

COLLINGS

UPDATED RESIDENTIAL TENANCIES REGULATIONS 2021

130-plus rental standard reforms from
the Victorian government
introduced March 29



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STARTING A TENANCY

- **Fixed price advertisements and offers and ban on inviting rental bids**

Rental providers (landlords) and estate agents can only advertise or offer rental properties at a fixed price. They are banned from inviting rental bids or soliciting offers of rent higher than the advertised price.

- **False, misleading and deceptive representations**

A rental provider and their agent are banned from encouraging someone to enter into a rental agreement by making false or misleading representations, or through misleading or deceptive conduct.

- **Use of information in a rental application**

A rental provider or their agent can only use personal information disclosed in a rental application to assess the applicant's suitability as a renter or to comply with the Residential Tenancies Act 1997.

- **Inappropriate rental application questions**

A rental provider or their agent cannot request inappropriate information in a rental application.

- **Pre-contractual disclosure**

Before entering into a rental agreement, the rental provider must disclose to the renter whether the property is on the market for sale or is being repossessed, or if they are not the owner of the property, and information about any embedded energy network.

- **Rental agreement updated**

The rental agreement form has been updated and modernised.

- **Prohibited terms**

Certain terms are prohibited from being included in a rental agreement.

- **Unlawful discrimination information in rental agreement**

Rental agreement forms must include an information statement that educates applicants, rental providers and agents about unlawful discrimination.

- **Rental providers not to unlawfully discriminate**

Rental providers must not unlawfully discriminate (or instruct their agent to unlawfully discriminate) against renters in situations such as refusing to rent a property to an applicant, issuing a notice to vacate or determining consent for disability related modifications.

- **Maximum bond amount and rent in advance**

The rental cost threshold that needs to be met before a rental provider can request a bond, or rent in advance, of more than one month's rent, will be increased to take into account changes such as inflation. The threshold will be set by April 2020 following public consultation in November 2019 through Engage Victoria.

- **Additional bond amounts for long-term rental agreement**

Rental providers can request an additional bond in long-term rental agreements of more than five years if the renter has lived at the rental property continuously for at least five years, and the rental provider has given at least 120 days' notice.

- **Where and how rent is to be paid**

Any method for paying rent can be specified under a rental agreement, but the rental provider must offer at least one reasonably available fee-free method of payment. Rental providers must also disclose any costs that may be incurred by the nominated method prior to the renter entering the agreement. Rental providers must also permit rent payments via Centrepay.

- **Digital renting guide provision**

If the renter has given consent to receiving documents electronically, the rental provider may give the renter the Renting a home: a guide for tenant's summary of renter rights in electronic form.

- **Disclosure of rental provider details**

VCAT can order that the agent disclose the rental provider's details for the purpose of legal proceedings.

- **VCAT can formalise rental agreements**

A renter can apply to VCAT for an order requiring the rental provider to enter a written rental agreement with the renter, where a rental agreement already exists but it is not in writing or is only partially in writing.

- **Unsigned rental agreements enforceable**

If a renter has signed the rental agreement but the rental provider has not and the rental provider (or their agent) has accepted rent or allowed part performance of the agreement by the renter, then the agreement is enforceable.

LIVING IN A RENTAL PROPERTY

- **Rental provider must provide a free set of keys for each renter**

Rental providers (landlords) must provide each renter with a free set of keys or security device. Rental providers can only charge a reasonable fee for additional or replacement keys or devices.

- **Pets in rental properties**

Renters can keep pets at a rental property with the written consent of the rental provider. A rental provider can apply to VCAT for an order that it is reasonable to refuse permission.

- **New process for repeated late or non-payment of rent**

When a renter pays back overdue rent within 14 days, any notice to vacate issued by the rental provider for that overdue rent is invalidated. This applies for the first four times it happens in a 12-month period. However, if the renter fails to pay rent as required on a fifth occasion in the same 12-month period, the rental provider may give a notice to vacate and apply to VCAT for a possession order. VCAT may adjourn the possession application and place renter on a payment plan to meet the outstanding arrears.

