay an option fee, which by current standards is the equivalent of one week's rent, may limit an applicant's housing choices where they cannot afford to pay more than one option fee at a time. In many instances, even the payment of one week's rent can prevent a person from applying to rent a property. The payment of an option fee does not guarantee an offer of a tenancy agreement. If an applicant is unsuccessful in their application they may be unable to pursue another tenancy application that requires the payment of an option fee until their option fee is refunded.

The amendment in the law to cap option fees is to ensure that any fee charged does not unreasonably exclude a person from making an application to enter into a tenancy agreement, while retaining the ability of lessors to require an option fee from a prospective tenant as a sign of the applicant's genuine interest in leasing the premises.

In noting that part of the role of the option fee is to offset losses suffered by a lessor, it is acknowledged that where a high number of applications are received in respect of an individual property, the potential for the lessor to suffer a loss as a result of an applicant reneging on their application to lease the premises is significantly reduced. It is also acknowledged that the majority of prospective tenants must often lodge a number of applications at a time to improve their chances of being successful for at least one property within a reasonable period of time.

The same cannot be said for more expensive properties where the pool of potential applicants is significantly less and lessors and property managers will receive a much smaller number of applications. In this situation, there is greater potential for the lessor to suffer a loss of rent if a prospective tenant reneges on their application and further applications must be sought. For this reason, consideration has been given to prescribing a different level of option fee that is to be permitted in relation to more expensive properties.

4.3 Other jurisdictions

Victoria and South Australia are the only other jurisdictions that permit an option fee. Neither of these jurisdictions imposes a cap on the amount of option fee that can be charged.

4.4 Recommended drafting

It is proposed that the maximum amount for an option fee be set at \$50 except in the following circumstance:

- where the weekly rent of the premises is \$1200 per week or more; and
- where the property is located below the 26th parallel.

For these rental properties, it is proposed that the maximum option fee be set at the equivalent of one week's rent for the premises.

The amount of \$1200 per week has been used as this is consistent with the weekly rent threshold beyond which a higher security bond can be required.

The rationale for limiting the higher option fee to premises below the 26th parallel is to exclude the properties in the north-west mining towns where the average weekly rent is much higher than other parts of the State.

4.5 Feedback sought

Feedback is sought from stakeholders on the proposed maximum amount of option fees. The following questions may be of assistance in providing feedback.

Guidance questions

- a)** Does the amount of \$50 for an option fee represent a fair balance between the needs of lessors and property managers to be assured of the genuine intent of the prospective tenant, and the needs of prospective tenants to apply for a number of properties and not excluding low to middle income earners from the rental market?
- b)** If \$50 is not appropriate, what is a more appropriate amount and on what basis?
- b)** Is it appropriate for a higher option fee to be charged in relation to more expensive premises?
- c)** Is it appropriate for properties above the 26th parallel to be excluded from the higher option fee proposal?
- d)** Are there any other regions that should be excluded from the higher option fee proposal?

5. MINIMUM LEVELS OF SECURITY

5.1 What the Amendment Act requires

Section 45 of the Act currently requires a lessor to provide and maintain such locks or other devices to ensure that the premises are reasonably secure.

The law has been amended to now require that the lessor provide and maintain such means of security as are prescribed.

5.2 Policy rationale

The review of the Act acknowledged that security is a significant concern for both lessors and tenants. Insurance companies increasingly require minimum levels of security in properties as a prerequisite to providing home contents insurance. It is reasonable, therefore, for a tenant to expect that a property has a level of security sufficient to enable them to obtain insurance for their belongings. The rationale for prescribing the minimum level of security to be maintained at a premise is to overcome the disputes that frequently arise as a result of differing opinions as to what constitutes “reasonably secure”.

5.3 Other jurisdictions

The Department of Commerce, in its publication *Renting a Home in WA*, explains that what is “reasonably secure” as is required under current law will vary from property to property and will depend upon such factors as the age, nature and location of the premises, as well as the number of break-ins and other crimes in the area. It is suggested in the publication that as a minimum, all properties should have normal locks to all external doors and that all windows should be capable of being secured by catches on the inside.

No other jurisdiction prescribes the minimum level of security to be maintained, therefore there is no similar provision against which to benchmark.

The Insurance Council of Australia, the Western Australian Office of Crime Prevention and the RAC provide useful guidance on this topic, in so far as they offer recommended security options. However, it is noted that these suggestions are based on an “ideal” scenario. No source offers guidance as to what should be the minimum security maintained at a residential premise.

5.4 Recommended drafting

It is acknowledged that the task of prescribing what a “reasonable level of security” is could be contentious as there will be a broad range of views as to what is “reasonable” as well as a broad range of property types that will pose different levels of risk to security.

Advice from the Western Australian Office of Crime Prevention and other similar sources provides a useful basis to develop some suggestions as to what might be reasonable. The issue of the broad range of property types is

somewhat addressed by the increasing range of products available in the marketplace to make homes secure.

The following list has been developed as a starting point for discussion. Stakeholders' views will greatly assist in developing a list of security requirements that balances the needs of tenants and landlords.

EXTERNAL DOORS

- external doors to be of solid construction and fitted inside a solid door jam;
- external solid doors to be fitted with a double locking cylinder deadlock compliant with the relevant Australian Standard; and
- external sliding glass doors to be fitted with a patio bolt lock.

PEEP HOLE/VIEWING PANEL, OR SECURITY SCREEN DOOR

- front door to be fitted with a peep hole, viewing panel or security screen door to allow for the safe identification of persons knocking at the front door.

WINDOWS

- window key lock sets that comply with the relevant Australian Standard be fitted on all external windows.

LIGHTING

- Sensor security lighting to be installed at the main entry to the premises.

It is acknowledged that there is a wide variety of accommodation types in Western Australia and that as a consequence, it may be appropriate to make the above requirements applicable to free standing dwellings and to have a smaller sub-set of the security requirements applicable to multi-storey accommodation, where the accommodation is above the ground floor and where the balcony is not independently accessible.

5.5 Feedback sought

Feedback is sought from stakeholders on the suggested minimum levels of security. The questions on the following page may be of assistance in providing feedback.

Guidance questions

- a.** Do the listed security requirements a) go too far or b) not far enough? If a) what are appropriate security measures?
- b.** Are other measures required, or do some of the above provisions need to be removed from the list?
- c.** Is it applicable to have different security measures prescribed for certain premises, such as apartments? If yes, what should the minimum security be and what type of premises should this apply to?
- d.** Is a transition period needed for lessors to meet minimum prescribed security requirements? If so, what is an appropriate transition period?

6. URGENT REPAIRS

6.1 What the Amendment Act requires

Under new section 43 the carrying out of urgent repairs requires that:

- the tenant notify the lessor as soon as practicable of the need for an urgent repair; and
- the lessor ensure the repairs are carried out by a suitable repairer as soon as practicable after being notified by the tenant.

