

# Residential Tenancy Databases

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

## 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 landlords 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?

RTDs have been regulated since 1 July 2013. There are now restrictions on when a lessor can list a tenant 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.

- 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.
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. As at 20 May 2014 TICA’s charges are:

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

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

PO Box 120  
 CONCORD NSW 2137  
 Phone: 190 222 0346  
 Fax: (02) 9743 4844

For further information see [www.tica.com.au](http://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](http://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](mailto: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](mailto: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 A 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 Commerce on 1300 30 40 54 or go to [www.commerce.wa.gov.au](http://www.commerce.wa.gov.au)

## OFFENCES

The Act provides for fines if a Lessor or Real Estate Agent wrongly lists a tenant, or 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 Commerce on 1300 30 40 54 or go to [www.commerce.wa.gov.au](http://www.commerce.wa.gov.au)

## RELEVANT FORMS

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

## FURTHER HELP - TENANTS’ ADVICE AND ADVOCACY

Tenancy WA provides state wide telephone advice services and referrals.

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

Department of Commerce 1300 304 054

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

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