- **Changes to rules around rent increases**

Rental providers of caravan parks, residential parks and rooming houses cannot increase rent more than once every 12 months under any type of rental agreement. For fixed-term rental agreements, rent increases can only occur if the rental agreement specifies the amount or method of the rent increase.

- **Fixed-term rent increases**

For rent increases that occur during a fixed-term rental agreement, the amount or calculation method for the increase must be set out in the agreement and this amount or calculation method must be used.

- **Changes to rights of entry to a property by the rental provider**

Rental providers must comply with more detailed rules around rights of entry including: extended notice period for some grounds, restrictions for renters protected under personal safety and family violence legislation, and length and frequency of entry.

- **Breach of duty notice**

Where a renter or rental provider gives the other a breach of duty notice, the person in breach will be required to remedy the breach if possible and, if the breach has resulted in loss or damage to them, provide compensation.

- **Nuisance breach of duty notice**

If a renter causing a nuisance is served a breach of duty notice but does not comply within seven days, the rental provider can apply to VCAT for a compensation or compliance order.

- **Quiet enjoyment breach of duty notice**

If a rental provider who is not ensuring the renter's quiet enjoyment is served a breach of duty notice but does not comply within seven days, the renter can apply to VCAT for a compensation or compliance order.

- **Rental provider to charge reasonable assignment fees**

If a rental agreement is being assigned to a new renter, the rental provider can only charge fees that are reasonably incurred by them because of the assignment of the agreement.

- **Utility fees and charges responsibilities**

Rental providers must pay for all charges that renters are not liable for, including water charges in respect of the rented premises that are not separately metered. Park residents must pay for installation and connection of a service from a supply point on their site.

- **Excessive utility bills**

Where a renter has received an excessive utility bill attributable to a hidden fault (such as a leaking water pipe), the rental provider must pay for the costs that exceed the renter's ordinary usage amounts.

- **Social housing service charges**

Social housing operators can impose a service charge for any water, central heating, laundry or utility services or facilities made available to the renter. Renters can apply to VCAT if they believe they have been overcharged.

- **Utility charges in rooming houses**

Rooming house operators can charge for separately metered water in the same way they can already charge for separately metered gas or electricity consumption, where the charge is reasonable and is not already included in the rent.

LEAVING A RENTAL PROPERTY

- **Rental providers must give a valid reason to end a rental agreement**

Rental providers (landlords) cannot issue a 'no specified reason' notice to vacate. To end a rental agreement, rental providers must provide a valid reason such as sale, change of use or demolition of the rental property, or rental provider moving back into the rental property.

- **Limiting the use of 'end of fixed term' notices to vacate**

Rental providers can only issue a notice to vacate at the end of the first fixed-term of a rental agreement. This does not apply to long-term rental agreements of more than five years.

- **Flexible end date for fixed term agreements**

A notice to vacate for the end of a fixed-term agreement can specify a date on or after the end date specified in the fixed-term agreement.

- **Evidence for change of use notice to vacate**

Rental providers must attach documentary evidence to a notice to vacate for change of use. The Director of Consumer Affairs Victoria will specify the types of evidence that must be used, for example a building permit.

- **Notice to vacate for endangering safety**

Rental providers can issue a notice to vacate if the renter or their visitor endangers the safety of neighbours, the rental provider or their agent, or a contractor or employee of either the rental provider or their agent.

- **New ground for issuing notice to vacate: threats and intimidation**

Rental providers can give renters a 14-day notice to vacate if the renter, or any person occupying the rented property, has seriously threatened or intimidated the rental provider or their agent, or a contractor or employee of either the rental provider or their agent.

- **Clarification for notice to vacate for damaging property**

A notice to vacate can be issued where a renter or their visitor, by act or omission, intentionally or recklessly causes serious damage to the rented property, including to any safety equipment or common areas.

- **New options for renters claiming their bond**

Renters can apply to the Residential Tenancies Bond Authority (RTBA), without the rental provider's permission, to have all or part of their bond released.

