REIQ

Tenancy Laws Toolkit
From 1 October 2022

Changes to the Tenancy Laws in Queensland

The *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) (the **RTRA Act**) which governs residential tenancies in Queensland has been amended by the Queensland Government. Although some of the changes came into effect on assent on 20 October 2021, there are significant changes coming into effect on 1 October 2022.

Property Managers and their lessors may need to take steps leading up to the changes including changing internal processes and resources to make sure they are compliant with the new tenancy laws.

Some of the most critical changes relate to:

Ending Tenancies

- The grounds for ending fixed term and periodic tenancies have changed – there are now a number of new grounds and some changes to existing grounds.
- The right of a lessor to end a periodic tenancy without grounds has been removed and from 1 October 2022, lessors can only end a periodic tenancy for specific prescribed grounds under the RTRA Act.
- There are new offence provisions and penalties if a Form 12 Notice to Leave is issued on grounds and limitations are not complied with.
- There are new grounds for a tenant to end a tenancy within the first 3 months by application to QCAT for false and misleading information given by a property manager or lessor about certain matters.
- Expansion of grounds for tenant's right to issue Form 13 Notice of Intention to Leave.
- There are new grounds for lessor to make QCAT application to end tenancy.

Pet Approvals and Refusals

- Properties can no longer be advertised as "no pets allowed".
- Lessors must respond to pet request within 14 days – or their approval will be deemed.
- Lessors can only refuse a pet request on prescribed grounds, and they must give reasons to tenant for why they believe those grounds apply.
- Lessors can impose conditions on a pet approval in line with the prescribed requirements.

Maximum Spend Limit for Emergency Repairs

- Tenants and property managers are now able to arrange emergency repairs to be made to the property up to a maximum amount equal to four (4) weeks' rent under their tenancy agreement (increased from two (2) weeks' rent).

Nominated Repairers

- The Form 18a General Tenancy Agreement must identify nominated repairers and if they are the tenant's first point of call for emergency repairs.
- There are new requirements for the tenant to contact the nominated repairer before arranging for another repairer to carry out emergency repairs.

Repair Orders

- New type of QCAT order introduced – Repair Order.
- Tenant can apply if property or inclusions need repairs that fall into category of routine or emergency repair.
- Outstanding Repair Orders must be disclosed in Form 18a General Tenancy Agreement.
- A property cannot be lawfully leased while a Repair Order is outstanding.

Other Changes

- New procedure and requirements for changing locks.
- Expanded retaliation provisions related to repair matters.
- Domestic & Family Violence provisions.
- Minimum Housing Standards coming into effect on 1 September 2023 for new tenancies and 1 September 2024 for existing tenancies.
- New provisions for death of a sole tenant and co-tenant.
- Entry condition reports.

The REIQ has developed education content, training & resources to support property managers to:

KNOW WHAT THE CHANGES ARE

CONSIDER WHAT STEPS TO TAKE TO BE PREPARED

EXPLAIN THE NEW LAWS & OPTIONS TO YOUR CLIENTS

GET YOUR CLIENT'S INSTRUCTIONS

CARRY OUT YOUR CLIENT'S INSTRUCTIONS

MANAGE RELATIONSHIPS WITH YOUR TENANTS THROUGH THE PROCESS

REIQ Accredited Agency Members

LEGAL ADVISORY SERVICE

Free legal advice from our partners, Carter Newell Lawyers, leading Queensland real estate specialists (up to 30 minutes per issue). Helping you with agency practice issues you'd usually have to take to your own lawyers! Issues might include:

 Interpreting legislation

 Validity of forms

 Employment practices

Carter Newell LAWYERS

To access this service call **1300 MY REIQ** for a referral from our Administration & Tribunal Coordinator.

PROPERTY MANAGEMENT SUPPORT SERVICE

Helping you and your property managers stay on top of a raft of legislation, plus tips and support via:

 A telephone and

 email advisory service

 A fortnightly bulletin

 An online resource library

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AGENCY ADVISORY SERVICE

Helping you and your staff navigate real estate, answering questions on topics including (but in no way limited to!):


Conjunctional arrangements


Competitor behaviour


Form 6


Interpretation of standard clauses and contract schedules

To access this service call **1300 MY REIQ** and have your agency membership number handy.

New REIQ Resources & Support

The REIQ has created over 30 new resources available in Realworks for the New Tenancy Laws. These resources will be released in two stages, on 4 July 2022 and 1 October 2022 so that you can use them in real time depending on what legislative provisions are in effect.

The REIQ new resources include:

- ✓ Checklist for New Tenancy Laws – New PO Form 6's and Form 18a General Tenancy Agreements from 1 July 2022
- ✓ Checklist for New Tenancy Laws – Amending PO Form 6's and Form 18a General Tenancy Agreements
- ✓ Letters to Client for Ending Tenancies, Pets, Repairs & more
- ✓ Client Instruction Forms for Ending Tenancies, Pets, Repairs & more
- ✓ Factsheets for the Client – Ending Tenancies, Pets, Repairs, Changing Locks & Minimum Housing Standards
- ✓ Form 18a General Tenancy Agreement Variation
- ✓ Letters to Tenant for 4 ending tenancy scenarios
- ✓ Checklist – How to Complete Form 12 Notice to Leave
- ✓ Client Instruction Forms for DFV*
- ✓ Notice of Emergency Repair & Notice of Routine Repairs*
- ✓ Checklists – Changing Locks & Repairs
- ✓ New PO Form 6 Essential Terms
- ✓ New Form 18a General Tenancy Agreement Special Terms
- ✓ New REIQ Property Management New Tenancy Checklist
- ✓ Client Instructions to Agent – Terms of Tenancy Agreement

**subject to change before release on 1 October 2022*

These resources are designed for property managers to guide them through the changes, help take instructions needed, carry out instructions and modify internal processes.

This Toolkit provides information about how these resources can be used by property managers.
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FAQ – Ending Tenancies

1. What are the changes to the RTRA Act in relation to ending tenancies?

One of the most critical changes to the RTRA Act are the provisions for ending a tenancy – for both the lessor and the tenant. There are new prescribed grounds to end a tenancy and changes to the existing grounds. It is important to be aware of the changes so that you can take the appropriate steps to prepare your client for the changes and end tenancies post 1 October 2022.

