Property Owners Handbook

A Comprehensive Guide for Property Owners and Property Investors

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Property Owners Handbook
Arbee Real Estate (Vic) Pty Ltd

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Property Owners Handbook

Introduction

We have constructed this comprehensive property owner’s handbook as a service to our clients so that you can be familiar with our property management processes and procedures and to assist with having the right expectations with respect to the tenancy management.

We hope that you enjoy reading this handbook and ask that you become familiar with its contents. However, should you have a query which you believe is not answered by this handbook, please call us on 03 5367 2333 and we will be happy to assist you.

Disclaimer

This handbook has been prepared by Arbee Real estate (Vic) Pty Ltd as a guide for property owners and investors.

Our officers, employees, agents and associates believe that the information and material contained in this handbook is correct at the time of printing but do not guarantee or warrant the accuracy or currency of that information and material. To the maximum extent permitted by law, our officers, employees, agents and associates disclaim all responsibility for any loss or damage which any person may suffer from reliance on the information and material contained in this handbook or any opinion, conclusion or recommendation in the information and material whether the loss or damage is caused by any fault or negligence on the part of our officers, employees, agents and associates or otherwise.

The information relating to the law in this handbook is intended only as a summary and general overview on matters of interest. It is not intended to be comprehensive nor does it constitute legal advice. Whilst our officers, employees, agents and associates believe that such information is correct and current at the time of printing, we do not guarantee its accuracy or currency. Many factors unknown to us may affect the applicability of any statement or comment that we make to your particular circumstances and consequently you should seek appropriate legal advice from a qualified legal practitioner before acting or relying on any of the information contained in this handbook.

The information contained in the handbook is of a general nature and does not take into account your objectives, financial situation or needs. Before acting on any of the information you should consider its appropriateness, having regard to your own objectives, financial situation and needs.
Section One
Commonly Asked Questions

Maximising Your Rent

How Do You Determine the Best Rent For My Property?

We always strive to get you the maximum rent possible; however we also must keep in mind setting the correct market rent to get your property rented as soon as possible. Both factors must be important to present your property on the market successfully for rent.

To do this, we consider these factors:

a) **Demand**- Is there a high or low demand for properties at present. This can be seasonal and affected by a number of factors.

b) **What Is Available Now**- we look at properties currently available for rent in the newspaper and/or the internet, and consider their location and features for comparison to calculate a maximum rent for your property.

c) **What We Have Rented Right Now**- We compare your property with what we have currently rented, taking into account property location and features.

These factors allow us to give you enough information to set the right rent for your property.

What if I want a rent amount that is higher?

You may place your property on the market at the rental amount you wish. However keep in mind that it is the market demand that sets the rent, and if the market (prospective tenants looking for a rental property) deem the amount of rent too high your property may stay vacant longer than necessary.

With this in mind, be aware your annual rental return will be **reduced by 2% for every week it is vacant!**

How does the rent get reviewed during the time that you manage it?

When we need to secure you a new tenant, we will always review the rent against market conditions. This will also be done at lease renewal time, or at other times when required. We will always contact you for your permission before the rent is increased.
Getting the Best Tenant

How Does Someone Apply For My Property?

We always ask that the prospective tenant fill in an application form, signing giving permission for us to check the information provided. We will never discuss an applicant with you without this application form completed prior to contacting you.

What If An Applicant Contacts Me?

If in the unlikely chance a prospective tenant contacts you to discuss their application, or in fact ask questions regarding their rejected application, we insist that you simply request that they contact us (your agent). If they persist we insist that you do not discuss anything further to avoid unnecessary problems and complications.

How Do You Check An Applicant?

With the information provided we confirm their payment and tenancy history by calling their current and/or previous landlord/agent as well as confirming their employment, checking them against a National Tenancy Internet Database to see if they have been lodged as a bad tenant by a previous agent.

In some cases where an applicant may not have a tenancy history we try and confirm other information that may give us insight to show their ability to maintain a tenancy in your rental property, for example a stable employment history.

In some cases where this is not possible we may simply reject the application.

What reason do you have to give the applicant to reject their application?

Legally we do not have to give a reason and by industry practice we never give a reason.

Who selects the applicant for my property?

You do! We will simply give you the information we have collected and by using our experience give you a possible guide as to the tenancy outcome, but at the end of the day it is always your choice!

Do you guarantee the tenant?

We can never guarantee any approved tenant for your property. We can only attempt to collect information on their past history and confirm their income arrangements. As their paying of rent and maintaining the property is purely voluntary we cannot guarantee any tenancy outcome. This is a landlord risk that comes with allowing someone else to rent your property. We do recommend with landlords that do not wish to take a risk, simply to keep the property vacant.
The Marketing of My Property

What Do You Do To Advertise My Property?