Section 43(3) provides that if, within the prescribed period, the tenant cannot contact the lessor or, the lessor fails to make the necessary arrangements for the repairs to be carried out as soon as practicable:

- the tenant may arrange for the repairs to be carried out; and
- the lessor must reimburse the tenant for any reasonable costs incurred.

The prescribed period is defined as:

- for a prescribed essential service, 24 hours; and
- for any other urgent repair, 48 hours.

The purpose of this Regulation is, therefore, to prescribe the list of essential services for which repairs must be actioned within 24 hours of receiving notification from the tenant.

6.2 Policy rationale

Currently, section 43 of the Act provides for a lessor to compensate a tenant, under certain circumstances, for any reasonable expense incurred by the tenant in carrying out urgent repairs to the property. While existing Schedule 2 of the Regulations provides some guidance as to what is considered to be a matter requiring urgent repair, there is still some confusion and considerable dispute about whether a repair is urgent.

6.3 Other jurisdictions

As stated above, the current Schedule 2 "*Information for Tenant*" contains a list of examples of incidences requiring work that may be considered as 'urgent repairs'. These include:

- a burst water service;
- a broken hot water service;
- a sewerage blockage;
- broken sewerage fittings;
- a serious roof leak;
- a gas leak;

- an electrical fault likely to cause damage to property or to endanger human life;
- flooding;
- a fault in a lift in the rented premises;
- substantial damage caused by flooding, storm or fire; and
- a broken refrigerator or washing machine where these are included in the tenancy.

In the ACT, urgent repairs are defined as

- a burst water service;
- a blocked or broken lavatory system;
- a serious roof leak;
- a gas leak;
- a dangerous electrical fault;
- flooding or serious flood damage;
- serious storm or fire damage;
- a failure of gas, electricity or water supply to the premises;
- the failure of a refrigerator supplied with the premises;
- a failure or breakdown of any service on the premises essential for hot water, cooking, heating or laundering;
- a fault or damage that causes the residential premises to be unsafe or insecure;
- a fault or damage likely to cause injury to person or property; and
- a serious fault in any door, staircase, lift or other common area that inhibits or unduly inconveniences the tenant in gaining access to and use of the premises.

The law in the Northern Territory, Victoria and Queensland is almost identical to the ACT.

In Tasmania, an essential service is defined as:

- water, sewerage, electricity or heating supplied to or within the premises, excluding electrical fuses, light globes, tubes or tap washers;
- a cooking stove or hot-water service installed within the premises, excluding any electrical fuses or tap washers; and

- removal of grey water from premises, including ensuring the effective functioning of any on-site water-treatment facility, but not including pipes, plumbing or other water-disposal or sewage-disposal facilities owned by a council.

6.4 Recommended drafting

Based on the current examples provided in the Schedule 2 document and the prescribed essential services in the bulk of the other jurisdictions, the following is proposed as the prescribed list of essential services:

- a burst water service;
- a blocked or broken lavatory system and/or blocked sewerage;
- a serious roof leak;
- a gas leak;
- a dangerous electrical fault;
- flooding or serious flood damage;
- serious storm, impact or fire damage;
- a failure of gas, electricity or water supply to the premises that is not as a direct result of a fault that is the responsibility of the utility provider;
- the failure of a refrigerator supplied with the premises;
- a failure or breakdown of any service on the premises essential for hot water, cooking, or laundering;
- a fault or damage that causes the residential premises to be unsafe or insecure;
- a fault or damage likely to cause injury to person or property; and
- a serious fault in any door, staircase, lift or other common area that inhibits or unduly inconveniences the tenant in gaining access to and use of the premises.

6.5 Feedback sought

Stakeholders are asked to consider whether the above list is adequate and appropriate for tenancy conditions in Western Australia. Stakeholders are asked to consider whether any items should be deleted from the above list or whether any items should be added to the above list.

Prescribed residential tenancy agreement

PART A

This agreement is made between

Lessor [Insert name of lessor (s) and contact details] and

Tenant [Insert name of tenant (s) and contact details]

Lessor's agent details [Insert name of lessor's agent (if any) and contact details]

On xx/xx/20 and is subject to the *Residential Tenancies Act 1987* and the *Residential Tenancies Regulations 1989*. Both the lessor and the tenant must comply with these laws.

Term of agreement (strike out one)

- 1 This residential tenancy agreement is periodic starting on xx/xx/20;
- 2 This residential tenancy agreement is fixed starting on xx/xx/20 and ending on xx/xx/20

Residential premises

The residential premises are [Insert address] and

Include/exclude (cross out whichever is not applicable):

[Include any additional matters, such as a parking space or furniture provided, or any exclusions, such as sheds]

Rent

The rent is \$(xx) per week payable in advance starting on (xx/xx/20).

The method by which the rent must be paid:

- (a) to (name) at (address) by cash or cheque, or
- (b) into the following account, or any other account nominated by the lessor:
BSB number:
account number:
account name:
payment reference:, or
- (c) as follows:

Security bond

A security bond of \$(xx) and a pet bond of \$(xx) must be paid by the tenant on signing this agreement.

Maximum number of occupants

No more than (xx) persons may ordinarily live in the premises at any one time.

Rent Increase

In the case of a periodic tenancy (1 above) any notice of rent increase will be no sooner than 6 months and after 60 days notice.

In the case of a fixed term (2 above) the rent increase will be \$(xx) and take effect from xx/xx/20 (but no sooner than 6 months after the commencement of this agreement).

Prescribed residential tenancy agreement

Water services

Is scheme water connected to the premises? Yes No

If no, the annual average cost of potable water for the premises has been \$ (xx)

Water usage costs (scheme water)

The tenant is required to pay (xx)% of water consumption costs

Electricity, Gas and other utilities (strike out one)

1. The premises ARE separately metered to measure utility consumption and the tenant must pay the utility supplier for all connection and consumption costs.
2. The premises are NOT separately metered to measure utilities consumption. The tenant must pay the consumption costs which will be calculated as follows:
Electricity
Gas
Water

Strata by-laws

Strata by-laws ARE/ARE NOT applicable to the residential premises. A copy of the by laws are attached. Yes /No

Pets

The pets listed below can be kept at the premises.

Assignment or sub-letting

The tenant can only sublet the premises with the written permission of the lessor.

Property Condition reports

A report detailing the condition of the premises must be completed by or on behalf of the lessor within 7 days of the tenant moving into the premises. If the tenant disagrees with any information contained in the report, the tenant must note their disagreement on a copy of the report and return this to the lessor or property manager within 7 days.