Importantly, lessors can no longer end periodic term agreements without grounds from 1 October 2022. Lessors may only end a periodic tenancy if they can satisfy one of the prescribed grounds as set out below. There are also new offence provisions and penalties that relate to these new ending tenancy provisions.

2. What are the new reasons for a lessor to end a tenancy and prescribed notice periods?

The current grounds for a lessor to end a tenancy which will continue without change from 1 October 2022 are:

GROUNDS	NOTICE PERIOD	FIXED TENANCY	PERIODIC TENANCY
Unremedied Breach - Rent	7 Days	✓	✓
Unremedied Breach - Other than rent	14 Days	✓	✓
Noncompliance of QCAT order	7 Days	✓	✓
Non-livability	Immediate	✓	✓
Compulsory acquisition	2 Months	✓	✓
Ending of entitlement under employment	4 Weeks	✓	✓
Ending of accommodation assistance	4 Weeks	✓	✓
Ending of housing assistance	4 Weeks	✓	✓
Mortgagee taking possession	2 Months	✓	✓
Serious breach at public or community housing	7 Days	✓	✓

The additional new grounds to end a tenancy from 1 October 2022 and related offence provisions are:

NOTICE PERIOD	FIXED TENANCY	PERIODIC TENANCY	NEW OFFENCES
For the sale of the property - includes both intention to sell property and if property has been sold with vacant possession			
2 Months	Only at the end of term	✓	Lessor cannot relet property for a period of 6 months after Form 12 – penalty $6,892.50 You must not give false or misleading information in Form 12 – penalty $6,892.50
New for State Government program if the property is required for use under a program administered by the State under an Act			
2 Months	Only at the end of term	✓	
New for demolition or redevelopment if the client requires the property to be vacant for a planned demolition or redevelopment			
2 months	Only at the end of term	✓	You must not give false or misleading information in Form 12 – penalty $6,892.50
New for significant repair or renovations if which such cannot be carried out safely while the tenant occupies the property			
2 Months	Only at the end of term	✓	You must not give false or misleading information in Form 12 – penalty $6,892.50
New for change of use if the client requires the property's use to be changed to a use other than residential and which will continue for a period of at least 6 months			
2 Months	Only at the end of term	✓	Lessor cannot relet property for a period of 6 months after Form 12 – penalty $6,892.50 You must not give false or misleading information in Form 12 – penalty $6,892.50
New for ending of entitlement to student accommodation if the tenant is no longer a student			
1 Month	✓	✓	
New for owner occupation if yourself or your relative, needs to occupy the property			
2 Months	Only at the end of term	✓	Lessor cannot relet property for a period of 6 months after Form 12 – penalty $6,892.50 You must not give false or misleading information in Form 12 – penalty $6,892.50
New for end of fixed term tenancy agreement			
2 Months	✓	✗	

There are also new grounds for a lessor to end tenancies by making an application to QCAT.

A non-urgent application can be made for a serious breach. This includes if lessor reasonably believes tenant or guest has:

- used the property for an illegal purpose (for example drug activity);
- intentionally or recklessly destroyed or damaged the property;
- endangered another person in the property; or
- significantly interfered with the reasonable peace, comfort, or privacy of another tenant by a tenant, occupant or guest.

The lessor may also make an urgent application to end a tenancy if there has been repeated breaches of by-laws or park rules by the tenant.

3. What are the new reasons for a tenant to end a tenancy and prescribed notice periods?

The grounds for a tenant to issue a notice of intention to leave have now been expanded.

Within the first 3 months of a tenancy, the tenant can now apply to QCAT for a termination order if the lessor or property manager gave the tenant false or misleading information about:

- the condition of the property or its inclusions; or
- the services provided for the property; or
- a matter relating to the property that is likely to affect the tenant's quiet enjoyment of the property; or
- the tenancy agreement or any other document the lessor must give the tenant under the RTRA Act – such as body corporate by-laws; or
- the rights and obligations of the tenant or lessor under the RTRA Act.

The grounds for a tenant to issue a Form 13 Notice of Intention to Leave have also been expanded.

Within the first 7 days of a tenancy, the tenant can issue a Form 13 Notice of Intention to Leave to the lessor because:

- the property is not fit for the tenant to live in; or
- the property and inclusions are not in good repair; or
- the lessor is in breach of a law dealing with issues about the health or safety of persons using or entering the property; or
- the property or inclusions do not comply with the prescribed *Minimum Housing Standards* which come into effect 1 September 2023 for new tenancies and 1 September 2024 for existing tenancies.

It is important to make sure lessors are aware of these grounds – particularly if you have reason to believe that the property is not in a good condition or repair at the start of the tenancy.

Please note the above is subject to change when the minimum housing standards come into effect from 1 September 2023.

4. What should I do if I have periodic tenancies on my rent roll?

If you have periodic tenancies on your rent roll, we recommend talking to your client about either ending the tenancy without grounds or offering the tenant a new fixed term agreement, prior to the new laws coming into effect.

You may need to start taking steps in July 2022 (having regard to the individual circumstances for notice periods) as there is limited time to issue a valid Form 12 Notice to Leave without grounds for periodic tenancies before the new laws come into effect 1 October 2022.

The first step is to decide what you will suggest is the best course of action for your client and give them the information they need to make an informed decision.

Your clients will need to be aware that if a periodic tenancy continues after 1 October 2022, then they can only end the tenancy for a limited number of prescribed reasons. If no action is taken, your client may be locked into the tenancy for an indefinite period. If your client chooses to keep the tenant on a periodic agreement, they should contact their insurer to confirm if this will effect their insurance cover.

We recommend following steps in the REIQ Checklist for New Tenancy Laws which sets out a best practice procedure to follow and advice about the new forms and factsheets in Realworks to use to facilitate the process.

FAQ – Ending Tenancies

5. **How will this affect fixed term agreements on my rent roll?**

   Fixed term agreements can still be ended with at least two months' notice however, a lessor will no longer be able to end a tenancy without grounds from 1 October 2022. Instead, if a lessor wishes to end a tenancy at the end of the agreed fixed term (and not renew), a Form 12 Notice to Leave must be given on the grounds that the tenancy is ending or on some other available grounds for ending a tenancy. **If the Form 12 Notice to Leave is not given with the correct notice period (having regard to delivery times as well) then the fixed term agreement will automatically convert to a periodic tenancy at the end of the fixed term.**

   If you have fixed term agreements, we recommend issuing the Form 12 Notice to Leave well in advance of the expiry of the fixed term tenancy which can be given with or without an offer of a new tenancy. You should seek your clients' instructions about offering a new tenancy at least 3 months before the end of the tenancy. This is to allow time for the client to make their decision and for you to prepare and issue the appropriate documents.