Once we have a signed Management Agreement authorising us to act on your behalf, we list your property in the following forms of advertising:

1. **Rental Listing Brochure**- Your property is added to our office listing brochure with a photo and details of your property. This is given to anyone that comes in looking for a rental property.

2. **Window Display**- A copy of our rental listing brochure is entered into our window display on a rotating basis. This is popular for easy access after hours.

3. **Internet**- Your property along with photos is entered onto the following websites, maximising coverage to any prospective tenant using the Internet to locate a rental property.
   - www.arbeerealestate.com.au
   - www.realestate.com.au
   - www.domain.com.au
   - www.realestateview.com.au
   - www.rent.com.au

Property Presentation

How Should The Property Be Presented?

We ask that the property be presented in the best manner possible to attract the right tenant for your property. We don’t want a bad first impression to detract the right tenant from renting your property. Please refer to our guide ‘Getting the Property Ready for Your Tenant’ in Section Three with tips and a checklist on how to present your property for rent.

How Clean Should The Property Be When A New Tenant Moves In?

The property should be presented ‘reasonably clean’ in accordance with legislative requirements. Please refer to our guide to ‘Getting the Property Ready for Your Tenant’ in Section Three for recommended levels of cleanliness.

As a very general rule we ask the tenant to leave the property at the standard they found it.

In cases where the property is provided in an extreme level of cleanliness we ask the tenant to leave the property likewise. However in the case of a dispute legally we can only enforce that the tenant return the property in a ‘reasonably clean’ condition, this being their minimum legal obligation.
Pets at My Property (If Permitted)

If I Allow Pets At My Property, What Expectations Will Be Given To The Tenant?

If pets are permitted, we will always sign pet conditions with your tenant. This obligates them in 4 ways:

a) No additional pet may occupy the property without prior permission.

b) The pet may not come inside the property.

c) The pet must be removed from the property if it becomes annoying or bothersome to neighbours (after reasonable warning has been given in writing).

d) The tenant must be responsible for any damage caused by their pet, and remove any rubbish or faeces deposited by the pet.

We also record the details of the pet on the agreement, which is then signed by the tenant.

How Do I Ensure The Pet Will Not Come Inside The Property?

We obligate the tenant to commit in writing that they will not bring the pet inside. However as we are unable to monitor the property all of the time, we cannot guarantee that the pet will not come inside the property.

We do look out for any warning signs whilst at the property conducting inspections. However, the only way to ensure that a pet will not come inside the property is to insist ‘No Pets’ right from the start of the tenancy.
Receiving My Rent Monies

When do I get paid my rent?

We deposit all monies collected into your nominated bank account by Tuesdays, we will do this as agreed with you, whether this be Weekly, fortnightly or end of monthly.

How do you collect the rent?

We collect the rent by the tenant paying into our bank account.

What happens if my tenant does not pay the rent?

Paying the rent is always a voluntary action on behalf of the tenant. We can never force a tenant to pay their rent. Even a tribunal can only ‘order’ a tenant to pay but can never physically force them to pay.

If a tenant does get behind in their rent payments, this is the process we follow.

3 Days Behind - SMS sent to tenant
5-7 Days Behind - SMS and Phone Call to tenant
10 Days Behind – Letter sent to tenant
15 Days Behind - Serve Notice to Vacate (This obligates the tenant to vacate the property within 14 days and/or pay all monies owed at the discretion of the property owner)
Approx 18 Days Behind - Lodge Application with the Victorian & Civil Administration Tribunal (VCAT) for an order of payment & a warrant of possession if necessary
Approx one month behind (30-35 days) - Tribunal Hearing- order given to pay or be evicted
Approx 5-7 weeks behind- Eviction may occur if payments are not made as per the tribunal order and owners instructions

As you can see, the full legal process can be very drawn out and lengthy.

Unfortunately the bond will never cover the shortfall in rent.

Only if you have landlord insurance will there be a reasonable prospect of covering the rent payment shortfall, in the case of your tenant defaulting in their rent payments.

Without landlord insurance, the chance of recovering owed rent monies is minimal. If you have no protection for your rent payments, the problem is further compounded with the fact that the bond will probably be exhausted with owed rent. You will then most likely have cleaning up and re-letting costs.

Therefore without landlord insurance, this process can be quite financially damaging.
Inspecting Of My Property

Do you inspect the property at the beginning of a tenancy?

