Before you re-let.... check the exclusion periods

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Before you re-let... check the exclusion periods

A re-letting exclusion period is a specified amount of time when a landlord is prohibited from entering into a new tenancy agreement after ending a prior agreement.

Re-letting exclusion periods apply to grounds where the landlord has said they will need the property back because it will be used for something other than a rental home and prevent the property being re-let for a set period after the landlord ends a tenancy on certain grounds. For example, if the landlord or family member intends to move into the property, significant repairs will be undertaken on the property, a proposed or actual sale or demolition of the property.

An exclusion period starts from the termination date (listed in the termination notice).

It is an offence for a landlord or their agent to rent or re-let a property that is in an exclusion period. A landlord must use a prescribed reason to end a tenancy. Under the NSW residential tenancy reforms that commenced on 19 May 2025, landlords face strict **re-letting exclusion periods** when ending a lease for specific changes of circumstances as outlined below:

Re-Letting Exclusion Periods

- **4 weeks:** Applied when the property is vacated to conduct significant repairs or renovations.
- **6 months:** Applied when ending a tenancy due to a proposed sale, demolition, or when the landlord or a family member intends to move in.
- **12 months:** Applied when the residential premises will no longer be used as a rented rental property under the Residential Tenancies Act.

Properties **cannot** be re-let during these defined exclusion windows unless the landlord receives prior approval from NSW Fair Trading.

Significant penalties apply for breaches, including fines of $5,500 for individuals and up to $35,750 for corporations, with courts having the authority to impose even greater penalties when warranted.

The Australian Federal Budget, released on 12 May 2026, proposed restrictions on negative gearing for established residential properties acquired after the budget announcement, along with modifications to the capital gains tax discount. This has resulted in a significant increase in investment properties being listed for sale, with Sydney experiencing its highest

number of home listings in 17 years, despite declining clearance rates, soaring auction withdrawal rates, and stagnant price growth, as reported by domain.com.au.

Whilst the number of properties coming to market has soured, the number of properties withdrawn from sale has also increased, attributed to decreasing market conditions and pricing that fails to meet vendors' expectations. If a property is withdrawn from sale yet is still in the exclusion period a landlord must apply to NSW Fair Trading to be able to rent the property out again during the re-letting exclusion period. They must complete the statutory 'Re-letting Application Form'. Under NSW rental laws, ending a tenancy to sell - triggers a mandatory 6-month ban on new leases, regardless of whether a property is withdrawn from sale.

Re-letting applications will only be assessed once the property is vacant. A landlord must confirm that they have vacant possession of the property when submitting the form. NSW Fair Trading is proactively investigating properties listed and leased in a reletting exclusion period and as outlined earlier in this newsletter, penalties will apply.

What agents need to do

When taking on a new management, confirm early whether an exclusion period applies before advertising or entering a new tenancy. The restriction attaches to the property, and changing agents **does not** remove or reset it.

Agents are therefore expected to take reasonable steps to ensure the property is not leased when an exclusion period applies. Agents can easily determine whether an exclusion period applies using the date the tenancy ended and the termination ground.

Early checks and clear communication reduce avoidable impact on tenants, support lawful, professional rental practices and limit avoidable regulatory action. Further information, including the exclusion periods that apply for different termination grounds can be found on the NSW Fair Trading website: Landlord ending a tenancy.

https://www.nsw.gov.au/housing-and-construction/rules/landlord-ending-a-tenancy#toc-re-letting-exclusion-periods

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