   If a new Form 18a General Tenancy Agreement is being offered to the tenant, we recommend a Form 12 Notice to Leave be issued at the same time with the vacating date being the expiry date of the current term. The offer of a new tenancy should have a deadline for the tenant to accept the offer so that if they do not, then they are required to vacate the property on the expiry date of the current term. If this step is not taken, the tenancy may automatically convert to a periodic tenancy.

6. **How do I explain this to my client?**

   There are new REIQ forms that you can utilise to provide information to your client and get their instructions. These are not prescribed forms and you are not obligated to use them however they have been developed to assist property managers and provide your lessor client with the information they need to make an informed decision. Of course, they may instruct you to keep the arrangement in place as is.

   For periodic tenancies, we recommend sending the Letter to Client including a Client Instruction Form - Periodic Agreement and REIQ Factsheet – Ending Tenancy Agreements.

   For fixed term agreements, we recommend sending the Letter to Client including a Client Instruction Form – Fixed Term Agreement and REIQ Factsheet – Ending Tenancy Agreements.

7. **What other resources can I use to carry out my clients' instructions?**

   Once you have received instructions, there are a number of new forms that you may use to carry out the instructions, including:
   - Letter to the Tenant for ending a periodic tenancy
   - Letter to the Tenant for offering a new fixed term tenancy & ending a periodic tenancy
   - Letter to the Tenant for NTL new Form 18a; and
   - Letter to the Tenant for NTL current Form18a.

   To carry out a number of these options, you may be required to include a Form 12 Notice to Leave. We have developed a Checklist for Form 12 Notice to Leave which includes general guidance for calculating notice periods, delivery methods and delivery periods.

FAQ – Ending Tenancies

8. **If I issue a valid Form 12 Notice to Leave without grounds (NTLWG) before 1 October 2022, will it be valid and can I rely on it after 1 October 2022?**

   Section 570 of the Transitional Provisions for the Housing Legislation Amendment Act, relates to transition provisions of notices issued prior to 1 October 2022.

   For example: if a valid Form 12 Notice to Leave (on without grounds basis) was given to a tenant under a periodic agreement on 1 September 2022, providing the required 2 months' notice with a handover day of 1 November 2022 (in accordance with section 329(2) (j)), then this is the initiating action in accordance with section 570(1)(a).

   The responder in this instance is the tenant and the action the tenant must take is to vacate the property by 1 November 2022. This obligation/action continues beyond 1 October 2022.

   If the tenant does not vacate the property on or before 1 November 2022, then the lessor may apply to QCAT, within 2 in accordance with section 293 of the RTRA Act for failure to leave.

   The REIQ's recommended best practice advice is to issue the Form 12 Notice to Leave with sufficient time before 1 October 2022 because if the tenant does not vacate, and QCAT finds a deficiency in the Form 12, the property manager will no longer be able to rely on the 'without grounds' provisions of the RTRA Act pre-1 October 2022. Consequently, there may be an increased risk that a periodic tenancy will remain in place post 1 October 2022.

FAQ – Pet Approvals And Refusals

1. What are the changes to the RTRA Act in relation to pets?

A new process and requirements have been introduced for pet requests and approvals.

Key changes that will apply from 1 October 2022 include:

- lessors must have a specific reason under prescribed grounds in order to refuse a tenant's request to keep a pet – they can no longer say "no pets allowed" or apply a blanket pet prohibition
- conditions for keeping a pet at a property must comply with prescribed requirements
- a new definition for pets has been introduced with a clarification about working dogs

2. What do I need to do if I receive a request from a tenant to keep a pet?

If you receive a pet request from a tenant after 1 October 2022, you must respond to the tenant's request within 14 days after receiving it.

The response must be in writing and state whether the lessor approves or refuses the request, and:

- if approved, what the conditions of approval are; or
- if refused, the grounds for the refusal – these grounds must be limited to those permitted under the RTRA Act and why you believe the grounds for the refusal apply.

If you do not respond in time or your response is not compliant, the lessor's approval will be deemed. This means that the tenant is entitled to assume approval has been granted and they can keep a pet/s at the property without conditions.

3. What if I receive a pet request in the meantime?

You may wish to start implementing procedures in your agency prior to 1 October 2022 so that your clients are ready for the changes.

We recommend following steps in the REIQ Checklist for New Tenancy Laws which sets out a best practice procedure to follow and advice about the new forms and factsheets in Realworks to use to facilitate the process in a compliant way.

4. What are the new prescribed forms and resources?

There are a number of new forms and resources to be aware of.

There will be a prescribed pet request form that the tenant must use after 1 October 2022. There will also be a prescribed pet approval and refusal form that you must use after 1 October 2022 when responding to the tenant's request. These forms will not be available until closer to this date.

In the meantime, property managers may wish to use the Letter to Client and Client Instruction Form with the REIQ Fact sheet available in Realworks. These forms have been developed to make your client aware of the upcoming changes to the law and to assist you with seeking their instructions. These are not prescribed forms and will be updated by the REIQ to supplement the prescribed forms once they come into effect.

5. What is the new definition of a "pet"?

It is important to note that a "pet" is now defined as a domesticated animal or animal that is dependent on a person for provision of food or shelter. A pet does not include a working dog or animal prescribed by legislation not to be a pet.

A working dog can be kept on the property without your client's approval. The tenant is not responsible for damage caused by a working dog at the property – it is considered fair wear and tear.

Further, a "working dog" includes:

- an assistance dog, guide dog or hearing dog under the *Guide, Hearing and Assistance Dogs Act 2009*, schedule 4; or
- a corrective services dog under the *Corrective Services Act 2006*, schedule 4; or
- a police dog under the *Police Powers and Responsibilities Act 2000*, schedule 6.

If the request relates to a pet that does not fall into the category of working dog but still provides a service for the tenant, such as a mental health pet, then you should advise your client to seek legal advice about refusing the request. You should exercise caution as a refusal may equate to discrimination in some circumstances.