- **Professional cleaning requirements**

A term in a rental agreement can only require professional cleaning if it is needed to return the property to the condition it was in at the start of the rental agreement, taking into account fair wear and tear.

- **Changes to procedure for goods left behind**

Rental providers must give renters notice of goods left behind and store these in a safe place for at least 14 days after giving the notice. Further detailed requirements apply for the storage, disposal, sale and reclamation of goods left behind by renters.

- **Calculation of compensation for termination of a fixed-term rental agreement**

Rental providers can apply to VCAT for compensation if a renter terminates a fixed-term rental agreement before the end date. The amount payable will be determined based on the loss incurred by the rental provider and any hardship suffered by the renter.

- **Compensation for lease break**

When making a compensation order in the case of a lease break, VCAT must consider the severe hardship the renter may have suffered due to an unforeseen change in circumstances, if the agreement had continued.

- **14-day notice of intention to vacate without lease break fees**

Renters can give 14 days' notice of intention to vacate without paying lease break fees in limited circumstances, including when they need special or personal care, have been given certain notices to vacate, need temporary crisis accommodation or have been accepted into social housing.

- **Application to VCAT to remove renter database listing**

A renter can apply to VCAT to have a listing on a renter database amended or removed if VCAT is satisfied that the listing is unjust.

- **RTBA to provide renter details if ordered by VCAT**

VCAT can order the RTBA to provide a renter's details (e.g. home address or email address) for the purposes of serving a document on the renter.

- **VCAT to consider reasonableness and proportionality before issuing possession orders**

VCAT must not issue a possession order without first considering whether it is reasonable and proportionate in the circumstances of the application to do so.

- **VCAT not to make possession orders in certain circumstances**

VCAT must not make a possession order if it considers the failure to comply with an order trivial or that it has been remedied as far as possible, and that the breach of duty was not a repeat breach.

- **Postponing warrant of possession**

VCAT can issue a warrant of possession in relation to residency in a rooming house or a caravan park. This warrant can be postponed in certain cases, based on relative hardship grounds and provided there is no unpaid rent or other breach.

- **Bank or other mortgage provider to honour rental agreements**

If a bank or other mortgage provider has consented to the mortgage recipient entering a rental agreement with the mortgaged property, upon taking possession of the property they are subject to all the provisions of the Act as though they were the rental provider.

- **Notice to vacate from mortgage provider**

A bank or other mortgage provider who wants vacant possession of the rented property must give the renter at least 60 days' notice to vacate. They cannot give this notice if they consented to the rental provider entering into the rental agreement.

- **Bank or other mortgage provider must provide evidence for possession**

If a bank or other mortgage provider applies to VCAT for a possession order of a rented property, it must attach a court order which shows its entitlement to the property and to sell the rented premises.

- **Death of the sole renter**

After the death of the sole renter, either the legal personal representative or next of kin of the deceased renter can give a notice of intention to vacate, the rental provider can give a notice to vacate, or VCAT can make orders terminating the agreement.

REPAIRS, MODIFICATIONS AND PROPERTY CONDITIONS

- **Rental property must be kept in good repair and reasonably fit for occupation**

Rental providers (landlords) must ensure the rental property is provided and maintained in good repair and is in a reasonably fit and suitable condition for occupation. This applies regardless of the amount of rent paid or the property's age and character.

- **Condition report requirements**

Condition reporting is required regardless of whether a bond is taken. The condition report must be completed at the start and end of the rental agreement.

- **Rental minimum standards**

Rental providers have a duty to ensure their rental property meets the rental minimum standards. The minimum standards will be set in April 2020 following public consultation in November 2019 through Engage Victoria.

- **Non-compliance with minimum standards**

Rental providers must ensure that the property complies with minimum standards before a renter moves in. If a property does not comply with the minimum standards, the renter can terminate the rental agreement before they move in, or they can request an urgent repair.

- **Expanded definition for urgent repairs**

Urgent repairs now include repairs or replacements relating to air conditioning, safety devices and any fault or damage which makes the property unsafe or insecure, including pest infestations, or mould or damp caused by or related to the building structure.

