



# LONGVIEW

**RTA Legislation Changes**

**March 2021**

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## Definitions

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Tenants are now referred to as Renters

Landlords are now referred to as Residential Rental Providers or RRP's

Lease agreements are now referred to as Residential Rental Agreements

## Building Classes

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Class 1 is known as houses, units, townhouses and terraces (single dwelling)

Class 2 is apartment buildings

## Advertising & Letting

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- Fixed price advertising – there must be no price ranges and we cannot ask a prospective renter to place a higher offer
- We must not mislead or deceive a prospective renter into signing an agreement
- If a renter has signed an agreement and a RRP has not, the agreement is still enforceable

## Prohibited Detail Request – Applications

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- Whether or not the applicant has previously been involved in legal action (tribunal) with any of their previous RRP's
- Bond history including claims
- A bank or credit statement containing daily transactions
- Any information with regards to culture or religion – Equal Opportunity Act 2010

## Bonds

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- A maximum bond cannot exceed one months' rent, unless the rent is more than the median rental price at the time
- Consumer Affairs has advised this is currently \$900 per week
  
- Renter can apply to RTBA from the day they return keys to have their bond refunded
- RTBA then notifies RRP/Agent that Renter has applied
- RRP/Agent has 14 days' to respond
- If no response, bond is refunded to Renter
- Bond deductions can include; repairs, outstanding rent, cleaning

## Rental Provider Requirements at beginning of Agreement

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- RRP must ensure property is vacant and clean prior to agreement commencement date
- RRP must ensure property complies with rental minimum standards

## Condition Report

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- Must be provided to renter at the beginning of the tenancy
- Must be returned by renter in 5 days
- If renter has not received Condition Report, they may complete one themselves and return within 5 days
- Is used as evidence of repair i.e., for maintenance requests

## Pre-contractual disclosure

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We must advise the Renter of these items **PRIOR** to them signing the Residential Rental Agreement.

- Embedded networks details including ABN, business name and contact details and an OC rules
- The date of the most recent gas and electrical safety checks and pool compliance check
- If the rental property complies with minimum standards
- Pre-existing combustible cladding, water leaks, structural issues
- Any outstanding works for gas and electrical safety
- If the premises have been used for production of drugs or is noted to have asbestos
- If the premises were the site of a homicide in the last 5 years

\*From December 31 – if the RRP has received a repair notice relating to mould

## Prohibited Rental Agreement Terms

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- Advising a Renter is bound to an agreement if the Renter has not agreed in writing
- Advising a renter must compensate a RRP i.e., if they withdraw their application prior to paying & signing
- Preventing a renter from making a claim for compensation to the RRP i.e., if the property is not available on the commencement date
- to pay their rent by a method that has additional costs
- to use a service provided – not including imbedded networks
- to pay fees associated with maintenance or safety related costs
- To pay costs associated with tribunal or insurance
- Imposing fixed fees for terminating a rental agreement early unless the calculations are set out in the lease agreement

## During an Agreement

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- 1 set of keys per renter
- Rent cannot increase more than once every 12 months
- Rent increases that are built into the agreement must include the calculations and amounts
- Breach of duty – person in breach will be required to remedy breach or provide compensation, if not remedied – can apply to VCAT for a compensation or compliance order
- Assignment (tenant transfer) fees must be reimbursed to landlord NOT charged to Tenant
- Excessive utility bills – RRP must cover difference if property fault i.e., a water leak
- Renter must not intentionally or negligently cause damage – does not include ‘fair wear & tear’
- **Fair wear & tear considered deterioration of the condition of the premises cause by either the reasonable use of the premises or natural environmental forces**
- A renter must KEEP AND leave premises reasonably clean
- RRPS must maintain property in good repair regardless of disrepair prior to renter’s occupation and despite rent being paid, age or character
- if RRP completes repairs that renter is liable for, renter must reimburse RRP within 14 days – renter can apply to VCAT for extension if hardship



## Entry into Rented Premises

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- Rental Open for Inspections can be exercised 21 days' prior to termination date and twice a week unless otherwise agreed
- 48 hours minimum Notice for Open for Inspections including private inspections
- 7 days' minimum for valuation and Routine Inspections
- 24 hours minimum notice for landlord duty or Tenants failed to comply i.e., inspecting a repair
- 7 days' minimum Notice for advertising photos – can be done without Tenants permission if need be

## Pets

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- Renter can keep pet with written consent from the RRP or VCAT
- Renter must apply for pet using prescribed form
- RRP cannot unreasonably refuse
- RRP must respond within 14 days'
- RRP can apply to VCAT for pet exclusion order
- VCAT will consider the type of pet, character and nature of property, fixtures and fittings, any other acts, council, or OC regulations – they will also specify a date the order take effect
- If 14 days' have passed after exclusion order takes effect and the renter has not complied, a 28-day Notice to Vacate can be issued to renter

