

New RTA Legislation Changes

Name Changes:

Landlords or Owners will be called Residential Rental Providers or RRP's

Tenants will be called Renters

Tenancy Agreement will be called Residential Rental Agreement

Urgent Repairs Additions:

- Air conditioning/cooling
- A failure to comply with rental minimum standards such as a toilet, vermin proof bin, adequate hot/cold water in the bathroom & kitchen, secure windows, cooktop, oven, sink, heating in living area, blinds in bedrooms & living area and deadlock on external doors
- A failure or breakdown of a safety related device such as a smoke alarm or a pool fence
- A pest infestation
- The presence of mould or damp caused by or related to the building structure

Prohibited Rental Agreement Terms:

- A term that requires the Renter to take out any form of insurance
- A term that requires the Renter to have the property professionally cleaned at the end of the agreement unless it is included in the standard form and cleaning is required to return the property to the condition it was in at the start of the tenancy

S.29A Rental Agreement signed by Renter only

If a renter has signed an agreement and has given it to the Agent or RRP and they don't sign it, it has the same effect as if it was signed by the RRP.

S.29B Renter can apply to VCAT for Agreement

A Renter may apply to VCAT to get a new agreement if the current agreement is verbal or partly in writing and continues or periodic after the lease expires. VCAT can set the terms and dates of agreement.

S.30D Disclosure before entering into agreement

A RRP or Agent must disclose the following to Renters before entering into an agreement:

- If the RRP has engaged an agent to sell or has prepared a contract of sale
- If a mortgagee is taking action for possession of the property

- If the RRP is not the owner of the property that they have a legal right to let the premises
- If the property is part of an embedded electricity network
- Any other prescribed information such as asbestos in the property

S.30E Misleading or deceptive conduct

A RRP or Agent can't induce someone to enter into an agreement by saying something like "this property has high speed internet", when it doesn't.

S.30F Property must be advertised at fixed rental amount

A RRP or Agent must offer the property at a fixed rental amount. You can't solicit or otherwise invite a higher amount of rent than is advertised however if the Renter offers a higher amount you may accept it.

S.31 Maximum Bond

A RRP or Agent must not demand or accept a bond which is more than the rent payable for one month unless it is twice the median rent for Victoria (Currently approx. \$760pw). Can also no longer take a higher bond for a principal place of residence property.

S.35 Condition Report

Regardless of if you take a bond or not you must do a condition report and give two copies if written or one copy if electronic to the Renter before the Renter enters into occupation of the premises. It allows for electronic communication if you adhere to the Electronic Transactions (Victoria) Act 2000.

If you do not give a copy of the condition report to the Renter, the Renter may do one within 5 days and give copy to the RRP or Agent.

Within 10 days after the end of the agreement the RRP or Agent must complete the final inspection with the Renter present as long as they have given the Renter reasonable opportunity to be present for the final inspection.

S.35A Applications to VCAT to amend an inaccurate Condition Report

The Renter or RRP can apply to VCAT to amend a statement in a Condition Report and VCAT can amend the report.

S.36 Condition Report is evidence of repair

If a Renter puts a comment on the Condition Report about maintenance or defects it is notice of repair.

S.42 Rental Payments

You must allow a Renter a reasonable free method to pay their rent, you must accept

Centrepay and must disclose any fees such as Direct Debit Dishonour fees prior to signing them up for the service.

S.44 Rental Increases

Limited to once every 12 months and you must disclose the method by which the rent increase was calculated.

S.54 Key or security device to Renters

You must give each renter who has signed the agreement a key or other security device to allow them to access and enjoy the premises.

S.61 Damage to premises or common areas

A renter must not intentionally or negligently cause damage to the rented premises or common areas. Damage does not include fair wear and tear which means the deterioration of the condition of the premises caused by either the reasonable use of the premises or natural environmental forces.

S.63 Keep and leave premises reasonably clean

A renter must keep and leave the rented premises in a reasonably clean condition. Current legislation just says keep the premises in a reasonably clean condition.

S.63A Renter's safety related duties

A renter must not remove, deactivate or interfere with safety items such as a pool fence or smoke alarm.

S.64 Modifications to rented premises

A renter may make prescribed modifications without RRP's consent. A renter must get written permission to install any fixtures and make any alteration, renovation or addition that are not prescribed modifications. A RRP must not unreasonably refuse consent to modifications that do not penetrate or permanently modify the surfaces, fixtures or structure, or are required for health & safety purposes, or are reasonable under Equal Opportunity Act, or are recommended by a therapist or doctor, that ensure access to telecommunications services, that are required for security, that increase the thermal comfort, reduce energy & water costs or are prescribed modifications.

