



Incorrect Increases to the Security Bond

A common problem that leads to bond lodgements being returned to agencies is when the amount of the security bond has been increased before it is allowable to do so.

Consumer Protection would like to remind agents of their responsibilities under section 31 of the *Residential Tenancies Act 1987* (the Act).

Where the amount of rent payable under a residential tenancy has been increased under section 30 of the Act, then the amount of bond payable under the agreement may also be increased, however certain limitations apply.

An agent must notify the tenant in writing (the notice) that the bond will increase, specifying the amount of the increase and the day on which it is payable.

Under section 31(1) of the Act the bond can be increased:

- not less than 60 days after the day on which the notice is given; and
- not less than **12 months** after the day on which the tenancy commenced, or, if the amount of the security bond has been increased previously under this section, not less than **12 months** after the day on which it was last so increased.

It is therefore important to note that for existing tenancies, the security bond **cannot** be increased unless:

- a legal increase in rent has occurred, and
- at least 60 days notice of the increased bond is given; and
- the tenancy agreement has run for more than 12 months; and
- at least 12 months has elapsed since the last bond increase (if there has been one).

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Amendments to the Act will be implemented later in 2012 that reduce the 12 month period to six months, however, until these changes apply, agents must comply with the existing legislation.

Agents should also be aware of the requirements in relation to pet bonds. The Regulations made pursuant to the Act were amended on 1 June 2011 so that the maximum pet bond is now \$260.

Agents with a tenancy where the pet bond is less than \$260 cannot automatically increase the pet bond to \$260. The pet bond can only be increased if:

- a legal increase in rent has occurred,
- at least 60 days notice of the increased pet bond is given; and
- the tenancy agreement has run for more than 12 months; and
- at least 12 months has elapsed since the last bond increase (if there has been one).

The \$260 pet bond is not per pet, but the maximum amount allowed to cover the cost of fumigation, if needed, at the end of the tenancy.

If a tenant is permitted to have a pet dog or cat part way through an existing tenancy, a pet bond up to a maximum of \$260 can be sought.

The Bond Administrator will return to the tenants any security bond increases that fail to meet the conditions outlined in this e-Bulletin.