- **Urgent repairs guidelines**

The Director of Consumer Affairs Victoria will issue guidelines clarifying timeframes for responding to urgent repairs. VCAT must consider the guidelines when determining urgent repairs disputes.

- **Increased limit for urgent repairs reimbursement**

The money limit for renters to authorise urgent repairs when their rental provider has not promptly responded to an urgent repair request has been increased.

- **Rental provider must pay renter back for cost of urgent repairs within 7 days**

Rental providers must pay back renters for the cost of urgent repairs (or replacement if the fault cannot be repaired) within seven days of the renter giving written notice of the reasonable cost of the repairs.

- **Liability for utility charges for non-compliant energy efficient replacement appliances**

A rental provider is liable for the cost of supplying water, gas or electricity to the rented premises for as long as the rental provider is in breach of their duty to replace a water, gas or electrical appliance with a replacement which has an equal or greater prescribed energy efficiency rating.

- **Rent Special Account**

Upon application by the renter, VCAT must order that rent be paid into the Rent Special Account for a specific period, where the rental provider receives notice that urgent repairs are required, fails to carry out those repairs, and has not demonstrated that they would experience financial hardship if the rent was paid into the Rent Special Account.

- **Applying to VCAT for non-urgent repairs**

Renters can apply directly to VCAT for non-urgent repairs if the rental provider has not carried out notified repairs within 14 days. Renters can still request a repairs report from Consumer Affairs Victoria, but a repairs report is no longer be required to apply to VCAT.

- **New rules for renters making modifications to rented property**

Renters can make prescribed modifications without the rental provider's consent. There are other modifications which a rental provider cannot unreasonably refuse consent to renters making. What qualifies as a prescribed modification will be decided by April 2020 following public consultation in November 2019 through Engage Victoria.

- **Director issued maintenance guidelines**

When determining a dispute about maintenance, VCAT must take into account the relevant guidelines set by the Director of Consumer Affairs Victoria.

- **Director issued cleanliness and repair guidelines**

When determining a dispute about cleanliness or repairs, VCAT must take into account the relevant guidelines set by the Director of Consumer Affairs Victoria.

- **Director issued damage and fair wear and tear guidelines**

When determining a dispute about damage or fair wear and tear, VCAT must take into account the relevant guidelines set by the Director of Consumer Affairs Victoria.

- **Renters to leave property reasonably clean**

Renters must leave the property reasonably clean and in the same condition as at the start of the rental agreement, taking into account fair wear and tear.

- **Renters and visitors not to damage property**

Renters and their visitors must not intentionally or negligently cause damage to the property or common areas. If damage occurs, the renter must inform the rental provider.

- **Renters must inform rental provider of damage**

A renter must report damage or the breakdown of facilities as soon as practicable after becoming aware to the rental provider. This report will be considered by VCAT in claims for compensation by the renter. If the renter receives an end of fixed term notice to vacate in response to such a report, it is of no effect.

- **Timeframe for reimbursement of cost of repair when a repair notice has been issued**

Renters must reimburse rental providers for the reasonable cost of repairs within 14 days of receiving the repair notice. Renters experiencing hardship may apply by written notice to the rental provider, or failing that, to VCAT for an additional 14 days to pay back the cost of repairs.

- **VCAT to consider depreciation**

VCAT must consider depreciation when assessing a rental provider's claim for compensation for damage to rented property.

- **Safety-related activities**

Renters and rental providers must undertake safety-related activities set out in the rental agreement. Where necessary, they must ensure the activity is carried out by a suitably qualified person.

- **Records of gas and electrical safety checks**

Rental providers must comply with prescribed requirements for keeping and producing records of gas and electrical safety checks conducted at the property.

- **Interference with safety devices**

Renters and rooming house residents must not remove, deactivate or interfere with the operation of a prescribed safety device (e.g. smoke alarm), unless it is reasonable to do so.