## Sale of a Rental Property

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- Renter must be provided with 'Intention to Sell' form
- Sales inspections can only occur once 14 days have passed from Intention to Sell form being served
- Renters are entitled to compensation per Sales Inspection
- Compensation is to be either half the daily rent or \$30 – whichever is greater

## Urgent Repairs

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1. Air Conditioning
  2. Mould (if caused by building defect)
  3. Pest Infestations
  4. Safety related devices i.e. smoke alarms & pool fences
  5. Failure to comply with Rental Minimum Standards
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- \$1800 urgent repair limit has been removed
  - RRP must reimburse costs within 7 days
  - RRP's must reimburse reasonable cost of repairs up to \$2500

Rent special account – if repairs are not completed, Renters can apply to Consumer Affairs to have the rent paid into a 'rent special account'. Consumer Affairs will hold these funds until repairs have been completed.

## Tenant Modifications WITHOUT consent

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- Attaching child safety devices, such as blind or cord anchors, pressure-mounted child safety gate and adhesive child safety locks on doors and drawers (must have permission if on brick/concrete)
- Installing picture hooks or wall mounts (must have permission if on brick/concrete)
- Water efficient shower heads – original must be kept
- Replacement or installation of curtains/blinds – original must be kept
- Increasing the energy efficiency of the house with new LED globes
- Securing gates, doorbell (wireless), window tint (non-permanent), letterbox lock
- Security lights, alarm systems and cameras that do not impact the privacy of neighbours, can easily be removed, and are not hardwired to the premises

Renter must return property in condition prior to modifications

## Tenant Modifications WITH consent

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- Fixtures, brackets, hooks etc on exposed brick or concrete walls
- Draft proofing
- Installation of security systems by qualified persons
- Flyscreens on doors and windows
- Vegetable/herb gardens
- Installation of letterbox
- Painting
- External gates

Renter must return property in condition prior to modifications unless otherwise agreed with RRP

## Arrears

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- When a renter pays back overdue rent within 14 days, any NTV issued by the rental provider for that overdue rent is invalidated
- Applies to the first 4 times in a 12-month period
- If renter fails to pay rent on fifth occasion in same 12-month period - RRP can serve NTV and apply to VCAT for a possession order
- VCAT may adjourn possession application and place renter on payment plan to meet outstanding arrears
- If renter complies with payment plan all previous notices, applications and orders become void
- If renter does not comply, the tribunal may make a possession order

## Rental Minimum Standards

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- Locks
- Bins
- Toilets
- Bathrooms/Kitchens/Laundry
- Structure
- Mould
- Electrical Safety
- Windows/Window coverings
- Lighting
- Ventilation
- Heating

### Locks

- All external entry doors which are not secured with a functioning deadlock must be fitted with a locking device that is
  1. Operated by a key from the outside
  2. Can be unlocked from the inside, with or without a key
- Does not apply to doors which open into a common area or heritage listed building

**If a front door and door frame is capable, it must be fitted with a single a barrel deadlock**

### Bins

- Must be vermin proof and provided by council
- If not provided BY council, must be compatible with council collection

### Bathroom Facilities

- Connected to a reasonable supply of hot & cold water
- Contains a washbasin and a shower or bath
- Shower head must have a 3 star or above rating

### Toilets

- Must be in working order
- Must be correctly connected to sewerage system, wastewater system i.e., tank or other council approved wastewater management system
- Must be in a room that it intended to be used as a toilet area i.e., a bathroom or separate enclosed structure that is intended to be used as a toilet area

## Kitchen Facilities

- Dedicated area intending to be used for cooking and food prep
- Sink with reasonable supply of hot & cold water
- Cooktop with 2 or more burners
- Oven

Does not apply to heritage listed buildings where a permit has been refused

## Laundry

- Must be connected to hot and cold water

## Structural soundness

- Waterproof
- Rented premises must be structurally sound

## Mould & Dampness

- Each room must be free from mould or dampness caused or related to building structure

## Windows & window coverings

- It must reasonably block light and provide privacy
- Windows must be able to be set open or closed i.e., not be able to slam shut
- Must be able to latch closed to secure the windows i.e., locks or bolts

\*From 29 March 2022 – each window in a bedroom or living area must be fitted with a curtain/blind that can be opened and closed

## Lighting

- Interior rooms, corridors and hallways must have light – natural or artificial
- Habitable rooms must have natural light during daylight hours and artificial light during non-daylight hours
- Must provide appropriate level of light to function in the room
- Doesn't apply if heritage listed

## Ventilation – building class 1

- There must be some form of ventilation, whether that be mechanical (an exhaust fan) or a means of outdoor air (a window)