A final property condition report must be completed by or on behalf of the lessor and provided to the tenant within 14 days of the tenant vacating the premises. The tenant must be given a reasonable opportunity to be present at the final inspection.

PART B

STANDARD TERMS APPLICABLE TO ALL RESIDENTIAL TENANCY AGREEMENTS

The *Residential Tenancies Act 1987* and the *Residential Tenancies Regulation 1989* apply to this agreement. Both the lessor and the tenant must comply with these laws. These rights and obligations are outlined below.

Prescribed residential tenancy agreement

RIGHT TO OCCUPY THE PREMISES

The tenant has the right to occupation and quiet enjoyment of the residential premises during the tenancy. The residential premises include the additional things but do not include the exclusions noted under “Residential premises” in part A.

COPY OF AGREEMENT

The Lessor or the Property Manager must give the tenant:

- a copy of this agreement when this agreement is signed by the tenant; and
- a copy of this agreement signed by both the lessor or the property manager and the tenant within 14 days

RENT

The tenant must pay rent on time or the lessor may issue a notice of termination and, if the rent is still not paid in full, the lessor may take action through the courts to evict the tenant.

The lessor or property manager must not:

- require the tenant to pay more than 2 weeks rent in advance;
- require the tenant to pay rent by post-dated cheque; and
- use rent paid by the tenant for the purpose of any amount payable by the tenant other than rent; and
- require the tenant to pay any monetary amount other than rent, security bond and pet bond.

The lessor or property manager must give a rent receipt to the tenant within 3 days of the rent being paid unless the rent is paid into an authorised bank or credit union account nominated by the lessor.

PAYMENT OF COUNCIL RATES, LAND TAX, WATER AND OTHER CHARGES

The lessor shall pay all rates, taxes or charges imposed in respect of the premises under the *Local Government Act 1995*, the *Land Tax Act 2002* or any written law under which a rate, tax or charge is imposed for water supply or sewerage services under the *Water Agencies (Powers) Act 1984*, other than a charge for water consumed; and any contribution levied on a proprietor under the *Strata Titles Act 1985*.

PUBLIC UTILITY SERVICES

Public Utility Services has the meaning given in the *Land Administration Act 1997* and refers to services such as gas, electricity and water.

Prescribed residential tenancy agreement

The tenant must pay a charge in relation to a public utility service provided to the premises only if:

- the charge is calculated by reference to the tenant's consumption at the residential premises; and
- the tenant is given notice in writing of the charge in relation to the public utility service, specifying the relevant meter reading, or readings, and the charge per metered unit; or
- if consumption at the premises is not metered and the lessor and tenant have agreed in writing to an alternative method of calculating the charge to be paid by the tenant — the charge calculated in accordance with the agreed method; and
- the tenant is provided with full details of the account for the charge including any meter readings and the charge per metered unit; or
- the agreed method of calculating the charge, and the amount of GST payable in respect of the provision of the public utility service to the residential premises.

POSSESSION OF THE PREMISES

The lessor must:

- give the tenant vacant possession of the premises on the day on which the tenant is entitled to enter into occupation of the premises under the agreement; and
- take all reasonable steps to ensure that, at the time of signing this agreement, there is no legal reason why the tenant cannot occupy the premises as a residence for the term of this agreement.

TENANT'S RIGHT TO QUIET ENJOYMENT

The tenant is entitled to quiet enjoyment of the premises without interruption by the lessor or any person claiming by, through or under the lessor or having superior title to that of the lessor.

The lessor or the property manager will not interfere with, or cause or permit any interference with, the reasonable peace, comfort or privacy of the tenant in the use of the premises. The lessor or the property manager must also take all reasonable steps to ensure that the lessor's other neighbouring tenant's do not interfere with the reasonable peace, comfort or privacy of the tenant in the use of the premises.

USE OF THE PREMISES BY TENANT

The tenant must:

- not use or allow the premises to be used for any illegal purpose;
- not cause or permit a nuisance;

Prescribed residential tenancy agreement

- not allow interference, with the reasonable peace, comfort or privacy of any person who resides in the immediate vicinity of the premises if the agreement is a social housing agreement;
- not allow any damage to the residential premises and advise the lessor or property manager as soon as practicable if any damage occurs;
- keep the premises in a reasonable state of cleanliness; and
- not allow anyone who is lawfully at the premises to breach the terms of this agreement.

LESSOR'S GENERAL OBLIGATIONS FOR RESIDENTIAL PREMISES

In this section, *premises* include fixtures and chattels provided with the premises, but does not include:

- any fixture or chattel disclosed by the lessor to the tenant as not functioning before the agreement was entered into; or
- any other fixture or chattel that the tenant could not reasonably have expected to be functioning at the time the agreement was entered into.

The lessor must:

- provide vacant possession of the premises and in a reasonable state of cleanliness and repair;
- maintain and repair the premises in a timely manner; and
- comply with all laws affecting the premises including building, health and safety laws.

URGENT REPAIRS

Urgent repairs are defined by the *Residential Tenancies Act 1987* and fall into two categories. Essential services are repairs to faults such as a burst water service, blocked toilets, gas leaks or dangerous electrical faults. Arrangements for a suitable repairer to fix these essential services must be made within 24 hours. Other urgent repairs, such as those that might cause further damage to the premises or injure a person must be arranged within 48 hours.

In every tenancy:

- the tenant is to notify the lessor or the property manager of the need for urgent repairs as soon as practicable;
- the lessor is to ensure that the repairs are carried out by a suitable repairer as soon as practicable after that notification;
- if, within the time for urgent repairs, the tenant is unable to contact the lessor or property manager, or, having notified the lessor or property manager of the need for the repair, the lessor fails to ensure that the repairs are carried out by a suitable repairer as soon as practicable after that notification, the tenant may

Prescribed residential tenancy agreement

arrange for the repairs to be carried out by a suitable repairer to the minimum extent necessary to effect those repairs; and

- the lessor must, as soon as practicable after the repairs are carried out, reimburse the tenant for any reasonable expense incurred by the tenant in arranging for those repairs to be carried out and paying for those repairs.

LESSOR'S ACCESS TO THE PREMISES

The lessor or property manager can only enter the premises in the following circumstances:

- in any case of emergency;
- to conduct up to 4 routine inspections in a 12 month period after giving 7 days written notice;
- where the agreement allows the rent to be collected at the premises;
- to inspect and secure the premises if there are reasonable grounds to believe that the premises has been abandoned and the tenant has not responded to a notice from the lessor;
- carrying out or inspecting necessary repairs to or maintenance of the premises, at any reasonable time, after giving the tenant not less than 72 hours notice in writing before the proposed entry;
- showing the premises to prospective tenants, at any reasonable time and on a reasonable number of occasions during the period of 21 days preceding the termination of the agreement, after giving the tenant reasonable notice in writing;
- showing the premises to prospective purchasers, at any reasonable time and on a reasonable number of occasions, after giving the tenant reasonable notice in writing; or
- if the tenant agrees at, or immediately before, the time of entry.