FAQ – Pet Approvals And Refusals

6. What are the prescribed grounds to refuse a pet request?

From 1 October 2022, if the client refuses a pet request, it is no longer sufficient or permissible to say, "no pets allowed".

Under the new provisions of the RTRA Act, the permitted grounds to refuse a pet request are limited to the following:

- keeping the pet would exceed a reasonable number of animals being kept at the property;
- the property is unsuitable for keeping the pet because of a lack of appropriate fencing, open space or another thing necessary to humanely accommodate the pet;
- keeping the pet is likely to cause damage to the property or inclusions that could not practicably be repaired for a cost that is less than the amount of the rental bond for the property;
- keeping the pet would pose an unacceptable risk to the health and safety of a person, including, for example, because the pet is venomous;
- keeping the pet would contravene a law;
- keeping the pet would contravene a body corporate by-law or park rule applying to the property;
- the tenant has not agreed to the reasonable conditions proposed by you for approval to keep the pet;
- the animal stated in the request is not a *pet*; or
- if the property is a moveable dwelling property—that keeping the pet would contravene a condition of a licence applying to the property.

7. What conditions can we include for an approval?

The client may approve a pet request subject to conditions. The conditions must:

- relate only to keeping the pet at the property; and
- be reasonable having regard to the type of pet and the nature of the property; and
- be stated in the written approval given to the tenant.

Without limiting what conditions are reasonable having regard to the type of pet and the nature of the property, the RTRA Act prescribes that the following conditions are taken to be reasonable:

- if the pet is not a type of pet ordinarily kept inside—a condition requiring the pet to be kept outside at the property;
- if the pet is capable of carrying parasites that could infest the property—a condition requiring the property to be professionally fumigated at the end of the tenancy; and
- if the pet is allowed inside the property—a condition requiring carpets in the property to be professionally cleaned at the end of the tenancy.

The authorisation to keep a pet or working dog at the property continues for the life of the pet or working dog and is not affected by the agreement changing if the tenant still occupies the property, a change in lessor or property manager, or the retirement of the working dog.

An authorisation to keep a pet, working dog or other animal at property is also subject to any body corporate by-law, park rule or other law relating to keeping animals at the property.

FAQ – Pet Approvals And Refusals

8. What if the tenant disagrees with the grounds of refusal or conditions for approvals?

If the tenant does not agree with the grounds of refusal or conditions of approval provided in the lessor's response, you should ask for the tenant to explain their reasoning and consider if their argument has merit based on the RTRA Act or some other law.

For example – if the lessor and tenant disagree about the amount of open space needed at the property to humanely accommodate the pet.

These matters will likely be determined on a case-by-case basis, and it is unfortunately going to be difficult to know the right answer until these questions are properly tested in QCAT.

For the conditions of approval, if the tenant does not agree with the conditions (and you consider the conditions to be compliant with the legislative requirements), the lessor can refuse the pet request on the grounds that the tenant has not agreed to the conditions of approval.

If you are unsure of whether there is a valid dispute, we suggest you contact the REIQ Property Management Support Service on 1300 697 347.

9. Does this apply for new tenancies? Do we have to follow this process for a tenant with a pet applying for a property?

These requirements will apply for all tenancies from 1 October 2022.

From 1 October 2022, the Form 18a General Tenancy Agreement with REIQ Special Terms annexure will contain special terms relating to pet approval conditions if applicable. This will ensure that new tenancies from this date will include allowable conditions.
You may wish to inform your client of these changes in advance by providing a REIQ Factsheet – Pet Approvals and Refusals.

10. Can we request more rent or a higher security bond if the tenant wants to keep a pet?

Your client is not allowed to increase rent or the security bond if the tenant wants to keep a pet on the property. If they are concerned that any damage caused may be higher than the bond they hold, they may be able to refuse the tenant's request under the relevant prescribed grounds.

FAQ – Matters Affecting Repairs

1. **What are the changes to the RTRA Act in relation to repairs?**

   Some of the changes to the tenancy laws relate to the process and authorisation for repairs, including:

   - increasing the maximum spending amount allowed for a tenant or property manager for emergency repairs from two (2) weeks to four (4) weeks' rent;
   - the Form 18a General Tenancy Agreement must now identify the nominated repairer that is the tenant's first point of call for emergency repairs;
   - new provisions replacing the process for obtaining and dealing with an order of QCAT for carrying out emergency & routine repairs – now referred to as "Repair Orders";
   - an outstanding Repair Order made by QCAT applying to a property must be disclosed in the Form 18a General Tenancy Agreement to the tenant prior to the tenant entering into the tenancy; and
   - any repairs for damage to the property which are caused by domestic violence experienced by the tenant is the responsibility of the lessor and costs cannot be recovered from the tenant.

2. **What should I do to prepare for these changes?**

   We recommend following steps in the REIQ Checklist for New Tenancy Laws which sets out a best practice procedure to follow and advice about the new forms and factsheets in Realworks to use to facilitate the process of amending existing forms and entering into new forms in a compliant way.

   Some of the forms introduced to assist with these changes are:

   - Letter to Client enclosing Client Instructions Form - Repairs and REIQ Factsheet – Repairs which can be used to seek instructions about increasing spend limits, nominating repairers and disclosing repair orders
   - Variation to Form 18a General Tenancy Agreements

   You may wish to start implementing procedures in your agency prior to 1 October 2022 so that you and your clients are ready for the changes.

3. **What is the difference between an emergency repair and a routine repair?**

   "Emergency" repairs include:

   - a burst water service or serious water service leak;
   - a blocked or broken lavatory system;
   - a serious roof leak;
   - a gas leak;
   - a dangerous electrical fault;
   - flooding or serious flood damage;
   - serious storm, fire or impact damage;
   - a failure or breakdown of the gas, electricity or water supply to the property;
   - a failure or breakdown of an essential service or appliance on the property for hot water, cooking or heating;
   - a fault or damage that makes the property unsafe or insecure;
   - a fault or damage likely to injure a person, damage property or unduly inconvenience a resident of the property; or
   - a serious fault in a staircase, lift or other common area of the property that unduly inconveniences a resident in gaining access to, or using, the property.

   All other repairs are considered to be "routine" repairs and maintenance.