A RRP may refuse consent if a NTV has been served due to a change of ownership, it would significantly change the premises, would require modifications to other premises or common areas, additional maintenance costs for RRP and hard to restore premises. Modifications may be required to be completed by a suitably qualified person.

A RRP can ask the renter to pay an additional bond equal to the cost of restoring the premises and a renter may apply to VCAT if a RRP unreasonably refuses consent.

S.65 Duty in relation to premises

A RRP must ensure that when the tenant agrees to enter into occupation of the premises they are vacant and in a reasonably clean condition.

S.65a Rented Premises that do not comply with minimum standards

A RRP must ensure that rented premises comply with rental minimum standards on the day a renter takes possession. If they don't a renter can request urgent repairs to be carried out to ensure the property complies with the minimum standards. Minimum standards according to CAV are: A vermin proof bin. Toilet, adequate hot & cold water in bathroom & kitchen, secure windows, cooktop, oven, sink, heating in living room, blinds in bedroom and living room.

S.68 RRP duty to maintain premises

A RRP must ensure the rented premises are maintained in good repair and in a reasonably fit and suitable condition. Regardless of if the renter was aware of any disrepair before entering into occupation of the premises, despite the amount of rent being paid and despite the age and character of the premises.

S.68B Keep & produce records of safety checks

A RRP must comply with any prescribed requirements for keeping and producing gas and electrical safety checks.

S.70 Locks

A RRP must ensure that all external doors able to be secured by a deadlock are secured with a functioning deadlock. A RRP doesn't have to provide a deadlock if another Act or Law provides for a different lock or the external door can't be accessed because of another security barrier at the premises. A RRP must provide locks to secure all windows that are capable of having a lock. CAV states window locks do not have to have key provisions but if they do a key must be provided.

S.71A Renter may keep a pet

A renter may keep a pet with the written consent of the RRP or with a tribunal order.

S.71B Renter's request to keep a pet

A renter who requests the RRP's consent must do so in a form approved by the Director of CAV. The request must be given to the RRP.

S.71C RRP can't unreasonably refuse pet consent

A RRP cannot unreasonably refuse consent to keep a pet. The RRP must respond within 14 days of receiving the request or apply to VCAT to omit the pet or consent is automatically assumed.

S.71D VCAT to refuse or exclude Pet

A RRP can apply to VCAT for an order stating it is reasonable for the RRP to refuse consent for a pet. If the renter has not disclosed a pet the RRP

can apply to VCAT to exclude the pet from the premises.

S.71E VCAT orders Pets

The tribunal can order that the renter is allowed to keep a pet or that it is reasonable to refuse consent to keep the pet on the premises. The tribunal will look at the type of pet, the character and nature of the premises, the character and nature of the appliances, fixtures and fittings, whether refusing consent is permitted under any Act, any prescribed matters, any other info they find relevant. The tribunal will specify a date on which the order takes effect.

S.72 Urgent Repairs

The \$1000 limit for urgent repairs has been removed. The RRP must reimburse the renter for the reasonable cost of repairs within 7 days of receiving written notice from the renter.

S.76 What can VCAT order for repairs

If VCAT is satisfied that the RRP is in breach of the duty to maintain the premises in good repair they can order the RRP to carry out the repairs, use a suitably qualified person to do the repairs and allow compensation to be paid.

S.79 RRP to do repairs & renter liable for costs

If the RRP gets repairs completed that the renter is liable for the renter must reimburse the RRP within 14 days. The renter can apply to VCAT for an extension under hardship but they have to prove hardship upon request.

S.85 Entry of rented premises

48 hours minimum notice for leasing inspections including privates and opens
7 days minimum notice for advertising photos and/or videos
24 hours minimum notice for Landlord duty, tenants failed to comply and family violence
7 days minimum notice for valuation and routine inspection

S.86 (1) Grounds of entry

Before giving a notice of entry a NTV or notice of intention to vacate has been given and entry is required to show the premises to a prospective renter, conduct an open inspection of the premises, produce advertising images and videos. If the premises are to be sold or used as security for a loan and entry is required to show the premises to a prospective buyer or lender or conduct an open for inspection of the premises.

S.86 (2) Grounds of entry (Renting)

A right of entry may only be exercised 21 days before the termination date and twice a week unless otherwise agreed with the renter

S.86 (2A) Grounds of entry (Sale & loan)

A RRP can only exercise a right of entry if they

have given the renter notice of intention to sell in the form approved by CAV and at least 14 days has passed, if the RRP has made attempts to agree with the renter about access, can go through twice a week for a period of no longer than an hour.

