

As a tenant you have rights and responsibilities under the *Residential Tenancies Act 1987* (the Act). This fact sheet incorporates the changes affected by the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018 from 15 April 2019.

Residential Tenancy Database

WHAT ARE RESIDENTIAL TENANCY DATABASES?

Residential Tenancy Databases (RTDs) are databases run by private companies who collect information about tenants and make this information available to lessors and real estate agents. RTDs are used to check the rental history of prospective tenants. A database may list personal information and any breaches of previous tenancy agreement as alleged by the lessor. RTDs are commonly called 'blacklists'.

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

WHEN APPLYING FOR A RENTAL PROPERTY

If a lessor usually uses a RTD to assess rental applications, they must inform you of this in writing at the time that you apply. They must do so whether or not they intend to use it for your application.

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
- The name of the database
- The name of the person who entered the listing
- If and how you can try and have a listing amended or removed.

WHEN CAN YOU BE LISTED ON A RTD?

Regulation of RTDs ensures that tenants are not unfairly excluded from the rental market due to petty, vague or inaccurate listings.

A lessor can **only** list personal information about you on an RTD if:

- You are the person named as a tenant in a rental agreement that has ended;
- You have breached the rental agreement;
- Because of the breach you owe the lessor an amount of money that is more than the

security bond **or** because of the breach a court has made an order terminating the rental agreement;

- The personal information is accurate, complete, unambiguous, and only relates to the breach;
- The lessor has given you a copy of the personal information or taken other reasonable steps to disclose it to you; and
- the lessor has given you at least 14 days written notice to review the personal information and has also given you the opportunity to object to its entry into the database or to object about its accuracy, completeness and clarity.

LIFESPAN OF A LISTING

A listing can stay on a RTD for a maximum of 3 years however it must be removed sooner if it is incorrect, ambiguous or “out of date”.

A listing becomes out of date if it was made because the tenant owed the lessor an amount more than the bond, and that amount was repaid within 3 months after the amount became due or it was made in respect of a court-ordered termination which has been set aside on appeal.

The lessor must give written notice to the database operator within 7 days that the listing is out of date and have the listing removed.

WHAT IF YOU HAVE PAID THE AMOUNT OWED?

If you have paid the amount owed within three months of it becoming due, then a listing on the RTD is out of date under the Act and must be removed. The lessor or real estate agent must remove it within 7 days of you paying the amount owed.

If you have paid the amount owed, but it took you more than three months to pay, then a listing on the database may be “inaccurate” under the Act, and it should be amended. The amendment should make it clear that you no longer owe money.

WHAT CAN YOU DO IF YOU SUSPECT YOU’VE BEEN LISTED?

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

1. Write to the lessor who you think listed you on a RTD and ask them if you are listed, in what database, 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. Ask the RTD operator (see contact details below). The RTD may charge a fee. If you have been listed and the information is wrong, or it involves a past problem that has been fixed, explain your case and ask the lessor or the RTD 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. Apply to the Magistrates Court for an order to remove a listing if the information held on the RTD is inaccurate, incomplete, ambiguous, out-of-date or unjust in the circumstances. The *Residential Tenancies Act* specifically states that it is unjust to be listed on a RTD if the circumstances relating to the listing result from the tenant being subjected to family violence, and this means a Court can order the removal of the listing. If your tenancy has

been effected by family violence, you can see further information in the “[Family Violence](#)” fact sheets.

4. Make a complaint to the Office of the Australian Information 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 the Tenancy Information Centre of Australia (TICA) and the National Tenancy Database (NTD). There are also many other smaller database companies operating in Australia.

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.

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.

All requests must be accompanied by your name, date of birth and driver's licence number. You can contact TICA by mail.

PO Box 120
CONCORD NSW 2137
For further information see www.tica.com.au

The TICA website advertises an annual subscription for \$55. You do not have to subscribe to TICA to access a copy of the personal information TICA has about you on file.

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, post, fax or email your completed form to NTD along with a photocopy of your photo identification (e.g. 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 contact NTD by mail, phone, fax or email.

GPO Box 13294 George Street
Brisbane QLD 4003
Phone: 1300 563 826
Fax: (07) 3009 0619
Email: info@ntd.net.au

Some RTD companies ask for far more personal information than they require to process your request, and also ask you to consent to that information being used for purposes other than those for which it was requested. Such purposes include adding your personal information to their databases and sharing it with assorted third parties who may or may not be subscribers to those databases.

