

MINIMUM HOUSING STANDARDS - QUEENSLAND

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The minimum housing standards will commence for new tenancies from 1 September 2023, and for all tenancies from 1 September 2024.

For residential tenancy agreements starting on or after 1 September 2023, lessors have just over six months to ensure that their premises and inclusions comply with any prescribed minimum housing standards when the tenancy starts [1] and continue to comply during the tenancy.[2]

WHAT ARE THE PRESCRIBED MINIMUM HOUSING STANDARDS?

The prescribed minimum housing standards are stated in schedule 5A of the *Residential Tenancies and Rooming Accommodation Regulation 2009* (**RTRA Regulation**) and are split into two parts – Safety and security, and Reasonable functionality.

PART 1 – SAFETY AND SECURITY

1. **Weatherproof and structurally sound** – The premises must be weatherproof, structurally sound and in good repair. Premises are not weatherproof if the roofing or windows of the premises do not prevent water entering the premises when it rains.
2. **Fixtures and fittings** – The fixtures and fittings, including electrical appliances, for the premises:
 - must be in good repair; and
 - must not be likely to cause injury to a person through the ordinary use of the fixtures and fittings.
3. **Locks on windows and doors** – The premises must have a functioning lock or latch fitted to all external windows and doors to secure the premises against unauthorised entry. This only applies to the windows and doors that a person outside the premises could access without having to use a ladder.
4. **Vermin, damp and mould** – The premises must be free of vermin, damp and mould. However, this does not apply to vermin, damp or mould caused by the tenant, including, for example, caused by a failure of the tenant to use an exhaust fan installed at the premises.
5. **Privacy** – The premises must have privacy coverings for windows in all rooms in which tenants or residents are reasonably likely to expect privacy, including, for example, bedrooms. However, this does not apply to a window if a line of sight between a person outside the premises and a person inside the room is obstructed by a fence, hedge, tree or other feature of the property. Privacy covering for windows include any of the following:
 - blinds;
 - curtains;
 - tinting;
 - glass frosting.

PART 2 – REASONABLE FUNCTIONALITY

1. **Plumbing and drainage** – The premises must have adequate plumbing and drainage for the number of persons occupying the premises, and be connected to a water supply service or other infrastructure that supplies hot and cold water suitable for drinking.
2. **Bathrooms and toilets** – The bathroom and toilet facilities at premises must provide the user with privacy. In addition, each toilet must function as designed, including flushing and refilling, and be connected to a sewer, septic system or other waste disposal system.
3. **Kitchen** – A kitchen, if included, must include a functioning cook-top.
4. **Laundry** – A laundry, if included, must include the fixtures required to provide a functional laundry other than whitegoods.

It is important to note in relation to the prescribed minimum housing standards, that increased rent is not payable by a tenant if it relates to compliance of the premises or inclusions with the prescribed minimum housing standards.[3]

The tenant may apply to the Queensland Civil and Administrative Tribunal (**the Tribunal**) for an order reducing the proposed rent increase or setting it aside if the proposed rent increase relates to the prescribed minimum housing standards.[4]

WHAT ARE SOME OTHER IMPLICATIONS FOR NON-COMPLIANCE WITH THE PRE-SCRIBED MINIMUM HOUSING STANDARDS BY THE UPCOMING DEADLINE?

As outlined above, in accordance with s 185 of the Residential Tenancies and Rooming Accommodation Act 2008 (**RTRA Act**), the lessor must, at the start of the tenancy and while the tenancy continues, ensure that the premises and inclusions comply with any prescribed minimum housing standards.

Accordingly, if a lessor fails to comply with any prescribed minimum housing standards by the upcoming deadlines, it will open up the lessor to potential action from the tenant for breach of the tenancy agreement.

If this breach is not remedied, the tenant may issue the lessor with a notice of intention to leave and subsequently end the tenancy agreement by handing over vacant possession on or after the handover day.

Alternatively, the tenant can apply to the Tribunal under s 191 of the RTRA Act and seek an order requiring the lessor to remedy the failure to comply with s 185 and ensure that the premises and inclusions comply with any prescribed minimum housing standards.

The definition of “Emergency Repairs” in s 214 of the RTRA Act has also recently been amended to include works that are needed for the premises or inclusions to comply with the prescribed minimum housing standards.

In the circumstances, the tenant may seek to take advantage of s 218 of the RTRA Act and arrange for works that are needed for the premises or inclusions to comply with the prescribed minimum housing standards if they have been unable to notify the lessor or nominated repairer of the need for emergency repairs or the repairs have not been made within a reasonable time.

If this occurs, the maximum amount that the tenant may incur for arranging emergency repairs is an amount equal 4 weeks rent payable under the tenancy agreement.

Alternatively, the tenant may apply to the Tribunal for a repair order in accordance with s 221 of the RTRA Act. If a repair order is granted by the Tribunal, it is an offence not to comply with the repair order unless there is a reasonable excuse.[5]

CONCLUSION

Property owners are advised to seek professional advice from their Property Manager to discuss their individual property and help them engage the appropriate professionals if required, to take the necessary steps to comply with the prescribed minimum housing standards by the relevant deadlines.

REIQ References:

- [1] Residential Tenancies and Rooming Accommodation Act 2008 (Qld) (**RTRA Act**) s 185(2)(e).
- [2] RTRA Act s 185(3)(e).
- [3] RTRA Act s 91(6)(b)(i).
- [4] RTRA Act s 92.
- [5] RTRA Act s 221C.