## Ventilation – building class 2

- This outlines the same as the above however the air cannot be disposed of into common property i.e., to the hallway

## Heating

- Heater must be fitted in main living area
- If not fitted on or before March 29 2021, an energy efficient heater must be fitted
- In a class 2 building it may be unreasonable to install an energy efficient heating i.e., cost of installation may be significantly high, OC rules prohibit installation of appliance or compliance with other Act or council is not possible

Energy efficient means:

- A non-ducted unit with a 2 star or above heating rating
- A gas space heater with a 2 star or above rating
- A ducted heating or hydronic heating system where the outlet is in the main living area
- A domestic solid fuel burning appliance

## Electrical Safety

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- RRP must ensure all electrical appliances are checked every 2 years by a licensed or registered electrician
- date of most recent inspection must be provided to renter
- If an electrical safety check has not been conducted in the last 2 years, RRP must arrange an inspection as soon as practicable
- Must keep record of check including name of registered electrician, license and registration number, date, results of check – must be kept until next service

## Gas Safety

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- RRP must have a safety check completed on all gas appliances every 2 years by a licensed and registered gas fitter
- Must provide renter with date of most recent check
- If check hasn't been completed in last 2 years, must be completed asap
- Must keep record of check including name of registered gasfitter, license and registration number, date, results of check – must be kept until next service

## Smoke Alarms

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- Must be working and installed correctly
- Must be tested every 12 months
- RRP must replace batteries as required
- Considered an urgent repair
- Hardwired alarms must be completed by qualified person
- RRPS must provide renter with information on how each alarm works, how to test them and their obligation not to tamper with them and report when not working
- Renter must advise in writing if alarm not working
- Must be installed in all residential buildings

## Swimming Pools

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- Barriers must be maintained in good repair
- Renter must advise in writing asap after becoming aware barrier is broken/damaged
- Urgent repair
- Renter must not erect a relocatable pool without written permission from RRP
- Renter must obtain necessary council approval prior to erecting pool
- Does not apply to pool/spa under 300mm in depth (length of a ruler)



## Cleaning

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- RRP cannot ask a renter to arrange professional cleaning UNLESS:
  1. The property was professionally cleaned immediately before the tenancy and the renter was advised professional cleaning had been carried out
  2. Professional cleaning is required to restore the premises to the same condition it was immediately before the tenancy, taking into consideration fair wear & tear

## Ending an Agreement

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- 'No specified reason' (120 Days) Notice no longer exists
- Can only serve an 'End of Fixed Term' (90 day) Notice in the 1<sup>st</sup> fixed term agreement
- 'End of Fixed Term' Notice can fall on or after the expiry of the lease
- Evidence must be attached to 60 day Notice i.e., building permit for demo
- New Notice to Vacate – threats & intimidation – 14 Day Notice includes trades, agents, RRP's and doesn't have to be the renter, can be anyone associated with renter
- **Break lease fees – pro rata letting fee, FULL advertising fee and rent ongoing – must be reimbursing the RRP**
- Agreement terminates if renter hasn't taken possession and gives notice of termination based on; uninhabitable, unsafe, not vacant, do not meet minimum standards
- RRP can give renter immediate Notice to Vacate if renter or associate intentionally and recklessly causes serious damage to premises including common areas or endangers the safety of neighbours, the rental provider, the agent, or contactors
- If a 60-day Notice to Vacate is served, property must not be re-let within 6 months – can apply to VCAT to have this reduced if situation changes
- Can still apply for possession if renter has not vacated by prescribed termination date
- If goods left behind, RRP must give renter 14 days to have them removed. Renter can be charged fee for stored goods which must not exceed rent amount – can apply to VCAT for higher

## VCAT – Reasonable & Proportionate

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- VCAT will test each possession hearing to see if it is 'reasonable & proportionate'
- They will look at nature, frequency, reasons, the cause and rectification or if it can be remedied, who it effects, the behaviours of RRP, agent & renter, and if there are any other solutions
- The purpose of this is so eviction is the last option

## VCAT – Dismissal & Adjournment

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- VCAT may adjourn an application and
  1. refer the renter to financial counselling
  2. Have the financial counselling service advise if the renter can adhere to a payment plan
- Or enter the renter into a payment plan themselves
- VCAT must dismiss an application if the arrears were paid by the renter between the NTV date and prescribed termination date on the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, or 4<sup>th</sup> time in a 12-month period

## Information Sources

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[www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)

[www.austlii.edu.au](http://www.austlii.edu.au)

[www.consumer.vic.gov.au](http://www.consumer.vic.gov.au)

[www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

[www.tenantsvic.org.au](http://www.tenantsvic.org.au)

[www.reiv.com.au](http://www.reiv.com.au)