There are directions within the Act which guide tenants, lessors and property managers on appropriate behaviour about gaining or granting access to the premises. The following summary may assist.

Requirement to negotiate a day and time for a proposed entry by the lessor

The lessor or property manager must make a reasonable attempt to negotiate a day and time that does not unduly inconvenience the tenant.

Requirement to notify if proposed entry is before or after 12 noon

Where a lessor or property manager gives a tenant notice of an intention to enter premises on a particular day, the notice must specify the day and whether it will be before or after 12.00 p.m.

Tenant entitled to be present

The tenant is entitled to be on the premises during the entry by the lessor, the property manager or any other agent acting on behalf of the lessor.

Prescribed residential tenancy agreement

Entry must be reasonable and no longer than necessary

The lessor or property manager exercising a right of entry—

- (a) must do so in a reasonable manner; and
- (b) must not, without the tenant's consent, stay or permit others to stay on the premises longer than is necessary to achieve the purpose of the entry.

Lessor's obligation to compensate tenant if damage to tenant's goods

If the lessor or property manager, (or any person accompanying the lessor or property manager), causes damage to the tenant's goods when exercising a right of entry, the lessor is obliged to compensate the tenant.

ALTERATIONS AND ADDITIONS TO THE PREMISES

In every tenancy, if a tenant wants to make an alteration or addition or affix a fixture to the premises, then:

- the tenant must obtain written permission from the lessor prior to affixing any fixture or making any renovation, alteration or addition to the premises;
- obtain written permission from the lessor to remove any fixture attached by the tenant and make good any damage;
- notify the lessor of any damage caused by removing any fixture; and
- the lessor must not unreasonably refuse permission for the installation of a fixture by the tenant or to a minor alteration, addition or renovation by the tenant.

If the lessor wants to make an alteration or addition or affix a fixture to the premises, then:

- the lessor must obtain the tenant's permission prior to affixing any fixture or making any renovation, alteration or addition to the premises; and
- the tenant must not unreasonably refuse permission for the lessor to affix any fixture or make any renovation, alteration or addition to the residential premises.

LOCKS AND SECURITY DEVICES

The prescribed means of securing the premises are defined in the *Residential Tenancies Regulations 1989*. In every tenancy:

- the security at the premises must be provided and maintained by the lessor so they (the premises) are reasonably secure as prescribed in the regulations; and
- any lock or security device at the premises must not be altered, removed or added by a lessor or tenant without the consent of the other; and
- the lessor or the tenant must not unreasonably withhold that consent.

TRANSFER OF TENANCY OR SUB-LETTING BY TENANT

In every tenancy:

- the tenant cannot sub-let the premises without the written consent of the lessor;
- the lessor shall not unreasonably withhold such consent; and

Prescribed residential tenancy agreement

- the lessor shall not make any charge for giving such consent other than the lessor’s reasonable expenses.

CONTRACTING OUT

It is an offence to contract out of any provision of the *Residential Tenancies Act 1987*.

ENDING THE LEASE

This residential tenancy agreement can only be terminated in certain circumstances. For more information, refer to the *Residential Tenancies Act 1987* or contact the Department of Commerce on 1300 30 40 54 or www.commerce.wa.gov.au/ConsumerProtection .

SECURITY BOND

The security bond is held by the Bond Administrator. The lessor agrees that where the lessor or the property manager applies to the Bond Administrator for the release of the security bond at the end of the tenancy, then the lessor or the property manager will provide the tenant with evidence to support the amount claimed.

PART C ADDITIONAL TERMS

<p>IMPORTANT INFORMATION</p> <p>Additional terms may be included in this agreement if:</p> <p>(a) both the lessor and tenant agree to the terms, and</p> <p>(b) they do not conflict with the <i>Residential Tenancies Act 1987</i>, the <i>Residential Tenancies Regulations 1989</i>, or any other law, and</p> <p>(c) they comply with the unfair contract terms of the <i>Fair Trading Act 2010</i>, and</p> <p>(d) they do not conflict with the standard terms of this agreement.</p> <p>ANY ADDITIONAL TERMS ARE NOT REQUIRED BY LAW AND ARE NEGOTIABLE. HOWEVER, ONCE THE PARTIES SIGN THIS AGREEMENT, THE ADDITIONAL TERMS ARE BINDING UPON THE PARTIES UNLESS THE TERM IS FOUND TO BE UNLAWFUL.</p>

ADDITIONAL TERMS

.....

THE LESSOR AND TENANT ENTER INTO THIS AGREEMENT AND AGREE TO ALL ITS TERMS.

SIGNED BY THE LESSOR/PROPERTY MANAGER

in the presence of [Name of witness]

[Signature of lessor]:

Prescribed residential tenancy agreement

[Signature of witness]:

SIGNED BY THE TENANT

in the presence of [Name of witness]

[Signature of tenant]:

[Signature of witness]:

For information about your rights and obligations as a lessor or tenant, contact the
Department of Commerce on 1300 30 40 54 or
www.commerce.wa.gov.au/ConsumerProtection .

Residential tenancy agreement

Government of **Western Australia**
Department of **Commerce**

Lessor Name (1):

Lessor Name (2):

Address for services of notices (can be an agent's address):

Telephone number (of lessor or agent):

Tenant's Name (1):

Tenant's Name (2):

Tenant's Name (3):

Add all other tenants here:

Address for services of notices (if different to address of premises):

Telephone number/s:

Email address (not to be used for service of notices)

Lessor's agent:

Telephone number/s:

Term of agreement:

The term of this agreement is

 This will be a drop down menu for either fixed or periodic.

starting on

and ending on

Residential premises:

(a) location

(b) inclusions

(c) exclusions

Insert inclusions, for example a common parking space or furniture provided, or any exclusions, such as sheds. Attach a separate list if necessary.

Rent:

a week payable in advance starting on

The method by which the rent must be paid:

(a) to at

by cash or cheque, or

(b) into the following account, or any other account nominated by the lessor:

BSB number:

account number account name:

payment reference: , or

(c) as follows:

Security bond

A security bond of \$_____ and a pet bond of \$_____ must be paid by the tenant on signing this agreement.

Maximum number of occupants

No more than _____ persons may ordinarily live in the premises at any one time.

Rent Increase

In the case of a periodic tenancy (1 above) any notice of rent increase will be no sooner than 6 months and after 60 days notice.

In the case of a fixed term (2 above) the rent increase will be \$___ and take effect from // 2012 (but no sooner than 6 months after the commencement of this agreement).