- **Locks for external doors and windows**

Rental providers must ensure that external doors are secured with a working deadlock and each window capable of having a lock has one. There are exceptions, for example if there is a screen door attached to an external door with a deadlock.

- **Rental provider joining owner's corporation to repair application**

Where an application is made to VCAT for a breach of duty where the alleged repair involves a problem or defect originating from the adjoining common property, the rental provider may join any relevant owners corporation as a party to the application.

REFORMS UNIQUE TO ROOMING HOUSES

- **Fixed-term rooming house agreements**

Under a fixed-term rooming house agreement, the operator can now request a bond up of to 28 days' rent and a resident must give 14 days' notice of intention to vacate.

- **Rooming house agreement length**

A rooming house operator and a resident cannot enter a rental agreement for a fixed term of more than five years.

- **Summary of rooming house rights and responsibilities**

The rooming house operator must give and display in each resident's room a summary of the resident's rights and responsibilities and a copy of the house rules.

- **Rooming house inspections**

A rooming house operator wishing to enter a resident's room to conduct a general inspection must give the resident 48 hours' notice. Inspections can only be between 8am and 6pm and cannot occur more than once every four weeks.

- **Rooming house minimum standards**

Rooming house minimum standards will be updated to clarify that a resident's room must have at least two power points that are unoccupied, working and safe and the operator must provide one set of laundry facilities for every 12 residents

- **Notice for rooming house residents where a building lease is terminated**

Where a building owner or lessee is entitled to terminate the lease of a building in which a rooming house is operating, the rooming house residents are entitled to a notice period when a building lease terminates (whether or not the building owner or person discontinuing the lease was aware a rooming house was operating).

- **Building owners to report unregistered rooming houses**

Where the building owner or their agent have reason to believe or ought to know, that the building is being used as an unregistered rooming house, they must report it to the relevant local council.

- **Suppression of rooming house details**

Rooming house operators can apply to the Director of Consumer Affairs Victoria to suppress certain information on the public rooming house register where exceptional circumstances exist, such as to protect the address of family violence refuges.

- **Declaring a building a rooming house**

Buildings owned or leased by the Director of Housing or a registered housing agency can be declared rooming houses by the Minister for Housing.

OTHER CHANGES

- **New terms, including 'rental providers' and 'renters', to be used**

The new rental laws refer to landlords as rental providers, tenants as renters, tenancy agreements as rental agreements, and rooming house owners as rooming house operators.

- **Updated definition of 'health or residential service'**

The definition of 'health or residential service' has been updated to exclude specialist disability accommodation.

- **Temporary crisis accommodation**

The definition of temporary crisis accommodation has been updated to include accommodation which is provided for a prescribed period and is prescribed to be temporary crisis accommodation.

- **Moving to the new rental laws: some exceptions to existing rental agreements**

Rental providers and renters who have existing rental agreements signed before 1 July 2020 will be exempt from some of the new rental laws until that agreement is terminated and a new agreement is signed.

- **Renters entitled to copy of personal information in a renter database**

Renters are entitled to a free copy of their personal information listed on a renter database. A renter can request this once every 12 months.

- **New penalties and powers for breaches**

Civil pecuniary penalties have been introduced for specific breaches of the Residential Tenancies Act 1997, together with a public warning power for the Minister and Director of Consumer Affairs Victoria and other new powers to ensure compliance with key obligations.

- **Rental non-compliance register**

Rental providers found by VCAT to have committed an offence or breached a duty under the Residential Tenancies Act 1997 will have their name, rental property address, and nature of their offence or compensation or compliance order made listed on the register available from the Consumer Affairs Victoria website.

- **New objectives for Residential Tenancies Act**

The objectives of the Act have been revised to reflect its role in the modern regulation of rental accommodation.

- **Long-term leases**

Renters and rental providers (landlords) can enter a fixed-term rental agreement for longer than five years. They must use the prescribed form to do so.

- **Prohibited terms**

Certain terms are prohibited from being included in a long-term lease. Inclusion of these terms by a rental provider or renter is an offence.