   This is subject to change once the minimum housing standards come into effect for new tenancies from **1 September 2023** and existing tenancies from **1 September 2024**. The REIQ will update these forms and release new education content and resources prior to this time.

FAQ – Matters Affecting Repairs

4. Who should carry out repairs?

It is best if you arrange the repairs to be carried out on behalf of the lessor so that you can ensure that the nominated repairer engaged holds the correct qualifications and insurance and all legislative requirements and procedures are complied with. You should always seek your client's instructions in writing and keep the tenant updated during the process.

The REIQ is releasing new resources on 1 October 2022 to assist with following procedures to arrange routine and emergency repairs and get the instructions needed to ensure works are carried out and avoid potential disputes. This includes Notices.

5. How are repairs paid for?

Under the terms of the PO Form 6 REIQ Schedule, the client is obligated to pay for all repairs and maintenance to the property.

You are authorised to carry out any repairs or maintenance to a maximum amount specified in Part 8.2 of the PO Form 6.

Under the RTRA Act, the tenant and the property manager are now allowed to carry out emergency repairs up to a maximum amount equal to four (4) weeks' rent under the Form 18a General Tenancy Agreement.

We recommend you seek your clients' instructions to increase the amount you are authorised to spend to four (4) weeks as well to:

(a) Ensure you are authorised to re-imburse the tenant if they incur costs for emergency repairs; and

(b) To confirm the authorised amount to spend for routine repairs and maintenance if this varies from emergency repairs.

6. Can I get authorised for separate amounts for emergency repairs and routine repairs and maintenance?

Yes. Your client does not need to authorise the maximum spend limit for all types of repairs to the same amount.

We recommend using the Client Instruction Form & Variation and REIQ Factsheet – Repairs which contains information and sets out options to vary Part 8.2 of the PO Form 6 for your client to make an informed decision.

It is important to discuss the benefits and potential consequences with your client and present all options to them. The REIQ resources are not mandatory but have been developed to assist you with this.

It is in your agency's best interest to maintain authorisation for an adequate amount to ensure you can comply with your client's obligations to keep the property in the standard of repair required by the RTRA Act.

7. What if my client does not authorise me to carry out repairs or re-imburse the tenant for emergency repairs?

If your client does not authorise repairs to be carried out or the tenant to be re-imbursed, in circumstances where their approval is required because you do not hold the required authorisation under Part 8.2 of the PO Form 6, you should refer your client to seek legal advice about their responsibilities to keep the property to a standard required under the Form 18a General Tenancy Agreement and RTRA Act.

You may need to also consider if you would like to continue with the appointment on account of liability and risk issues.

FAQ – Matters Affecting Repairs

8. **What do I need from the tenant if they arrange an emergency repair?**

   The tenant must provide you with documentation if they have arranged for an emergency repair at the property such as invoices, receipts, photographs or reports if provided by the repairer.

9. **What if the tenant does not use the nominated repairer?**

   Under the RTRA Act, the tenant is allowed to engage a repairer of their choosing only in the following circumstances:

   - there is no nominated repairer identified in the Form 18a General Tenancy Agreement;
   - there is a nominated repairer identified in the Form 18a General Tenancy Agreement but they are not the first point of call for the tenant; or
   - there is a nominated repairer identified in the Form 18a General Tenancy Agreement that is the tenants first point of call and they have not been able to get in contact with them and additionally, they have not been able to get in contact with your office.

   From 1 October 2022, a lessor must provide details of nominated repairers in the Form 18a General Tenancy Agreement.

   Although, your office can be listed as the "nominated repairer" for the purpose of the Form 18a General Tenancy Agreement, the REIQ strongly recommends inserting the contact details of the specific nominated repairer, as authorised by your client under the PO Form 6, so that the tenant has a contact outside of business hours.
   It is also recommended that your client authorises you to engage your agency preferred nominated repairers under the PO Form 6 so that you can ensure the repairers provide the Contractor Appointment Form, are qualified and reputable, and hold the requisite insurance.

Although, your office can be listed as the "nominated repairer" for the purpose of the Form 18a General Tenancy Agreement, the REIQ strongly recommends inserting the contact details of the specific nominated repairer, as authorised by your client under the PO Form 6, so that the tenant has a contact outside of business hours.

It is also recommended that your client authorises you to engage your agency preferred nominated repairers under the PO Form 6 so that you can ensure the repairers provide the Contractor Appointment Form, are qualified and reputable, and hold the requisite insurance.

10. **What happens if the damage was caused by domestic and family violence experienced by the tenant?**

    You should notify your client if there is damage to the property caused by domestic and family violence experienced by the tenant.

    If repairs are needed for damage caused by domestic and family violence experienced by the tenant, the lessor is not entitled to recover these costs from the tenant.

    You may wish to respectfully ask the tenant about how damage was caused. You should take care when assessing such matters and determining the cause of the damage and whether it is related to domestic violence.

FAQ – Repair Orders

1. What is the new process?

A tenant can apply to QCAT for a repair order if the property or inclusions need repair.

If they are routine repairs, the tenant must have informed you of the need for repair and the repair must have not been carried out within a reasonable time after you were informed.

For emergency repairs, the tenant must have been unable to notify you or the nominated repairer of the need for repair or the repair must have not been made within a reasonable time after the tenant gave you or the nominated repairer notice of the need for repair. From 1 October 2022, a lessor **must** provide details of the nominated repairers in the Form 18a General Tenancy Agreement.

2. What will QCAT consider when making repair orders?

QCAT may grant a repair order if they are satisfied with the tenant's application.

They must consider:

- the conduct of the lessor or the property manager
- the risk of injury the damage is likely to cause a person at the property
- the loss of amenity caused by the damage
- or any other matter QCAT considers relevant

For these reasons, we recommend that you ensure open communication is kept with a tenant when a request for repair is made. You should do all things necessary to action a request promptly and ensure your client is aware of the extent of damage and risks of failing to carry out repairs promptly.

3. What will a repair order include?

In granting the repair order, QCAT may make any order, or give any directions, about the repairs that QCAT considers appropriate in the circumstances. If the property is vacant, QCAT may make an order that the property not be occupied until stated repairs are completed.