Water services

Is scheme water connected to the premises? Yes No

If no, average cost per annum of potable water for the premises has been \$

Water usage costs (scheme water)

The tenant is required to pay _____% of water consumption costs

Electricity, Gas and other utilities (strike out one)

1 The premises ARE separately metered to measure utility consumption and the tenant must pay the utility supplier for all connection and consumption costs.

2 The premises are NOT separately metered to measure utilities consumption. The tenant must pay the consumption costs which will be calculated as follows:

Electricity	<input type="text"/>
Gas	<input type="text"/>
Water	<input type="text"/>

Strata by-laws

Strata by-laws ARE/ARE NOT applicable to the residential premises. A copy of the by laws are attached. Yes /No

Pets

The pets listed below can be kept at the premises.

Assignment or sub-letting

The tenant can only sublet the premises with the written permission of the lessor.

Property condition reports

A report detailing the condition of the premises must be completed by or on behalf of the lessor within 7 days of the tenant moving into the premises. If the tenant disagrees with any information contained in the report, the tenant must note their disagreement on a copy of the report and return this to the lessor or property manager within 7 days.

A final property condition report must be completed by or on behalf of the lessor and provided to the tenant within 14 days of the tenant vacating the premises. The tenant must be given a reasonable opportunity to be present at the final inspection.

PART B STANDARD TERMS APPLICABLE TO ALL RESIDENTIAL TENANCY AGREEMENTS

The *Residential Tenancies Act 1987* and the *Residential Tenancies Regulation 1989* apply to this agreement. Both the lessor and the tenant must comply with these laws. These rights and obligations are outlined below.

RIGHT TO OCCUPY THE PREMISES

The tenant has the right to occupation and quiet enjoyment of the residential premises during the tenancy. The residential premises include the additional things but do not include the exclusions noted under “Residential premises” in part A.

COPY OF AGREEMENT

The Lessor or the Property Manager must give the tenant:

- a copy of this agreement when this agreement is signed by the tenant; and
- a copy of this agreement signed by both the lessor or the property manager and the tenant within 14 days.

RENT

The tenant must pay rent on time or the lessor may issue a notice of termination and, if the rent is still not paid in full, the lessor may take action through the courts to evict the tenant.

The lessor or property manager must not:

- require the tenant to pay more than 2 weeks rent in advance;
- require the tenant to pay rent by post-dated cheque; and
- use rent paid by the tenant for the purpose of any amount payable by the tenant other than rent; and
- require the tenant to pay any monetary amount other than rent, security bond and pet bond.

The lessor or property manager must give a rent receipt to the tenant within 3 days of the rent being paid unless the rent is paid into an authorised bank or credit union account nominated by the lessor.

PAYMENT OF COUNCIL RATES, LAND TAX, WATER AND OTHER CHARGES

The lessor shall pay all rates, taxes or charges imposed in respect of the premises under the *Local Government Act 1995*, the *Land Tax Act 2002* or any written law under which a rate, tax or charge is imposed for water supply or sewerage services under the *Water Agencies (Powers) Act 1984*, other than a charge for water consumed; and any contribution levied on a proprietor under the *Strata Titles Act 1985*.

PUBLIC UTILITY SERVICES

Public Utility Services has the meaning given in the *Land Administration Act 1997* and refers to services such as gas, electricity and water.

The tenant must pay a charge in relation to a public utility service provided to the premises only if:

- the charge is calculated by reference to the tenant's consumption at the residential premises; and
- the tenant is given notice in writing of the charge in relation to the public utility service, specifying the relevant meter reading, or readings, and the charge per metered unit; or
- if consumption at the premises is not metered and the lessor and tenant have agreed in writing to an alternative method of calculating the charge to be paid by the tenant — the charge calculated in accordance with the agreed method; and
- the tenant is provided with full details of the account for the charge including any meter readings and the charge per metered unit; or
- the agreed method of calculating the charge, and the amount of GST payable in respect of the provision of the public utility service to the residential premises.

POSSESSION OF THE PREMISES

The lessor must:

- give the tenant vacant possession of the premises on the day on which the tenant is entitled to enter into occupation of the premises under the agreement; and
- take all reasonable steps to ensure that, at the time of signing this agreement, there is no legal reason

why the tenant cannot occupy premises as a residence for the term of this agreement.

TENANT'S RIGHT TO QUIET ENJOYMENT

The tenant is entitled to quiet enjoyment of the premises without interruption by the lessor or any person claiming by, through or under the lessor or having superior title to that of the lessor.

The lessor or the property manager will not interfere with, or cause or permit any interference with, the reasonable peace, comfort or privacy of the tenant in the use of the premises. The lessor or the property manager must also take all reasonable steps to ensure that the lessor's other neighbouring tenant's do not interfere with the reasonable peace, comfort or privacy of the tenant in the use of the premises.

USE OF THE PREMISES BY TENANT

The tenant must:

- not use or allow the premises to be used for any illegal purpose;
- not cause or permit a nuisance;
- not allow interference, with the reasonable peace, comfort or privacy of any person who resides in the immediate vicinity of the premises if the agreement is a social housing agreement;
- not allow any damage to the residential premises and tell the lessor as soon as practicable if any damage occurs;
- keep the premises in a reasonable state of cleanliness;

- not allow anyone who is lawfully at the premises to breach the terms of this agreement.

LESSOR'S GENERAL OBLIGATIONS FOR RESIDENTIAL PREMISES

In this section, *premises* includes fixtures and chattels provided with the premises but does not include:

- any fixture or chattel disclosed by the lessor to the tenant as not functioning before the agreement was entered into; or
- any other fixture or chattel that the tenant could not reasonably have expected to be functioning at the time the agreement was entered into.

The lessor must:

- provide vacant possession of the premises and in a reasonable state of cleanliness and repair;
- maintain and repair the premises in a timely manner; and
- comply with all laws affecting the premises including building, health and safety laws.

URGENT REPAIRS

Urgent repairs are defined by the *Residential Tenancies Act 1987* and fall into two categories. Essential services are repairs to faults such as a burst water service, blocked toilets, gas leaks or dangerous electrical faults. Arrangements for a suitable repairer to fix these essential services must be made within 24 hours. Other urgent repairs, such as those that might cause further damage to the premises or injure a person must be arranged within 48 hours.

In every tenancy;

- the tenant is to notify the lessor or the property manager of the need for urgent repairs as soon as practicable;
- the lessor is to ensure that the repairs are carried out by a suitable repairer as soon as practicable after that notification;
- if, within the time for urgent repairs, the tenant is unable to contact the lessor or the property manager, or, having notified the lessor or the property manager of the need for the repair, the lessor fails to ensure that the repairs are carried out by a suitable repairer as soon as practicable after that notification, the tenant may arrange for the repairs to be carried out by a suitable repairer to the minimum extent necessary to effect those repairs; and
- the lessor must, as soon as practicable after the repairs are carried out, reimburse the tenant for any reasonable expense incurred by the tenant in arranging for those repairs to be carried out and paying for those repairs.