- **Additional bond**

Additional bond payments can be required every five years in a long-term lease to account for a rent increase for the next five-year period. Rental providers must give renters 120 days' notice before an additional bond payment.

- **Long-term lease breaches**

Renters and rental providers can apply to VCAT for a compliance or compensation order when one party breaches a term of a fixed term rental agreement of more than five years.

- **Long-term lease periodic tenancies**

When the fixed-term period of a long-term lease ends, the agreement will automatically transition to a periodic agreement unless the parties agree to an extension of the term. The periodic agreement will continue with the same terms as the fixed-term agreement where possible.

- **Terminating long-term lease if agreement is non-compliant**

A renter can give a rental provider 28 days' notice of intention to vacate if their long-term lease agreement is not in the standard form.

- **Long-term lease notice to vacate**

A rental provider can give a renter under a long-term lease a fixed-term notice to vacate. This notice to vacate can only be given at the end of the first fixed-term period.

FAMILY VIOLENCE AND PERSONAL VIOLENCE

- **Accessing family or personal violence protections in the Act**

In determining an application under the family or personal violence provisions, VCAT must take into account whether the applicant has applied for a family violence intervention order, a family violence safety notice, a non-local domestic violence order, or a personal safety intervention order, and other evidence of family or personal violence.

- **VCAT to decide on terminations of rental agreements in family violence situations**

VCAT can decide on terminations of rental agreements in family and personal violence situations. VCAT can terminate an agreement, or require creation of a new agreement that does not include the alleged perpetrator of the family or personal violence.

- **VCAT to hear family or personal violence related applications within specified time**

An application brought to VCAT for the termination of an existing rental agreement or the creation of a new agreement on family or personal violence grounds must be heard within three business days, or no later than the next available sitting day if the application cannot be heard within the three-business-day period.

- **VCAT can be nominated to serve documents on perpetrators of family or personal violence**

Renters who are subjected to family or personal violence may request VCAT to serve documents on a perpetrator of family or personal violence to commence proceedings at VCAT.

- **Applicant can include a parent or guardian of child exposed to family or personal violence**

If a child is subject to family or personal violence, a parent or guardian may apply to VCAT on that child's behalf for an order to terminate the existing rental agreement and/or create a new agreement.

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If a child is subject to family or personal violence, a parent or guardian may apply to VCAT on that child's behalf for an order to terminate the existing rental agreement and/or create a new agreement.

- **VCAT can determine bond liability in family or personal violence circumstances**

When considering an application for the repayment of a bond, VCAT will be able to determine that a renter who is a victim of family or personal violence is not liable for any loss or damage caused by the actions of the alleged perpetrator (who is not a renter).

- **Restrictions on residential tenancy database listings for family or personal violence**

A rental provider (landlord) or database operator is prohibited from listing personal information about a person on a residential tenancy database if the listing was a result of an act of family or personal violence experienced by the person.

- **VCAT may remove or amend database listings in family violence or personal circumstances**

A person who is a victim of family or personal violence may apply to VCAT for an order that requires their rental provider, agent of their rental provider, or a database operator to remove, amend or not list personal information about the applicant.

- **Notice to leave for visitor's serious violence**

A notice to leave can be served on a resident of a rooming house, caravan park or residential park for their visitor's behaviour if the resident caused, encouraged or permitted serious violence. The notice cannot be given if the visitor is a family member and the serious violence committed is family violence.

- **Additional information in notice to leave**

The notice to leave for serious violence has been updated to include further practical information for a suspended resident.

- **Collecting personal belongings during rental suspension**

If a renter's agreement has been suspended because of an act of serious violence, the suspended renter can arrange with the rental provider to have an authorised representative collect their personal belongings (such as medication) from the property.

- **Application to VCAT to terminate agreement for serious violence**

An application to VCAT to terminate a suspended renter's agreement following a notice to leave for serious violence must be heard within two business days. It can only be adjourned once, and for no longer than five days. If the notice was validly given and it is reasonable and proportionate to do so, VCAT may terminate the rental agreement.