QCAT may also make an order about:

- what is, or is not, to be repaired
- that the lessor must carry out the repairs by a stated date
- that the tenant may arrange for a suitably qualified person to carry out the repairs for an amount decided by the tribunal
- who must pay for the repairs
- that the tenant may pay a reduced rent until the repairs are carried out to the standard decided by the tribunal
- that the lessor must pay an amount to the tenant as compensation for loss of amenity
- that a suitably qualified person must assess the need for the repairs or inspect the property or inclusions
- that the residential tenancy agreement ends if the repairs are not completed by a stated date

If QCAT makes a repair order against your client, you should recommend they seek legal advice about what the order requires them to do and the consequences of failing to comply.

FAQ – Repair Orders

4. What happens if the order is not complied with?

Until complied with, the repair order continues to apply to the property. It does not end with the residential tenancy agreement pursuant to which the tenant application arose. From 1 October 2022, there will be an obligation to disclose outstanding repair orders in a general tenancy agreement.

A person must comply with a repair order unless they have a reasonable excuse. It is an offence under the RTRA Act to fail to comply. The responsible party may be fined.

5. What if the lessor needs an extension?

The lessor may apply to QCAT for an extension of time to comply with a repair order. QCAT may grant the application if they are satisfied the lessor is unable to complete the ordered repairs before the required time due to:

- hardship
- a shortage of a material necessary to make the repairs
- the remote location of the property causing the lessor difficulty in being supplied with a material necessary to make the repairs or engaging a suitably qualified person to make the repairs

If your client intends to comply with the repair order, it is important to keep the due date diarised and the above reasons for extension in mind.

FAQ – Changing Locks

1. **What are the changes to the RTRA Act in relation to changing locks?**

   There are some key changes with respect to changing locks.

   The grounds to change a lock has been expanded, it is now separate grounds "if the party has a reasonable excuse" and "if the party believes there is an emergency". There is also a new ground for changing a lock – if the tenant believes the change is necessary to protect themselves or another occupant from domestic and family violence and has engaged a qualified locksmith.

   In addition, there is also a new requirement that a lessor cannot provide a copy of the key to another party without consent of the tenant if a lock is changed by the tenant under the domestic and family violence grounds.

   The lessor is still obligated to ensure the property is kept secure.

2. **When can a party change a lock?**

   A lessor or tenant may only change a lock if:

   - the parties have agreed to the change;
   - the party has a reasonable excuse for making the change;
   - the party believes the change is necessary because of an emergency; or
   - the lock is changed pursuant to a QCAT order.

   Tenants may also change a lock if the tenant believes the change is necessary to protect themselves or another occupant from domestic and family violence and engages a qualified locksmith to change the lock.

3. **What is a "*reasonable excuse*"?**

   "*Reasonable excuse*" is not defined in the RTRA Act but might include circumstances where:

   - the tenant has lost/damaged the keys and/or devices – the locks should be replaced for security purposes;
   - the lessor wants to upgrade/replace the locking mechanisms or fixtures the locks are attached to; or
   - a tenant leaves the property.

4. **What would be classified as an "*emergency*"?**

   "*Emergency*" is not defined in the RTRA Act but might include circumstances where it is necessary to secure the property if:

   - the locks are damaged and the tenant cannot access the property; or
   - the property has been broken into or there has been some other unathorised entry.

5. **What if one party will not agree to change the locks?**

   The parties must not act unreasonably in failing to agree to the change of a lock. This is a legislative requirement under s212 of the RTRA Act and standard term 21 of the Form 18a General Tenancy Agreement.

   If the lessor or tenant is refusing to agree to change a lock, property managers should remind them of their obligations under the RTRA Act and Form 18a General Tenancy Agreement.

   If you believe the client has a reasonable ground to refuse consent such as if the tenant's grounds for the change are not covered under the RTRA Act, you should notify the tenant of why the request is refused.

   If you are an REIQ member, we recommend that you contact the REIQ Property Management Support Service on 1300 697 347 if you are unsure.

6. **What if the lock has been changed by a person that is not qualified?**

   The locks should only be changed by a qualified locksmith. The parties must not change the locks themselves. You should seek confirmation from the client or tenant if they have changed a lock. If it appears that the lock has not been professionally changed, you should seek your clients' instructions as the change of lock may affect their insurance cover.

FAQ – Changing Locks

7. When should a tenant provide a copy of the new keys and/or devices?

If the tenant has changed the locks under valid grounds, they must provide a copy of the key and/or devices to your office. There is no prescribed time frame for this however the REIQ recommends that the property manager request a copy of the keys and/or devices immediately upon learning of the change of locks. If the tenant fails to provide the keys after a request is made, the property manager should consider issuing a Form 11 Notice to Remedy Breach.

8. If the property manager or lessor changes a lock, when should the lessor or property manager provide the keys to the tenant?

You should provide all keys and/or devices to the tenant as soon as practicable so that they continue to have access to the property. You should try to arrange any lock change on behalf of the lessor at a time that is suitable for the tenant so that they can immediately take a copy of the key. If there is a delay in providing the keys to the tenant, this may be a breach of the Form 18a General Tenancy Agreement and RTRA Act as the tenant's access to the property or that part of the property may be affected.

9. Who pays for the change of a lock?

In most circumstances, the party that is responsible for the change of a lock or wishes to change a lock will be the party responsible for the cost.

There may be some circumstances where a specific party is responsible, such as:

- if a lock needs to be replaced because it is damaged by the tenant, then the tenant is responsible;
- if a lock needs to be replaced due to fair wear and tear, then the lessor is responsible;
- if the lock is replaced because a key is lost or damaged by the tenant, then the tenant is responsible;
- if the lock is replaced because of a change in tenants, the lessor is responsible for the cost; and
- if there has been an unforced entry and a police report, the lessor is responsible for the cost.

A tenant may also change a lock at the property if they believe it is necessary to protect themselves or another occupant of the property from domestic violence.

10. Is there anything else I need to do?

Property managers should remind their lessor:

- to speak to their insurer if major changes have been made to the property; and
- if the property is a lot in a Community Titles Scheme, to review by-laws of the body corporate or other rules in place.

We recommend using the REIQ Checklist for Changing Locks.

FAQ – Minimum Housing Standards

1. What are the changes to the RTRA Act with respect to minimum housing standards?

The following minimum housing standards are prescribed by the RTRA Act which shall come into effect on **1 September 2023** for new tenancies and **1 September 2024** for existing tenancies.