LESSOR'S ACCESS TO THE PREMISES

The lessor can only enter the premises in the following circumstances:

- in any case of emergency;
- to conduct up to 4 routine inspections in a 12 month period after giving 7 days written notice;

- where the agreement allows the rent to be collected at the premises;
- to inspect and secure the premises if there are reasonable grounds to believe that the premises has been abandoned and the tenant has not responded to a notice from the lessor;
- carrying out or inspecting necessary repairs to or maintenance of the premises, at any reasonable time, after giving the tenant not less than 72 hours notice in writing before the proposed entry;
- showing the premises to prospective tenants, at any reasonable time and on a reasonable number of occasions during the period of 21 days preceding the termination of the agreement, after giving the tenant reasonable notice in writing;
- showing the premises to prospective purchasers, at any reasonable time and on a reasonable number of occasions, after giving the tenant reasonable notice in writing; or
- if the tenant agrees at, or immediately before, the time of entry.

There are directions within the Act which guide tenants, lessors and property managers on appropriate behaviour about gaining or granting access to the premises. The following summary may assist.

Requirement to negotiate a day and time for a proposed entry by the lessor

The lessor or property manager must make a reasonable attempt to negotiate a day and time that does not unduly inconvenience the tenant.

Requirement to notify if proposed entry is before or after 12 noon

Where a lessor or property manager gives a tenant notice of an intention to enter premises on a particular day, the notice must specify the day and whether it will be before or after 12.00 p.m.

Tenant entitled to be present

The tenant is entitled to be on the premises during the entry by the lessor, the property manager or any other agent acting on behalf of the lessor.

Entry must be reasonable and no longer than necessary

The lessor or property manager exercising a right of entry—

- (a) must do so in a reasonable manner; and
- (b) must not, without the tenant's consent, stay or permit others to stay on the premises longer than is necessary to achieve the purpose of the entry.

Lessor's obligation to compensate tenant if damage to tenant's goods

If the lessor or property manager, (or any person accompanying the lessor or property manager), causes damage to the tenant's goods when exercising a right of entry, the lessor is obliged to compensate the tenant.

ALTERATIONS AND ADDITIONS TO THE PREMISES

In every tenancy, if a tenant wants to make an alteration or addition or affix a fixture to the premises, then:

- the tenant must obtain written permission from the lessor prior to affixing any fixture or making any renovation, alteration or addition to the premises;
- obtain written permission from the lessor to remove any fixture attached by the tenant and make good any damage;
- notify the lessor of any damage caused by removing any fixture; and
- the lessor must not unreasonably refuse permission for the installation of a fixture by the tenant or to a minor alteration, addition or renovation by the tenant.

If the lessor wants to make an alteration or addition or affix a fixture to the premises, then:

- the lessor must obtain the tenant's permission prior to affixing any fixture or making any renovation, alteration or addition to the premises; and
- the tenant must not unreasonably refuse permission for the lessor to affix any fixture or make any renovation, alteration or addition to the residential premises.

LOCKS AND SECURITY DEVICES

The prescribed means of securing the premises are defined in the *Residential Tenancies Regulations 1989*. In every tenancy:

- the security at the premises must be provided and maintained by the lessor so they (the premises) are reasonably secure as prescribed in the regulations; and
- any lock or security device at the premises must not be altered, removed or added by a lessor or tenant without the consent of the other; and
- the lessor or the tenant must not unreasonably withhold that consent.

TRANSFER OF TENANCY OR SUB-LETTING BY TENANT

In every tenancy:

- the tenant cannot sub-let the premises without the written consent of the lessor;
- the lessor shall not unreasonably withhold such consent; and
- the lessor shall not make any charge for giving such consent other than the lessor's reasonable expenses.

CONTRACTING OUT

It is an offence to contract out of any provision of the *Residential Tenancies Act 1987*.

ENDING THE LEASE

This residential tenancy agreement can only be terminated in certain circumstances. For more information, refer to the *Residential Tenancies Act 1987* or contact the Department of Commerce on 1300 30 40 54 or www.commerce.wa.gov.au/ConsumerProtection

SECURITY BOND

The security bond is held by the Bond Administrator. The lessor agrees that where the lessor or the property manager applies to the Bond Administrator for the release of the security bond at the end of the tenancy, then the lessor or the property manager will provide the tenant with evidence to support the amount claimed.

PART C ADDITIONAL TERMS

IMPORTANT INFORMATION

Additional terms may be included in this agreement if:

- (a) both the lessor and tenant agree to the terms, and
- (b) they do not conflict with the *Residential Tenancies Act 1987*, the *Residential Tenancies Regulations 1989*, or any other law, and
- (c) they comply with the unfair contract terms of the *Fair Trading Act 2010*, and
- (d) they do not conflict with the standard terms of this agreement.

ANY ADDITIONAL TERMS ARE NOT REQUIRED BY LAW AND ARE NEGOTIABLE. HOWEVER, ONCE THE PARTIES SIGN THIS AGREEMENT, THE ADDITIONAL TERMS ARE BINDING UPON THE PARTIES UNLESS THE

ADDITIONAL TERMS

.....

THE LESSOR AND TENANT ENTER INTO THIS AGREEMENT AND AGREE TO ALL ITS TERMS.

Signed by the lessor/property manager
Name of lessor/property manager

Signed by the tenant (1)
Name of tenant

on the day of 20__
in the presence of (witness)
Name of witness

on the day of 20__
in the presence of (witness)
Name of witness

Signature of witness
Signed by the tenant (2)
tenants
Name of tenant

Signature of witness
Signed by the tenant (3) and any other
Name of tenant/s

Signature of tenant
on the day of 20__

Signature of tenant/s
on the day of 20__

in the presence of (witness)
Name of witness
Signature of witness

in the presence of (witness)
Name of witness
Signature of witness

For information about your rights and obligations as a lessor or tenant, contact the Department of Commerce on 1300 30 40 54 or www.commerce.wa.gov.au/ConsumerProtection .

PROPOSED SCHEDULE 2 – INFORMATION FOR TENANTS UNDER AN ORAL AGREEMENT



Government of **Western Australia**
Department of **Commerce**

Schedule 2 –Tenant Information where there is an Oral Contract for a Residential Tenancy Agreement (Section 27B(b))

Consumer Protection Division
219 St George's Terrace
Perth WA 6000

Postal Address:
Locked Bag 14
Cloisters Square WA 6850

Advice Line: 1300 30 40 54
Web: www.commerce.wa.gov.au

Introduction

Most lessors and tenants prefer to have a written document setting out the details of a tenancy agreement such as the names of the parties, the amount of rent and the term of the lease. In Western Australia, the document that must be used is a prescribed form under the *Residential Tenancies Act 1987*.

