

Purpose built student accommodation: Examining the impact

John Williams

You're very welcome to podcast number three in our three-part series, where we focus on PBSA purpose-built student accommodation under the new Resi Tenancies legislation. I'm John Williams, a partner in the ALG Real Estate Department, and I'm here with my colleague Kerrie Fortune, a senior associate.

In this episode, we're looking at the implications for purpose-built student accommodation coming out of the new Resi Tenancies legislation. At the outset, we should note that in today's chat, we're primarily looking through the lens of an institutional investor being a large landlord, as was already discussed on a previous podcast in this series. While we'll discuss the high-level impact of the new legislation on the sector for a more detailed analysis of what this might mean for your business, please don't hesitate to reach out to a member of the ALG Real Estate team or visit our property blog.

So, getting into it, as many listeners will be aware, the new legislation is long awaited, having first been announced back in June last year, and followed up with some clarifying information on the changes last November.

Kerrie Fortune

Yeah, it very much makes targeted changes to the existing legislation and so you have to read it in parallel with the underlying existing statutory framework. The main piece to be aware of for PBSA is rent setting and rent reviews.

Just looking at the current position for PBSA ahead of the new legislation kicking in on 1st March 2026, any rent setting and rent review has had to be in line with the HICP capped at 2% per year. But come 1st of March there will be a distinction for rent reviews, depending on whether you are an existing PBSA or a new PBSA dwelling.

John Williams

Okay, so just looking at that and looking at the two dwelling types and focusing first on the existing PBSA properties. So for landlords or operators of existing properties taking new bookings for the upcoming academic year. So firstly, in terms of rent setting, the position remains the rent must be based on the previous rent for the unit subject to increase in line with CPI capped at 2%. And those rent restrictions then apply for the next three academic years 26/27, 27/28 and 28/29. Landlords or operators can then

rebase the rent market for academic year 29 to 30 and so on in three year cycles. Importantly within each three year cycle the rent can be reviewed in line with CPI again capped at 2%.

Another important feature to note is that the initial rent setting, the intervening reviews each year and the rebasing to rent of the rent to market after three years now requires providing three comparable rents, which need to be taken from the RTB's new rent register and provided on registration of the new arrangement with the RTB. So then just in summary for existing PBSA properties, a landlord can rebase to market rent every three years beginning in 2029 and can review to CPI capped at 2% at the end of each intervening year.

So just moving on then to new PBSA dwellings. What is deemed new for the purposes of the legislation?

Kerrie Fortune

So a new PBSA scheme means any scheme with a commencement notice or a seven-day notice issued to a building control authority on or after 10th of June 2025 in respect of either construction of the property, an extension by at least 25% of its pre-existing size or change of use to use as an apartment complex which occupies at least 25% of the prior floor area. Now for these new PBSA dwellings the first rent is set at market level.

Now as we've discussed this will be subject to the three comparable rents rule. Thereafter for the next three year period it's based on the rent payable under the immediately preceding arrangement subject to increase in line with CPI only, there's no 2% cap being applied. So landlords can then rebase to market after three years and so on in three year cycles. Three comparables will need to be provided though for each new student tenancy when registering with the RTB.

To qualify for the ongoing rent reset provisions then, so from March 2029, tenancies and licenses must have subsisted for at least six months in each of the preceding three years. Now on the face of it you might think that's unlikely to be an issue given the usual length of student tenancies is based on the academic year, it's just one for operators to bear in mind in the event any of their units remain vacant for any period during the academic year.

John Williams

Okay so that's existing PBSA dwellings and new PBSA dwellings and the tenancies for both. There's actually a third tenancy type just to note that is captured by the

legislation. So this is in relation to an existing PBSA arrangement that is put in place prior to 1 March 2026 and that continues for more than one year. The rent there remains subject to review in accordance with CPI capped at 2%. However, given the nature of student accommodation, these are unlikely to arise very often.

Student tenancies typically been on an annual basis.

Kerrie Fortune

It's worth touching on the comparables that will now have to be provided every time the rent is reset to market or reviewed. So previously we were just looking at size, type, character and location of the properties.

But now this has been expanded out to include BER and number of bedrooms. So landlords will need three of these comparables obtained via the new publicly available rent register when they're setting their initial rent, rebasing it at the end of each three year cycle and all intervening reviews within those three years.

John Williams

Okay, so now that we've gone through the key changes brought about by the legislation, let's chat about the impact for both landlords and tenants of PBSA schemes coming out of the legislation come 1st of March. So firstly, in terms of impacts for landlords, there will be greater certainty for landlords and what levels of rent can be achieved.

Secondly, the express ability to rebase rents to market every three years will likely be good news for them. Larger landlords may feel their portfolios are below market rent. So these new rules allow them to address that by allowing them to rebase every three years. There will be of course, long term revenue upside for any such underperforming properties without the requirement for significant investment or capex. Thirdly, the removal of the 2% cap for new developments will likely encourage further investment into that asset class. And lastly, the new rules will of course result in two distinct sets of tenancies, there'll be tenancies of existing properties versus tenancies of new properties, where landlords of each compete to set competitive rent levels.

Kerrie Fortune

Yeah, and then for tenants or students, they'll also have more clarity as to what rent they can expect to pay for the duration of their college years. Where they're leasing in one of the new PBSA schemes, they won't have the benefit of a 2% cap.

But the new legislation does provide greater transparency on how rents are set and rebased to market via the RTB's new rent register. Now, for both landlord and tenant, it is helpful that under the new legislation, termination notices can now expressly be served by email. Previously, this could only be done by letter.

John Williams

Okay, so then just moving outside of the changes that are brought in by this new legislation. I think it's worth noting an additional point that comes up again and again on PBSA schemes.

And it's a question we get a lot from clients. And that question relates to a landlord or an operator's ability to recover costs outside of rent payments. So for example, utilities or service charge costs at a property. And the question arises as to how those additional charges sit within the rent caps. So I think while this often depends on the specifics of your particular scenario, in line with existing RTA legislation, charges outside of rent can be recovered by landlords, so long as such charges are legitimate and can be evidenced. So for example, to evidence by way of a utility bill.

Kerrie Fortune

Yeah this was touched on recently in an interesting case involving a college who sought to increase a combined monthly rent and service charge payable by almost 7% in total. Now, as you say, while it's of course on a case-by-case basis, it does suggest that the RTB's position is that an increase in service charges is permissible so long as that charge is paid separate to the rent and noted separately in the lease agreement.

John Williams

So it comes back to that point that it's important for PBSA operators to document the rent payable and any additional charges for utilities services and so on separately under the lease agreement.

Kerrie Fortune

Exactly, and ensure that the additional utilities can be backed up by evidence.

John Williams

Okay, so just just to wrap up on the new legislation. I think it's fair to say that while it is good to finally see the detail of the changes in this sector, the application of the new legislation is complex for both landlords and tenants to navigate.

We think it will likely take some time to see how the changes operate on the ground to get better sense of the full impact. That being said, it does provide further clarity and certainty in respect of how student accommodation fits into the wider residential tenancies legislation.

Kerrie Fortune

Yeah I think overall the new residential tenancies legislation should have a positive impact on the PBSA sector. The distinction being brought in between existing and new PBSA schemes clearly intends to attract new development and investment into the sector, given the absence of the 2% cap for those new schemes.

John Williams

So that's it for this series of podcasts. Thank you for listening.

And remember, if you require more information on how the new changes to PBSA may affect you, please visit our blog or contact any member of the ALG Real Estate team.