Once these standards are in effect, a lessor is obligated to keep the repair and condition of the property to these standards. The definition of emergency repairs will also be expanded to incorporate the matters contained in minimum housing standards.

2. How will this affect my clients' obligations?

The tenant will have new rights to have works carried out so that the property complies with these standards which they may enforce in QCAT. Lessors will not be able to recover costs from tenants or factor in their costs in any rent increases.

The provisions of the RTRA Act and supporting regulations are subject to changes prior to the new laws coming into effect 1 September 2023.

3. Is there anything that has to be done now?

It is recommended that lessors take the prescribed minimum housing standards into consideration to identify what changes to their property they may need to carry out before the laws come into effect. We recommend using the REIQ Factsheet – Minimum Housing Standards.

4. What will the minimum housing standards be?

The prescribed minimum housing standards that will come into effect are set out in the *Housing Legislation Amendment Act 2021*. Although subject to change, they are currently:

a) The property must be weatherproof, structurally sound and in good repair
- the roofing and windows must prevent water from entering the property when it rains
- a property is not structurally sound if:
  - a floor, wall, ceiling or roof is likely to collapse because of rot or a defect; or
  - a deck or stairs are likely to collapse because of rot or a defect; or
  - a floor, wall or ceiling or other supporting structure is affected by significant dampness; or
  - the condition of the property is likely to cause damage to an occupant's personal property.

b) The fixtures and fittings for the property must be in good repair
- includes electrical appliances
- must not be likely to cause injury to a person through the ordinary use of the fixtures and fittings

c) The external windows and doors must have functioning locks
- must secure the property against unauthorised entry
- only to the windows and doors that a person outside the property or room could access without having to use a ladder

d) Property must be free from vermin, damp and mould
- does not apply if caused by the tenant, including, for example, caused by a failure of the tenant to use an exhaust fan installed at the property

e) Property must have privacy coverings for windows in all rooms which tenant would reasonably expect privacy
- privacy coverings for windows include blinds, curtains, tinting and glass frosting
- does not apply if a line of sight between a person outside the property and a person inside the room is obstructed by a fence, hedge, tree or other feature of the property

f) Property must have adequate plumbing and drainage
- must be connected to a water supply service or other infrastructure that supplies hot and cold water suitable for drinking

g) Bathrooms and toilets must be private, toilets must function as designed and be connected
- each toilet must function as designed, including flushing and refilling, and be connected to a sewer, septic system or other waste disposal system

h) Kitchen (if there is one) must include a functioning cook-top

i) Laundry must include fixtures required to provide functional laundry other than whitegoods

FAQ – Domestic & Family Violence Provisions

1. **What are the new provisions relating to Domestic and Family Violence?**

   The new provisions for domestic and family violence were introduced when the *Housing Legislation Amendment Act* came into effect on 1 October 2021.

   These provisions are currently in place and a number of prescribed forms are available from the Residential Tenancies Authority (RTA), which must be used.

   Property managers should always exercise caution when dealing with tenants that are experiencing domestic and family violence.

2. **What are the tenants' options if they are experiencing domestic and family violence?**

   If a tenant experiences domestic and family violence, they may choose to either leave the property or stay at the property.

   If the tenant stays at the property, they are entitled to change locks.

   They may also make an urgent application to QCAT to

   a) be recognised as tenant (if they are an approved occupant and domestic associate of the tenant); or

   b) be recognised as the sole tenant or co-tenant, if they are in a co-tenancy including if they are an approved occupant and domestic associate of the other or another co-tenant,

   instead of the person who has perpetrated the domestic and family violence.

3. **In what circumstances can a person or tenant make a QCAT application to stay at the property?**

   Either an existing co-tenant or an approved occupant, who is the domestic associate of a tenant or co-tenant, can make such application.

   A 'domestic associate' includes the following relationships:

   a) intimate relationship;
   b) family relationship; or
   c) informal care relationship.

   A person may apply to QCAT for an order to be recognised as **the tenant** or **co-tenant** under the tenancy agreement *instead of* the person's domestic associate if the domestic associate has committed domestic and family violence against that person.

   QCAT can grant this order if they are satisfied that the person has established the grounds of the application.

   QCAT will consider if there is a protection order or domestic violence order against the domestic associate and any conditions of such order which may apply.

   A domestic associate of the tenant occupying the property can also apply to QCAT for a **termination order** because the tenant has intentionally or recklessly caused, or is likely to intentionally or recklessly cause, serious damage to the premises or has committed domestic violence against the domestic associate.

   The relevant party must let you know if they are making such application and you can attend and be heard at the QCAT hearing.

4. **What is the process if the tenant wants to leave the property?**

   If the tenant believes they can no longer safely continue to occupy the property, they can choose to leave the property and end their interest in the tenancy. They **must** give you the prescribed form - *Form 20 Notice Ending Tenancy Interest (domestic and family violence)*.

   The notice **must** be supported by relevant prescribed evidence of domestic violence, for example, doctors report, psychologist report, a protection order. The requirements are set out in Part B of Form 20. The tenant may let you view the evidence or provide a copy to you.

   It is important to understand that property managers cannot assess the truth or accuracy of the domestic and family violence that the tenant claims they are experiencing.

The RTA also has a prescribed Domestic and Family Violence Report which may be given by an authorised professional as part of the tenant's evidence. An authorised professional includes a doctor, nurse, psychologist, social worker, domestic and family violence support worker, an Aboriginal or Torres Strait Islander medical service or solicitor.

5. **What should I do if I receive a Form 20 notice?**

   Within 7 days of receiving a Form 20 notice, you must tell the tenant if you intend to dispute the notice.

   The only reason you (or the lessor) can dispute the Form 20 notice is because the notice *is not compliant, or the correct evidence has not been given*.

   You cannot make an assessment about the truth of the domestic and family violence experienced by the tenant or if the tenant does not feel it is safe to keep occupying the property.

   You must make the application to QCAT within 7 days after receiving the Form 20 notice.

6. **Can QCAT set aside a Form 20 notice?**

   QCAT can set aside the Form 20 notice if it is not compliant with the RTRA Act or the supporting evidence is not compliant.