You do not have to consent to your information being used for any purpose other than identifying you so that you can be provided with a copy of personal information the RTD company has on file about you. You do not necessarily have to supply all of the information that the RTD requests.

MAKING A COMPLAINT

If you wish to make a complaint to the Office of the Australian Information Commissioner about a RTD on the grounds that the database listing is a breach of your right to privacy as set out in the Privacy Act, you can contact the Commissioner by mail, phone, email or an online complaint form.

GPO Box 5218

Sydney NSW 2001

Phone: 1300 363 992

Email: enquiries@oaic.gov.au

Online complaint form: <https://forms.business.gov.au/aba/oaic/privacy-complaint/>

WHAT IF THE LESSOR IS THREATENING TO LIST YOU ON AN RTD?

A lessor should not threaten to list you on a RTD to force you to do something that you do not have to do. For example, a 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 you have 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 Mines, Industry Relations and Safety on 1300 30 40 54 or go to www.dmirs.wa.gov.au

OFFENCES

The Act provides for fines if a Lessor or Real Estate Agent wrongly lists a tenant, fails to remove a listing, or fails to provide a tenant with information required under the Act.

If you wish to make a complaint about a breach of the *Residential Tenancies Act 1987*, you can contact the Department of Mines, Industry Relations and Safety on 1300 30 40 54 or go to www.dmirs.wa.gov.au

RELEVANT FORMS

[Form 18A - Tenancy database notice](#)

Disclaimer

This fact sheet only contains general information. This fact sheet is not legal advice and should not be relied on as a substitute for legal advice. You may wish to seek advice from a lawyer regarding your own particular circumstances. We are not responsible for any consequences arising from your use of, or reliance on, the information contained in this fact sheet.

Further information about our disclaimer and your use of this fact sheet can be found here:

www.circlegreen.org.au/disclaimer/

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FURTHER HELP – TENANTS' ADVICE AND ADVOCACY

Circle Green Community Legal

(08) 6148 3636

www.circlegreen.org.au

Department of Mines, Industry Regulation and Safety

www.dmirs.wa.gov.au, **Consumer Protection** for consumer and tenancy related matters

commerce.wa.gov.au/consumer-protection | 1300 304 054

METROPOLITAN COMMUNITY LEGAL CENTRES

Fremantle CLC

(08) 9432 9790

www.fremantle.wa.gov.au/fclc

Gosnells CLC

(08) 9398 1455

www.gosclc.com.au

Midland Information Debt & Legal Advocacy Service

(08) 9250 2123

www.midlas.org.au

Northern Suburbs CLC (Joondalup)

(08) 9301 4413

www.nsclegal.org.au

Northern Suburbs CLC (Mirrabooka)

(08) 9440 1663

www.nsclegal.org.au

Southern Communities Advocacy & Legal Education Services (SCALES)

(08) 9550 0400

murdoch.edu.au/School-of-Law/Clinical-Legal-Education-SCALES

Sussex Street CLS

(08) 6253 9500

www.sscls.asn.au

Welfare Rights & Advocacy Service

(08) 9328 1751

www.wraswa.org.au

REGIONAL COMMUNITY LEGAL CENTRES

Albany CLC

(08) 9842 8566

www.albanyclc.com.au

Goldfields CLC

(08) 9021 1888 | 1300 139 188 (if outside Kalgoorlie-Boulder)

www.gclc.com.au

Kimberley Community Legal Services :

www.kcls.org.au

- **Kununurra**
(08) 9169 3100 | 1800 686 020 (freecall)
- **Broome**
(08) 9192 5177

Peel CLS

(08) 9581 4511

www.peelcls.com.au

Pilbara Community Legal Services:

www.pcls.net.au

- **Karratha**
(08) 9185 5899
- **Newman**
(08) 9140 1613
- **Roebourne**
(08) 9185 5899
- **South Hedland**
(08) 9140 1613

Regional Alliance West

(08) 9938 0600

www.raw.org.au

South West CLC

(08) 9791 3206 | 1800 999 727 (freecall)

www.swclc.org.au

Wheatbelt CLC

(08) 9622 5200

www.wheatbeltclc.com.au