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NSW's 'renovictions' loophole could undermine the progress made with no-grounds evictions

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<https://theconversation.com/nsws-renovictions-loophole-could-undermine-the-progress-made-with-no-grounds-evictions-262611>

There was much cause for celebration when no-grounds evictions were abolished in New South Wales on May 19.

Keeping a pre-election promise, the NSW government amended the state's Residential Tenancies Act to end no-grounds evictions and add new reasonable grounds for termination instead.

In doing so, NSW joined the ACT and South Australia, which had recently abolished no-grounds evictions. Since then Victoria has also legislated to end no-grounds evictions.

Queensland has joined Tasmania in ending no-grounds eviction in periodic tenancies and the National Cabinet has adopted “genuine reasonable grounds for eviction” as part of its “[better deal for renters](#)” reform agenda.

But now, the NSW government has [created a loophole](#) for so-called “[renovictions](#)” that is big enough to drive a ute through.

Grounds for termination

In states and territories that have scrapped no-grounds evictions, landlords must have reasonable grounds to evict tenants before the rental agreement period is set to end.

The grounds include if a tenant has failed to pay rent or otherwise breached the terms of their tenancy agreement. They also include if the landlord is selling the property to someone who requires the premises to be vacant.

These grounds have been part of the law for decades.

Now NSW's new grounds for termination include if the landlord:

- will make significant repairs or renovations to the premises
- is going to live in the premises (or a family member will)
- is offering the premises for sale regardless of who is buying it or whether they are prepared to retain the tenant
- will not use the premises as rented residential premises for 12 months.

These grounds mean landlords still enjoy a lot of control over their properties – and their tenants' homes.

For example, if they want to evict the tenants to put the premises on Airbnb, they can, using the “no longer used as rented residential premises” ground.

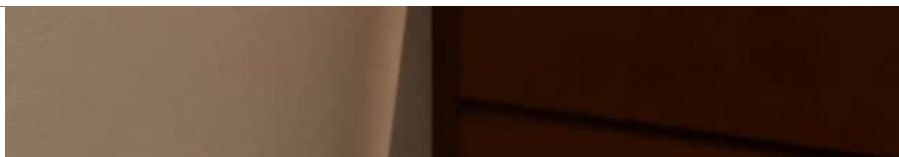
And if they want to evict the tenant to make it easier to market the premises for sale – as [Prime Minister Anthony Albanese](#) controversially did last year – they can use the “offering for sale” ground.

And if they want to renovate, they can use that ground.



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The NSW Government wants to make it legal again for renters to be evicted for "renovations"...
...without needing to show any evidence.

No plans. No quotes. No contracts. Just a note saying, "Trust me."

I'm opposing this change — because tenants deserve fairness and protection.

[#rent](#) [#reform](#) [#ryde](#) [#renovations](#)



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The 'renoviction' loophole

When the NSW government scrapped no-grounds evictions, landlords who wanted to use renovations as a premise for ending a tenancy were required to provide a written statement and at least one piece of evidence, such as a development application or a quote from a licensed builder or tradesperson.

However, on June 20, the requirement to provide evidence was quietly scrapped: a landlord now only has to provide a written statement signalling they intend to renovate the property.

This could be wide open to abuse.

The government made the change without any public consultation.

The opposition, Greens and independent MPs tried in parliament to reverse the changes, but were defeated by the government's numbers in the Legislative Assembly.

