



Residential Tenancies Act

A summary of the key changes

Effective 29 March 2021

Over 120 new rental tenancy standards come into effect from 29 March 2021.

The changes to the Residential Tenancies Act (RTA) in Victoria are significant, and it's critical that all property professionals and owners understand these. While many of the reforms are reasonable, and indeed are requirements, it's the volume of change occurring at once that could be overwhelming.

As with any new legislation, there remains a lot of 'grey areas' that will only be clarified with time and after the Victorian Civil and Administrative Tribunal has started to interpret and apply the legislation.

The legislation: <https://www.legislation.vic.gov.au/>

CAV Resources: <https://www.consumer.vic.gov.au/housing/renting/changes-to-renting-laws/resources-for-practitioners>

This document provides a snapshot of the most significant changes.

Note: This information is given in summary form and does not purport to be complete. A user requiring information other than that of a general nature in relation to or in connection with anything in the document or referred to in this document, must obtain their own, independent professional advice.

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SUMMARY OF THE KEY CHANGES

Definitions and Penalties

DEFINITIONS

The terminology changes:

- Tenants will be referred to as renters
- Landlords will be referred to as residential rental providers (RRPs)
- Rooming house owners will be referred to as rooming house operators
- Lease Agreements will be referred to as Residential Rental Agreements



Offering a property for rent

ADVERTISING AND DISCLOSURES

- Rental properties can only be advertised at a single fixed price. Rent bidding is not permitted.
- Residential rental providers and real estate agents must not ask for or invite offers of rent higher than the advertised price. They can accept higher, voluntary offers made by a prospective renter.
- Before a renter enters into a residential rental agreement, certain matters must be disclosed to them. These include:
 - any ongoing proposal to sell the property.
 - details of any uncompleted electricity network in the property.
 - whether there has been a homicide at the property in the previous 5 years.
 - details of electrical and gas safety checks.
 - matters relating to mould or damp, asbestos, building defects, or prior drug contamination.
 - details of building and planning permits (including neighbouring properties and heritage listings), building disputes and owner-occupier disputes and rules.



Rental minimum standards

RENTAL MINIMUM STANDARDS

- Rented premises must meet rental minimum standards and these standards are detailed in the regulations.
- If the property does not meet the rental minimum standards on any given issue, the renter may terminate the rental agreement before they move in or treat the matter as an urgent repair.
- The standards apply to door locks, windows and window locks, vermin proof rubbish and recycling bins, toilets, bathroom, laundry and kitchen facilities, structural soundness, mould and dampness, window coverings, lighting, ventilation, and heating.



Rent increases

RENT INCREASES

- Rent increases can only be made once every year.
- The renter is to be provided with a statement informing the renter of their rights to apply to the Director of Consumer Affairs for an investigation if they believe the rent increase was excessive.



Rights of entry

ENTRY INTO THE PROPERTY

The rules and notice timeframes for entry onto the rented premises have changed.

- Routine inspections:
 - May be conducted every 6 months with 7 days' notice (not in the first 3 months)
- Inspections for prospective purchasers, renters, or lenders:
 - 48 hours' notice required (Compensation is payable for sales/rental inspectors only)
- Entry for images and videos for marketing purposes:
 - Entry is permitted with 7 days' notice however, there are many rules that limit what can be filmed or photographed.
- Entry to carry out duties required of the rental provider or if there are grounds for believing the renter has failed to comply with their duties:
 - 24 hours' notice
- Specific rules apply for entry in relation to family violence situations.



Bonds

MAXIMUM BOND AMOUNT

- The maximum bond is set at no more than one month's rent unless the weekly rent payable is more than \$900 or VCAT has set a higher bond amount. Previously the prescribed weekly rent was \$350.
- The exception to the maximum bond rule where the rented premises is the rental provider's principal place of residence has been removed.



Modifications

MODIFICATIONS BY THE RENTER

- New rules now apply to modifications that may be made by the renter. These fall into three categories:
 - Modifications that the renter can make without the rental provider's consent
 - Modifications that require the consent, but for which consent cannot unreasonably be withheld.
 - Modifications that require the consent at the absolute discretion of the rental provider.
- All modification must be reversed (allowing for fair wear and tear) before the end of the tenancy unless otherwise agreed or compensation paid to the rental provider.
- The rental provider may impose certain conditions for approval of a modification such as requiring the work be carried out by a suitably qualified person or paying a bond (in certain circumstances)



Non-payment of rent

REPEATED NON-PAYMENT OF RENT

- It is now much harder to terminate the rental agreement with a renter who is repeatedly in rent arrears.
- In each 12-month period a renter can be given up to four notices to vacate for late payment of rent which will be treated as 'strikes' against the renter but otherwise have no effect if they pay back the overdue rent owed within the 14-day notice period.
- A 12-month period is the first 12 months of a rental agreement and each subsequent 12-month period of the rental agreement.
- Only if a fifth notice to vacate for unpaid rent is issued in the 12-month period is the notice valid regardless of whether the renter pays back the rent owed within the 14-day notice period.
- VCAT has a whole range of matters it must consider when deciding to make a possession order on the grounds that it is reasonable and proportionate to do so.