The renter is entitled to the prescribed compensation for each sales inspection.

S.89A Advertising images and videos

A RRP or agent may enter the rented premises to produce advertising images and videos of the premises after making reasonable attempts to agree with the renter for a suitable time for entry.

A renter may object with written notice if the image or video shows a possession that would identify them, reveal sensitive info about them, is valuable and unreasonable to remove or conceal or a family violence situation. They have a right to review the images/videos prior to them being used.

If a RRP wants to use the images/videos for more than 12 months a renters written consent must be given.

If an image or video was produced for a purpose other than advertising the RRP must obtain the renters written permission to use it for advertising purposes.

S.211A Matters to be considered by VCAT

VCAT will take into account depreciation when looking at damage to property. They will also factor in lease breaks and will determine advertising costs and letting fees that are proportionate to the actual cost of securing a renter.

Example: Pro-rata letting fee (if a tenant lives there for 6 months and the agreement was 12 months then they would pay half the letting fee), full advertising costs & rent until property is relet.

S.91L Termination before possession

An agreement terminates if the renter has not entered into possession and gives a notice of termination on the grounds that; the premises are not in good repair, are unfit for human habitation, are destroyed or unsafe, are not vacant, are not legally available for use as a residence, do not meet any rental minimum standards or are unavailable for occupation.

S.91N Death of sole renter

It is no longer 28 day's notice that is required. The notice period is upon agreement, given by next of kin, given by RRP or agent or under order from VCAT.

S.91ZB Reduced period of notice to vacate

This section applies to a renter if they have been given a 60 days NTV, if they require special care, if they have been offered a DOH property, if they need to move to crisis accommodation, if they have been given a notice of intention to sell and this was not disclosed at the start of the tenancy, if the RRP refuses them to make changes under the Equal Opportunity Act. They can give the RRP a 14 day notice to vacate, irrespective of the date of the end of the fixed term.

S.91ZC Fixed term of 5 years or more

A standard form agreement must be used for fixed term agreements of more than 5 years. If a standard form is not used a renter can give 28 day's notice to vacate and is not liable for any break lease fees.

S.91ZI Damage

A RRP may give a renter an immediate NTV if the renter or renter's visitor intentionally or recklessly causes serious damage to the premises, such as safety equipment, like smoke alarms.

S.91ZJ Danger

A RRP may give a renter an immediate NTV if the renter or renter's visitor endangers the safety of neighbours, the RRP or Agent or a contractor or employee of the RRP or Agent.

S.91ZK Threats & Intimidation

A RRP may give a renter a 14 day NTV if the renter or any other person occupying or jointly occupying the rented premises has seriously threatened or intimidated, the RRP or Agent or a contractor or employee of the RRP or agent.

S.91ZM Non-payment of rent

On the 1st, 2nd, 3rd & 4th occasion of non-payment of rent in a 12 month period a RRP can give a renter a NTV, if the renter pays the unpaid rent on or before the termination date in the NTV then the notice is void, if the renter does not pay the unpaid rent on or before the termination date in the NTV then the RRP can apply to VCAT for a possession order. On application for a possession order VCAT may place the renter on a payment plan and adjourn the application for possession or may make a possession order.

On the 5th occasion of non-payment of rent in a 12 month period the RRP may give a renter a NTV and the notice remains in effect despite the renter paying the unpaid rent on or before the termination date in the NTV. The RRP may apply

to VCAT for possession and VCAT may make a possession order. If VCAT places the renter on a payment plan and the renter complies with the payment plan the tribunal is to dismiss the application for possession and the agreement continues, however if the tenant does not comply with the payment plan the tribunal may make a possession order.

S.91ZZD End of fixed term rental

A RRP under a fixed term agreement of not more than 5 years can serve a notice to vacate the rented premises at the end of the initial fixed term. The notice must specify a termination date that is on or after the end of the initial fixed term. (CAV says it can be slightly after, not sure how long slightly will be).

S.91ZZG NTV when pet kept without consent

A RRP can give a renter a NTV if the tribunal has given an order excluding a pet from the premises and at least 14 days has passed since the order took effect and the renter has not complied with the order. The NTV must specify a date that is at least 28 days after the day on which the notice is given.

S.91ZZH Prohibition on letting premises

A RRP who serves a 60 day NTV for demolition, premises to be used for business, occupied by RRP or family or to be sold must not let the premises again before the end of 6 months after the date on which the notice was given. A RRP can apply to VCAT to seek permission to relet the premises earlier than the required 6 month period if a situation changes.