We conduct a comprehensive inspection of your property when a tenant first moves in.

We inspect your property area by area (lounge room, bedrooms, kitchen, front and rear yards, garage etc) and then all items present in each area (walls, ceiling, light fittings, curtains, windows, stove etc).

We record their condition and cleanliness item by item, and then a brief description and detail about the item. This would involve recording details of any marks, scratches and dents etc.

We also take photos outside, as well as inside the property (where required). This document is referred to as the “Condition Report”.

How often do you inspect the property during the tenancy?

The Residential Tenancies Act states that we can only inspect your property once every 6 months for the same reason. The first inspection we are allowed to conduct cannot be within the first 3 months of the tenancy. This inspection is not as detailed as the start of tenancy inspection but is more like a walk through, checking room-by-room the tenant is keeping the property damage-free and reasonably clean.

We will also take photos of the property, of any repairs or concerns observed. We are unable to take any photos if the tenant refuses permission for their privacy.

We also note any repairs reported or observed by us and any other recommendations needed to assist you in keeping the property in the best condition possible.

We will send you a copy of the inspection report. If there are emergency items then we will contact you by phone or email to discuss.

What about when the tenant vacates the property?

When the tenant lets us know they will be vacating (they must give a minimum of 28 days notice in writing), we send them detailed information on our expectations of how the property needs to be presented.

Once the tenant has fully vacated, we compare the property to the ingoing inspection report completed when the tenant moved into the property.

We carefully check through the report item-by-item, ensuring it has been left in the same condition as when they moved in, taking into account reasonable wear and tear for the period of time they have been in the property. This is a legislative requirement.
Taking a Bond

How much bond do you take from the tenant?

If the rent is $350 or less per week, we can charge a maximum of one calendar month rent for the bond. If there are special items in your property we can apply to VCAT for an order that the bond be more than the months rent. If your rent is above $350 per week the bond amount can be negotiated.

When do you pay back the bond monies?

We only refund the bond after the following has occurred

a) The tenant has fully vacated the property and keys returned

b) The property has been inspected, and is satisfactory when compared with the ingoing inspection report.

c) All rent monies are paid

d) If the tenant is breaking their lease, any re-letting fees and advertising costs (part or full costs)

If the tenant has a pet, can I ask for an extra bond (a pet bond)?

Unfortunately no! We are legally only allowed to take one bond, as specified above.

Tenancy Agreements

What do you explain to the tenant when they move into the property?

We go through all of the most important expectations. For example, how they must pay their rent on time, how and where to pay their rent, what we do if they do not pay their rent. We discuss our repairs and maintenance policy, what happens in an emergency repair situation, how often inspections occur and what we look for. We also supply them with two copies of the ingoing condition report, explain how they must check, sign and return one copy of the form within 3 business days. We explain and get them to sign the Bond Lodgment Form.

We also hand to them a Consumer Affairs booklet ‘A Guide for Tenants’ that explains some of their tenancy rights and obligations. We must issue them with this booklet in accordance with legislative requirements.
What do they sign?

We prepare a Tenancy Agreement covering the details of the tenancy, with terms and conditions.

We explain the main parts of the agreement to the tenant before we get them to sign it. We will then send you a copy of the tenancy agreement together with a copy of the ingoing condition report, for your records.

When do they get keys and possession of the property?

After all the forms have been explained and signed, all bond monies and first payment of rent received we will then grant them the keys and possession of the property.

Repairing and Maintaining My Property

Who is responsible for repairing my property?

Under legislation it is the responsibility of the landlord to repair the property. This means it is at the landlord’s expense.

Who is responsible for general wear and tear?

General wear and tear that occurs from tenants just living in a property is expected and legislation provides that it be allowed. A few extra marks and scuffs on the walls, some chips and scratches to doors and doorways will occur over time, along with the gradual wear of everything that is in the property.

The only time a tenant can be held responsible is if wear and tear is considered ‘excessive’ for the time frame that the tenant has been in possession. For example, a newly painted property with walls severely marked after 2 years resulting in the walls having to be painted again may not be allowed as ‘reasonable’ wear and tear. In a tribunal this type of situation, if proved, could result with the tenant paying for the painting to be done, minus any depreciation for the age of the paintwork at that point in time when it was repainted again.

Please also refer to our Residential Tenancies Act quotes in section 2 of this manual for specific legislation on this issue.

What if the tenant is at fault?

If a tenant has caused damage to an item that is not the result of normal break down or wear and tear, this will be charged to the tenant.