In some circumstances, however, oral contracts are entered into. An oral tenancy contract is a contract which has been agreed to by spoken communication rather than in writing. For example, an oral contract may occur if a tenant requests urgent accommodation from a lessor or a tenancy agreement is made informally between family members.

This document must be provided to a tenant within 14 days after a tenant under an oral tenancy contract takes possession of the property. A maximum penalty of a fine of \$5,000 is applicable for failure to comply with this requirement.

This document explains your rights and obligations in a tenancy. The document must be signed and dated by the lessor and the tenant/s.

For information about your rights and obligations contact the Department of Commerce on 1300 30 40 54 or www.commerce.wa.gov.au/ConsumerProtection .

STANDARD TERMS APPLICABLE TO ALL RESIDENTIAL TENANCY AGREEMENTS

The *Residential Tenancies Act 1987* and the *Residential Tenancies Regulation 1989* apply to this agreement. Both the lessor and the tenant must comply with these laws. These rights and obligations are outlined below.

RIGHT TO OCCUPY THE PREMISES

The tenant has the right to occupation and quiet enjoyment of the residential premises during the tenancy. The residential premises include the additional things but do not include the exclusions noted under “Residential premises” in part A.

RENT

The tenant must pay rent on time or the lessor may issue a notice of termination and, if the rent is still not paid in full, the lessor may take action through the courts to evict the tenant.

The lessor or property manager must not:

- require the tenant to pay more than 2 weeks rent in advance;
- require the tenant to pay rent by post-dated cheque; and
- use rent paid by the tenant for the purpose of any amount payable by the tenant other than rent; and
- require the tenant to pay any monetary amount other than rent, security bond and pet bond.

The lessor or property manager must give a rent receipt to the tenant within 3 days of the rent being paid unless the rent is paid into an authorised bank or credit union account nominated by the lessor.

PAYMENT OF COUNCIL RATES, LAND TAX, WATER AND OTHER CHARGES

The lessor shall pay all rates, taxes or charges imposed in respect of the premises under the *Local Government Act 1995*, the *Land Tax Act 2002* or any written law under which a rate, tax or charge is imposed for water supply or sewerage services under the *Water Agencies (Powers) Act 1984*, other than a charge for water consumed; and any contribution levied on a proprietor under the *Strata Titles Act 1985*.

PUBLIC UTILITY SERVICES

Public Utility Services has the meaning given in the *Land Administration Act 1997* and refers to services such as gas, electricity and water.

The tenant must pay a charge in relation to a public utility service provided to the premises only if:

- the charge is calculated by reference to the tenant's consumption at the residential premises; and
- the tenant is given notice in writing of the charge in relation to the public utility service, specifying the relevant meter reading, or readings, and the charge per metered unit; or
- if consumption at the premises is not metered and the lessor and tenant have agreed in writing to an alternative method of calculating the charge to be paid by the tenant — the charge calculated in accordance with the agreed method; and
- the tenant is provided with full details of the account for the charge including any meter readings and the charge per metered unit; or
- the agreed method of calculating the charge, and the amount of GST payable in respect of the provision of the public utility service to the residential premises

POSSESSION OF THE PREMISES

The lessor must:

- give the tenant vacant possession of the premises on the day on which the tenant is entitled to enter into occupation of the premises under the agreement; and
- take all reasonable steps to ensure that, at the time of signing this agreement, there is no legal reason why the tenant cannot occupy premises as a residence for the term of this agreement.

TENANT'S RIGHT TO QUIET ENJOYMENT

The tenant is entitled to quiet enjoyment of the premises without interruption by the lessor or any person claiming by, through or under the lessor or having superior title to that of the lessor.

The lessor or the property manager will not interfere with, or cause or permit any interference with, the reasonable peace, comfort or privacy of the tenant in the use of the premises. The lessor or the property manager must also take all reasonable steps to ensure that the lessor's other neighbouring tenant's do not interfere with the reasonable peace, comfort or privacy of the tenant in the use of the premises.

USE OF THE PREMISES BY TENANT

The tenant must:

- not use or allow the premises to be used for any illegal purpose;
- not cause or permit a nuisance;

- not allow interference, with the reasonable peace, comfort or privacy of any person who resides in the immediate vicinity of the premises if the agreement is a social housing agreement;
- not allow any damage to the residential premises and tell the lessor as soon as practicable if any damage occurs;
- keep the premises in a reasonable state of cleanliness; and
- not allow anyone who is lawfully at the premises to breach the terms of this agreement.

LESSOR'S GENERAL OBLIGATIONS FOR RESIDENTIAL PREMISES

In this section, *premises* includes fixtures and chattels provided with the premises but does not include:

- any fixture or chattel disclosed by the lessor to the tenant as not functioning before the agreement was entered into; or
- any other fixture or chattel that the tenant could not reasonably have expected to be functioning at the time the agreement was entered into.

The lessor must:

- provide vacant possession of the premises and in a reasonable state of cleanliness and repair;
- maintain and repair the premises in a timely manner; and
- comply with all laws affecting the premises including building, health and safety laws;

URGENT REPAIRS

Urgent repairs are defined by the *Residential Tenancies Act 1987* and fall into two categories. Essential services are repairs to faults such as a burst water service, blocked toilets, gas leaks or dangerous electrical faults. Arrangements for a suitable repairer to fix these essential services must be made within 24 hours. Other urgent repairs, such as those that might cause further damage to the premises or injure a person must be arranged within 48 hours.

In every tenancy;

- the tenant is to notify the lessor or the property manager of the need for urgent repairs as soon as practicable;
- the lessor is to ensure that the repairs are carried out by a suitable repairer as soon as practicable after that notification;
- if, within the time for urgent repairs, the tenant is unable to contact the lessor or the property manager, or, having notified the lessor or the property manager of the need for the repair, the lessor fails to ensure that the repairs are carried out by a suitable repairer as soon as practicable after that notification, the tenant may arrange for the repairs to be carried out by a suitable repairer to the minimum extent necessary to effect those repairs; and

- the lessor must, as soon as practicable after the repairs are carried out, reimburse the tenant for any reasonable expense incurred by the tenant in arranging for those repairs to be carried out and paying for those repairs.