Ending a rental agreement

ENDING A RENTAL AGREEMENT

- It is now much harder to terminate the tenancy unless you have a specific lawful reason for doing so.
- The 120 day 'no reason' notice to vacate does not exist anymore. A rental agreement may only be terminated for reasons set out in the legislation.
- A fixed term rental agreement may be terminated at the end of the initial fixed term. Any subsequent fixed term rental agreement may only be terminated for one of the other reasons specified in the legislation.
- When a notice to vacate is served because of an intended change of use of the rented premises, the notice to vacate must include specific documentation to prove the change of use.



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NON-COMPLIANCE AND PENALTIES

- Penalties for non-compliance have increased by up to 2.5 times.
- Infringement notices (or 'on the spot fines') have also increased by 2.5 times.
- There are new pecuniary penalty provisions which can be applied to most breaches of the law.
- A pecuniary penalty provision is a fine that can be imposed by the Courts without proceeding to a prosecution and conviction. Depending on the breach the maximum fine is up to \$60,000 for an individual and up to \$300,000 for a company.
- Consumer Affairs Victoria can put residential rental providers and property managers on a 'blacklist' known as the Rental Non-compliance Register for 3 years.
- There are very few penalties for breaches of the law by renters.

ADVERTISING AND DISCLOSURES

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- Before a renter enters into a residential rental agreement, certain matters must be disclosed to them. These include:
 - any ongoing proposal to sell the property.
 - details of any embedded electricity network in the property.
 - whether there has been a homicide at the property in the previous 5 years.
 - details of electrical and gas safety checks.
 - matters relating to mould or damp, asbestos, building defects, or prior drug contamination.
 - details of building and planning permits (including neighbouring properties and heritage listings), building disputes and owner corporation disputes and rules.

AN APPLICANT CANNOT BE ASKED

- **BOND HISTORY:**

We can no longer ask applicants about their 'bond history'. That is, whether there has ever been a claim made on their bond previously or whether they have been involved in a dispute or legal action with a residential rental provider.

- **PROTECTED ATTRIBUTES:**

Applicants cannot be asked questions about any of the 'protected attributes' except for very specific purposes.

- **BANK STATEMENTS WITH TRANSACTIONS:**

Credit or bank statements which contain daily transactions cannot be requested.

DISCRIMINATION

Every application to rent a property must now contain what is known as a 'Form 3' (Statement of Information for Rental Applicants). This document provides advice to prospective renters as to their rights against discrimination against 16 'protected attributes'. These protected attributes include age, gender, race, religion, marital status, disability, pregnancy (children) and political beliefs.

It is not uncommon for a person to claim discrimination based on one of these protected attributes if they were not successful in their application. It will be increasingly important to show that there was no discrimination involved in the selection process.

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ELECTRICAL SAFETY UPGRADE BY 2023

On and from 29 March 2023 all electrical power outlets and lighting circuits in the rented premises are to be connected to:

- a switchboard type Circuit Breaker
- a switchboard type Residual Current Device

These must comply with relevant Australian Standards.

MINIMUM STANDARDS - HEATING

An energy efficient fixed heater in good working order is to be installed in the main living area of the rented premises. There are some exemptions for apartments.

An energy efficient heater is one of the following:

- a non-ducted air conditioner or heat pump with a 2 star or above heating rating in the applicable prescribed energy rating system.
- a gas space heater with a 2 star or above heating rating in the applicable prescribed energy rating system.
- a ducted heating or hydronic heating system which has an outlet in the main living area.
- a domestic solid fuel burning appliance.

A fixed heater means a heater that is not designed or manufactured to be portable.

The timing of the installation of the energy efficient fixed heater depends upon the current circumstances of the property and the rental agreement. A fixed heater in good working order is to be installed in the main living area at a minimum.

ELECTRICAL AND GAS SAFETY CHECKS

These safety checks are to be conducted every two years at a minimum. A detailed record of each electrical and gas safety check must be kept and provided to the renter within 7 days, if requested.

Electrical safety checks must be conducted by a licensed or registered electrician.

Gas safety checks must be carried out by a licensed or registered gasfitter.

If on the day the renter commences occupancy of the rented premises an electrical and/or gas safety check as detailed in the regulations has not been conducted within the previous 2 years, a safety check must be arranged to be carried out as soon as practicable.

EXPANDED DEFINITION OF URGENT REPAIRS

The definition of Urgent Repairs has been expanded to include:

- a breakdown of a cooling appliance provided by the rental provider.
- non-compliance with rental minimum standards
- a failure or breakdown of safety-related devices including a smoke alarm or pool barrier.
- any fault or damage that makes the property unsafe or insecure, including pest infestation, or mould or damage related to the building structure.

Renters can authorise urgent repairs up to \$2,500 where the urgent repair has not been responded to appropriately by the rental provider.

REPLACEMENT OR REPAIR

A renter will be able to replace an appliance, fitting or fixture that cannot be repaired with one of or above the relevant prescribed level of efficiency rating. This applies to:

- appliances which use uses or supplies water
- dishwashers
- non-ducted air conditioner or heat pump
- gas space-heater

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- Specific rules apply for entry in relation to family violence situations.

COMPENSATION FOR A SALES INSPECTION

If the property is on the market for sale, every time an inspection is carried out of the rented premises to show a prospective purchaser the property compensation is to be paid to the renter.

The compensation is the greater of, \$30 or a half day's rent.

Every effort must be made to agree on times and dates. Unless otherwise agreed, inspections can only be carried out twice weekly and for a maximum of one hour each time.

The renter must be given a notice of intention to sell 14 days prior to the first inspection.

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Discuss the details with your Property Manager.

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