   QCAT will however only consider if the notice and supporting evidence meets legislative requirements. QCAT will not examine or provide determination on whether the tenant has experienced the domestic and family violence claimed, or the tenant's belief as to whether they could safely continue to occupy the property.

7. **What are the next steps if the Form 20 Notice is compliant?**

   If the Form 20 Notice is compliant, then you must notify the tenant within 7 days that you do not intend to apply to QCAT to set aside the notice.

   Where a co-tenancy applies, you must also confirm the date that you will tell any remaining co-tenant/s on the same tenancy agreement that the vacating tenant has ended their interest.
   Notably, this may include the person who perpetrated the domestic and family violence.

   There are strict limits on when you can notify the remaining tenant/s that the vacating tenant has left. You ***must not*** notify them earlier than 7 days after the Form 20 notice is given and ***no later*** than 14 days after the Form 20 notice is given.

8. **When can the tenant leave?**

   The tenant's interest in the property will end on the earlier of the 7-day notice period expiring, and the tenant leaving the premises.

   The tenant can leave immediately. Despite when the tenant leaves, they are required to pay rent for the full 7-day notice period.

   The tenant is **not** required to give forwarding address.

9. **Can I give my client a copy of the Form 20 notice and supporting evidence?**

   Generally, you can provide a copy of the Form 20 notice to the client and supporting evidence if you have been given a copy. Otherwise, the vacating tenant's privacy must be maintained. You must not provide a copy to any other person including the remaining co-tenants. There are some strict exemptions, however you should obtain advice prior to making any disclosure of the tenant's information. There are severe penalties which may apply if this requirement is not complied with. You must not disclose the tenant's reason for leaving the property if giving a reference to another agency or lessor.

10. **What happens after the tenant vacates the property?**

    If the vacating tenant was a sole tenant, after they have left the property, you can enter for a final inspection.

    If the vacating tenant was a co-tenant, the agreement will continue on the same terms for the remaining co-tenants at the property. This includes payment of full rent.

    Upon notifying the co-tenant/s of the vacating tenant's departure, you should issue a *Continuing Interest Notice* to the remaining tenants.

This is an RTA prescribed form which requires the remaining tenants to top-up the bond equal to the amount refunded to the amount contributed by the vacating tenant. The remaining tenants must pay this amount within 1 month of the notice being issued. This should be the only information you provide the remaining tenants about the vacating tenant.

After the tenant vacates on domestic and family violence grounds, unless you have grounds to enter the property for another prescribed reason or all remaining co-tenants agree, *you will not be able to enter the property for a final inspection in relation to this*.

11. How do I treat the tenant's bond?

When a tenant is vacating on grounds of domestic and family violence, the tenant or the property manager **must** use the *Form 4a Bond Refund for persons experiencing domestic and family violence*. This is a prescribed form.

The RTA will process the bond refund after the tenant has vacated the property and their interest in the tenancy has ended.

The RTA will only notify the vacating tenant or property manager once the form is lodged, they will not notify the remaining tenants or co-contributors of the bond.

If the parties agree on the amount to be refunded to the tenant, it will be processed by the RTA quickly. The other bond contributors do not need to sign the form.

12. What if we do not agree on the amount of the bond to be refunded?

The RTA will release the amount of the bond which is undisputed.

If only one party signs the Form 4a, the RTA will give the other party a Notice of Claim and they will have 14 days to dispute the bond claim. If no response is received, the RTA will proceed with paying the bond as requested in the Form 4a. If the parties cannot reach agreement, they will need to utilise the RTA dispute resolution service.

13. What can I claim on the tenant's bond?

The vacating tenant is **not responsible for**, and you cannot claim, the costs of the following:

a) costs associated with the ending of the tenancy;
b) reletting cost;
c) costs to remove the tenant's goods from the property; and
d) costs for the repair of damage caused to the property by the domestic and family violence experienced by the tenant.

There may be other costs that fall outside of the above categories (for example, if the tenant has failed to pay rent).

When inspecting the property after the tenant vacates, if an inspection is possible under the circumstances, you should note the condition of the property and what repairs, damage or maintenance are required due to:

a) possible domestic and family violence experienced by the tenant; or

b) a failure of the tenant to fulfil their obligations under the tenancy which are unlikely due to domestic and family violence experienced by the tenant (for example, if the tenant has failed to keep the yards maintained for an extended period of time).

Property managers should exercise caution when assessing whether repairs, damage or maintenance needed has been the result of domestic and family violence experienced by the tenant. If required, legal advice should be sought.

As bond dispute matters proceed to QCAT, we will have clearer parameters on what can and cannot be claimed on the tenant's bond if they are vacating on grounds of domestic and family violence. In the meantime, if there is a particular item in dispute, we recommend using your best endeavours and acting reasonably. You should consider the risk of having the matter heard in QCAT and what potential reputational and personal risk issues may arise if you try to dispute the bond of a person trying to escape domestic and family violence.

Death of Sole Tenant or Co-Tenant

From 20 October 2021, if a sole tenant dies, the tenancy ends one month after the persons death, or earlier if:

1) the lessor and tenant's representative agree to an end date; or
2) 14 days after either party gives the other written notice of the agreement ending because of the tenant's death; or
3) a day decided by QCAT if the lessor makes an urgent application under s415(5) of the RTRA Act.

If a co-tenant dies, their interest in the tenancy ends and the agreement continues in force with parties to the agreement.

There are now new grounds allowing a remaining co-tenant to end their tenancy if their co-tenant dies and continuing the tenancy would be impractical for that remaining co-tenant or would cause them excessive hardship. The tenant can end their tenancy by giving a Form 13 Notice of Intention to Leave to the lessor, with a notice period of 14 days.

If you are informed that a tenant has passed away at the property, if the tenant was a sole tenant, we recommend contacting their emergency contact as soon as practicable. If the tenant was a co-tenant, we recommend contacting the remaining co-tenants in a timely manner to confirm what they would like to do.

Entry Condition Reports

From 1 October 2022, the tenant will now have **7 days** to sign, return and raise dispute with the entry condition report, increased from 3 days. The 7 days will commence from the date the tenant first occupies the property. If the tenant enters a new tenancy agreement to continue their interest after the expiry of their current tenancy agreement for the same property, unless a new entry condition report is prepared, the original condition report is taken to be the condition report for the renewed agreement.

You should ensure that your internal processes are changed to keep compliant with the new time limit.


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