LESSOR'S ACCESS TO THE PREMISES

The lessor can only enter the premises in the following circumstances:

- in any case of emergency;
- to conduct up to 4 routine inspections in a 12 month period after giving 7 days written notice;
- where the agreement allows the rent to be collected at the premises;
- to inspect and secure the premises if there are reasonable grounds to believe that the premises has been abandoned and the tenant has not responded to a notice from the lessor;
- carrying out or inspecting necessary repairs to or maintenance of the premises, at any reasonable time, after giving the tenant not less than 72 hours notice in writing before the proposed entry;
- showing the premises to prospective tenants, at any reasonable time and on a reasonable number of occasions during the period of 21 days preceding the termination of the agreement, after giving the tenant reasonable notice in writing;
- showing the premises to prospective purchasers, at any reasonable time and on a reasonable number of occasions, after giving the tenant reasonable notice in writing; or
- if the tenant agrees at, or immediately before, the time of entry.

There are directions within the Act which guide tenants, lessors and property managers on appropriate behaviour about gaining or granting access to the premises. The following summary may assist.

Requirement to negotiate a day and time for a proposed entry by the lessor

The lessor or property must make a reasonable attempt to negotiate a day and time that does not unduly inconvenience the tenant.

Requirement to notify if proposed entry is before or after 12 noon

Where a lessor or property manager gives a tenant notice of an intention to enter premises on a particular day, the notice must specify the day and whether it will be before or after 12.00 p.m.

Tenant entitled to be present

The tenant is entitled to be on the premises during the entry by the lessor, the property manager or any other agent acting on behalf of the lessor.

Entry must be reasonable and no longer than necessary

The lessor or property manager exercising a right of entry—

- (a) must do so in a reasonable manner; and

(b) must not, without the tenant's consent, stay or permit others to stay on the premises longer than is necessary to achieve the purpose of the entry.

Lessor's obligation to compensate tenant if damage to tenant's goods

If the lessor or property manager, (or any person accompanying the lessor or property manager), causes damage to the tenant's goods when exercising a right of entry, the lessor is obliged to compensate the tenant.

ALTERATIONS AND ADDITIONS TO THE PREMISES

In every tenancy, if a tenant wants to make an alteration or addition or affix a fixture to the premises, then:

- the tenant must obtain written permission from the lessor prior to affixing any fixture or making any renovation, alteration or addition to the premises;
- obtain written permission from the lessor to remove any fixture attached by the tenant and make good any damage;
- notify the lessor of any damage caused by removing any fixture; and
- the lessor must not unreasonably refuse permission for the installation of a fixture by the tenant or to a minor alteration, addition or renovation by the tenant.

If the lessor wants to make an alteration or addition or affix a fixture to the premises, then:

- the lessor must obtain the tenant's permission prior to affixing any fixture or making any renovation, alteration or addition to the premises; and
- the tenant must not unreasonably refuse permission for the lessor to affix any fixture or make any renovation, alteration or addition to the residential premises.

LOCKS AND SECURITY DEVICES

The prescribed means of securing the premises are defined in the *Residential Tenancies Regulations 1989*. In every tenancy:

- the security at the premises must be provided and maintained by the lessor so they (the premises) are reasonably secure as prescribed in the regulations; and
- any lock or security device at the premises must not be altered, removed or added by a lessor or tenant without the consent of the other; and
- the lessor or the tenant must not unreasonably withhold that consent.

TRANSFER OF TENANCY OR SUB-LETTING BY TENANT

In every tenancy:

- the tenant cannot sub-let the premises without the written consent of the lessor;
- the lessor shall not unreasonably withhold such consent; and
- the lessor shall not make any charge for giving such consent other than the lessor's reasonable expenses.

CONTRACTING OUT

It is an offence to contract out of any provision of the *Residential Tenancies Act 1987*.

ENDING THE LEASE

This residential tenancy agreement can only be terminated in certain circumstances. For more information, refer to the *Residential Tenancies Act 1987* or contact the Department of Commerce on 1300 30 40 54 or www.commerce.wa.gov.au/ConsumerProtection .

SECURITY BOND

The security bond is held by the Bond Administrator. The contact details for the Bond Administrator are:

In Person: 219 St Georges Terrace Perth WA 6000

By Mail: Locked Bag 14, Cloisters Square PERTH WA 6850

Website: www.commerce.wa.gov.au/ConsumerProtection .

Lessor/property manager's signature:

Date:

Tenant's signature:

Date:

PROPOSED MINIMUM CONTENT FOR THE PROPERTY CONDITION REPORT

PROPERTY CONDITION REPORT FOR THE PURPOSES OF SECTION 27C OF THE *RESIDENTIAL TENANCIES ACT 1987*

IMPORTANT NOTES ABOUT THIS REPORT

1. It is a requirement that a condition report be completed by the lessor or the property manager and the tenant (see above). This condition report is an important record of the condition of the residential premises when the tenancy begins and may be used as evidence of the state of repair or general condition of the premises at the commencement of the tenancy. It is important to complete the condition report accurately. It may be vital if there is a dispute, particularly about the return of the security bond money and any damage to the premises.
2. At the end of the tenancy the premises will be inspected and the condition of the premises at that time will be compared to that stated in the original condition report.
3. A condition report should be filled out whether or not a security bond is paid.
4. If you do not have enough space on the report attach a separate sheet.
5. Information about the rights and responsibilities of lessors and tenants may be obtained by ringing the Department of Commerce on 1300 30 40 54 or contacting www.commerce.wa.gov.au.

HOW TO COMPLETE

1. Before the tenancy begins, the lessor or the property manager should inspect the residential premises and record the condition of the premises by indicating whether the particular room item is clean, undamaged and working by placing “Y” (YES) or “N” (NO) in the appropriate column. Where necessary, comments should be included in the report.
2. Two copies of the report which has been filled out and signed by the lessor or the property manager must be given to the tenant within 7 days of the tenant taking possession of the premises.
3. As soon as possible after the tenant receives the report, the tenant should inspect the residential premises and complete the tenant section on both copies of the report. The tenant indicates agreement or disagreement with the condition indicated by the lessor or the property manager by placing “Y” (YES) or “N” (NO) in the appropriate column and by making any appropriate comments on the form.
6. The tenant must return one copy of completed condition report to the lessor or the property manager within 7 days after receiving it. The tenant should keep the second copy of the report.
7. As soon as practicable, and in any event within 14 days after the termination of the tenancy agreement, the lessor or the property manager should complete a property condition report, indicating the condition of the premises at the end of the tenancy. This should be done in the presence of the tenant, unless the tenant has been given a reasonable opportunity to be present and has not attended the inspection.

Consumer Protection

Forrest Centre

219 St Georges Terrace

Perth Western Australia 6000

Advice line: 1300 30 40 54

Facsimile: 9282 0850

Email: consumer@commerce.wa.gov.au

This department also has regional offices in Albany, Bunbury, Geraldton, Kalgoorlie, Karratha and Kununurra.

National Relay Service for the hearing impaired : 13 36 77

If you require the service of an interpreter contact the Translating and Interpreting Service (TIS) on 131 450

Website: www.commerce.wa.gov.au