S.91ZZK Notice by mortgagee

A mortgagee can give a renter a NTV the premises which is 60 days after the date on which the notice is given.

S.91ZZO Form of notice to vacate

A NTV is not valid unless it is in the prescribed form, is addressed to the renter, is signed by the person giving the notice, specifies the reasons for the notice and is accompanied by documentary evidence as approved by CAV, which supports the reason for giving the notice.

S.322 Application for possession order

A RRP can apply to VCAT for a possession order if the RRP has given the renter a NTV or the renter has given an intention to vacate and has not delivered vacant possession. Please note: The 120 day no reason notice is no longer an option ☹️

S.330 Reasonable & Proportionate

VCAT will look at each possession hearing and apply the test is it reasonable and proportionate. They will look at the nature, frequency and conduct of the renter, if the breach was trivial, if it was caused by someone other than the renter,

if there is a family violence application, if the breach has been remedied, if the renter can remedy the breach in the future, if it has an effect on others, if there is any course of action instead of making a possession order, the behaviour of the RRP or Agent and any other matter the Tribunal considers relevant. The aim of this test is that eviction is the last resort!

S.331 Order to be dismissed or adjourned

The tribunal may adjourn an application and refer the renter to financial counselling, require the financially counselling service to assess if the renter could comply with a payment plan or adjourn a hearing and enter the renter onto a payment plan. VCAT must dismiss an application if the rent arrears were paid by the renter between the NTV date and the termination date on the 1st, 2nd, 3rd or 4th time in a 12 month period.

S.386 Goods left behind

If a renter leaves behind goods (other than goods that can be removed and destroyed) the RRP must make reasonable steps to give a notice in a form approved by CAV that goods have been left behind and store the goods for at least 14 days. The RRP may leave them in the property or may remove them and store them in a safe place.

S.388 Occupation fee for goods left behind

A RRP may require a renter to pay a fee for the stored goods which must not exceed the rental amount of rent for 14 days. The RRP can apply to VCAT if a higher amount is being sought.

S.411 Claims for rental bonds

A claim may be made to the RTBA for the repayment of a bond by a renter or that person's agent, the RRP or that person's agent, jointly by the RRP and renter (or either of those person's agents). The claim must be in a form approved by the RTBA and include the address or email address of the claimant.

A claim must not be made before the termination of a rental agreement unless; it is made jointly by the RRP and renters, it is made by the RRP or agent and directs the bond be paid to all of the renters or it is made by the renters and directs the bond be paid to the RRP.

If a claim is made jointly by the RRP and renters, the claim form must be signed by the renters no earlier than 14 days before the termination date of the rental agreement.

A RRP must not ask a renter to sign a claim that does not include the amount of bond to be refunded or the apportionment of the bond.

S.411A Notice of claim to be given

This applies to the whole or part of bond without the consent of the other party. The RTBA must

give written notice of a claim to all of the other parties to the agreement, and must state that they will pay the claim unless within 14 days they receive written notice that the claim is subject to a VCAT application.

S.411B Matters subject to bond claim

A RRP is entitled to claim an amount of bond for the following; the reasonable cost of repairs, rent owing, reasonable cost of cleaning, reasonable cost of replacing locks or other security devices, any other prescribed matter.

S.411AC Repayment of bond where no dispute

The RTBA must repay the amount of bond if the claim is made jointly by the RRP and the renter, the claim is made by the RRP or agent to pay the renter, the claim is made by the renter to pay the RRP. Also if the claim is made by the renter, RRP or agent and no party to the agreement notified the RTBA of an application to VCAT within 14 days.

S.411AD Disputed bond claims

The RTBA has been given notice by a party to the rental agreement that there is a claim for the repayment of bond at VCAT. The RTBA may repay the amount of bond if; the party who disputes the claim gives the RTBA written notice of the party's consent to repay the bond, an order from VCAT requiring action before the repayment of the bond or the RTBA has been notified by VCAT that the application has been withdrawn or dismissed. The RTBA must not repay an amount of a claim until any proceeding affecting a claim is determined, including any appeal.

S.439P Rental non-compliance register

CAV must establish and maintain a register of RRP's. They must enter RRP's onto the register if VCAT has made an order that the RRP must remedy a breach, pay compensation and refrain from committing a breach or the RRP has committed an offence under this Act.

The information that is contained on the register will include the name of the RRP, the address of the rented premises, the agent including the name and business address, the date of the order, the section they have breached, if an offence has been committed the date of the conviction or finding of guilt and the relevant provision of the Act.

S.498AB Rent special account

CAV will establish a trust account called the Rent Special Account.