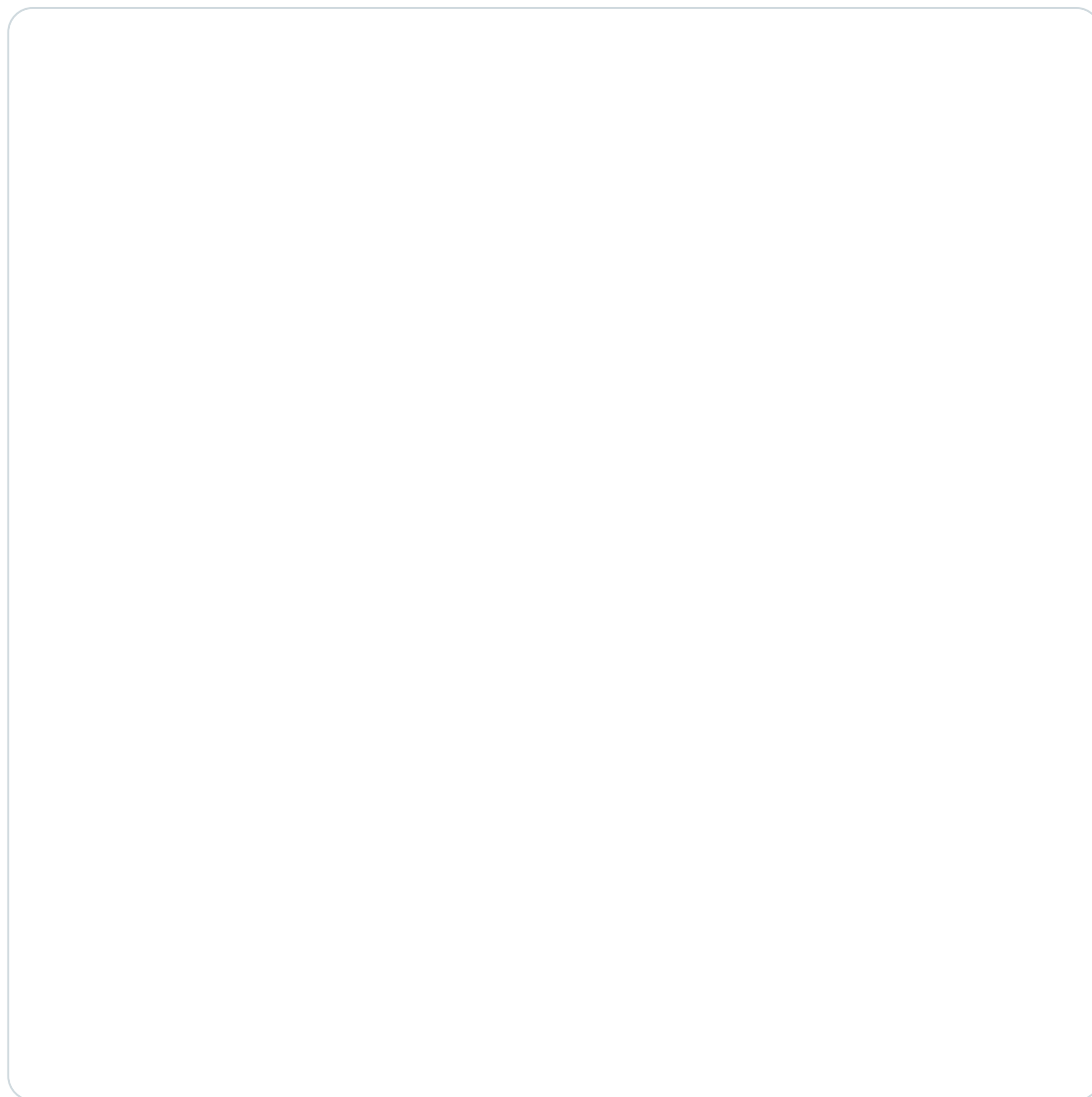
The change is yet to be debated in the upper house.

Some 30 organisations working with tenants released a joint statement on July 19 criticising the change, stating:

Without the full evidence requirements for this prescribed ground for termination, there is a real risk that the government's commitment to end no-grounds evictions and ensure renters have the rights and security they need will be undermined.

Tenants' Union of NSW@TUNSW · [Follow](#)

29 incredible organisations joined us to call for the reinstatement of evidence requirements to protect tenants from 'renovictions'. Read the joint statement, get in touch with your MP, and sign the petition here:
tenants.org.au/news/help-prot...



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Other shortcomings that can impact tenants

Besides the problems associated with renoviction, there are other shortcomings in the new laws.

In eviction proceedings on the new grounds, there is no scope for the NSW Civil and Administrative Tribunal to decline to terminate a tenancy because of hardship and other circumstances. Only if the tenant can prove the termination notice is motivated by retaliation – a hard thing to prove – can the tribunal refuse to evict.

The tribunal should be able to balance the interests of a landlord against the hardship that will be experienced by the tenant – and decline to evict if the hardship is too great.

Victoria's Residential Tenancies Act gives its tribunal scope to consider whether an eviction is "reasonable and proportionate". This consideration has resulted in the tribunal refusing to evict families on the "offering for sale" ground, because the tenants could not find alternative accommodation and would likely be homeless.

Our research

We have studied tenants who had been evicted or threatened with eviction in the private rental sector, and found no-grounds evictions created enormous anxiety.

One interviewee had recently been evicted. He graphically expressed the disempowerment and frustration associated with landlords' capacity to evict tenants without the need to give a reason:

The unbelievable rights that landlords have over you creates a constant state of anger and you feel violated. I live in a constant state of fear around housing security. There's nothing you can do.

Our interviews illustrated that tenants, especially low-income tenants, were acutely aware they would struggle to secure alternative accommodation and could find themselves homeless if they were evicted.

Another interviewee, who was single and reliant on the disability support pension, captured this anxiety:

The fear of homelessness is so much closer now than it has ever been in my whole experience with renting in Australia because it's just so unstable. You have no leg to stand on. You're always unsure, and you could just get an email from the landlord at any time, or from the real estate agent, and just like that your whole reality's shifted.

Our study highlighted just why abolishing no-grounds evictions was a major positive reform for tenants.

However, the possibility of renoviction, the various other grounds for eviction and the limited discretion of the tribunal means the power of landlords in NSW is still excessive.