Normally, a tradesperson would let us know that the repair was normal or was influenced or caused by the tenant.
What about the smoke alarm?

In Victoria since the 1<sup>st</sup> of February 1999 self-contained smoke alarms complying with Australian Standard 3786-1993 must be installed in all residential buildings.

It is the legal responsibility of owners and landlords to install smoke alarms.

In addition the landlord has a duty of care under common law to provide tenants with safe housing and ensure the smoke alarms are functional. We offer a service provided by Smoke Alarms Australia for $99.00 per annum, See attached Information Form at the back of this booklet.

Therefore tenants are not legally responsible for the maintenance of smoke alarms.

What happens if a repair is required after hours, or on weekends?

Please contact our office number 03 5367 2333 which will be diverted to one of our staff members who will be able to assist you with any urgent repairs or maintenance.

Who is responsible maintaining the lawns and gardens?

Unless otherwise agreed, the tenant is responsible to maintain the lawns and gardens to the standard they were given at the start of the tenancy.

If the property is provided with watering systems these need to be working and kept maintained during the tenancy.

What about cleaning the roof gutters and pruning?

According to legislation it is the landlord’s responsibility to ensure these are done. Of course, we can arrange gardeners on your behalf to do these for you.

Renewing the Lease with My Tenant

Who decides if the lease will be renewed?

You do! We will contact you by letter before the lease is due, and seek your instructions if you wish to renew or in fact not renew the lease. Once we have your approval we will then approach the tenant to have the lease renewed.

If I do not wish to renew the lease, do I have to give a reason?

If you do not wish for the lease to be renewed you are not obligated to give your tenant a reason.
Notice Required When My Tenant Is Vacating

How much notice must my tenant give when they want to vacate the property?

This depends on the type of lease they have signed. If they wish to vacate the property on a non-fixed term lease, they are required to give 28 days notice in writing.

If they are on a fixed term lease they can give notice to vacate 28 days prior to the expiry date. Of course it is up to us to approach the tenant to seek their intention to either renew the lease or vacate the property.

If they break their lease, they may do so with little to no notice, however they are subject to paying rent until a new tenant is secured or to the end of the lease (whichever occurs first). They must also contribute to the letting fee and advertising costs (please refer to the next section).

Breaking of a Fixed Term Lease

Who pays for the letting fee and advertising costs when a tenant breaks their fixed term lease early?

Unfortunately we have no control over the tenant breaking their lease early. People’s circumstances change and sometimes they move out earlier than expected. In this case, we will need to charge letting fees and advertising again.

However, under legislation we are entitled to charge a tenant for part or the full amount of these costs to be reimbursed back to you, depending on how much of the lease remains when it is broken. We also must take into account the current lease or entire term of leases they may have already served at the property, when calculating monies for reimbursement.

Breaches of Tenancy

What happens if the tenant breaks one or more of the conditions of tenancy?

Depending on what has occurred determines largely what action is taken. If the breach is minor, approaching the tenant verbally or in writing maybe appropriate. If it is something serious we will consult with you first to discuss what action to take.

Serious breaches of tenancy may involve using the property for illegal purposes or bringing in pets without prior permission etc.

We will let you know whether we should serve a termination notice on the tenant first or use more diplomatic means to rectify the breach.
Landlord Insurance

Why do I need landlord insurance if I have an agent?

We at no time can guarantee your tenant’s performance at your property. The risk belongs to the owner of the property, and therefore the owner should be insured for such a risk.

Why do I need landlord insurance if I have a good tenant?

Even a good tenancy can turn bad. If the tenant’s circumstances change sometimes the tenancy will become unstable. This can result in rent owing and the property not maintained.

It pays to be properly insured, even with a good tenant.

What does landlord insurance cover?

Landlord insurance will cover rent loss due to tenant default and malicious damage to the property caused by the tenant.

It is important for you to know what your landlord insurance policy will and won’t cover. Please consult with your landlord insurer so that you are fully aware of the extent of your cover and also any excesses that may be applicable in the event of a claim.

Smoke Alarms

What type of smoke alarm should be fitted?

We always ask that a hard-wired alarm be fitted to all rental properties; due to the high chance of a tenant tampering with a removable battery powered alarm (as with 9-Volt Battery powered alarms).

Why can’t I just have the cheapest smoke alarm possible?

Though conforming 9-volt battery operated alarms may be allowed under legislation, we believe it is not the right option for a rental property. Due to the common problem of tenants removing and not replacing the batteries to these alarms, we believe that these types of alarms have a high chance of not working if there is a fire.

Therefore to provide the highest chance possible the smoke alarm will work in case of a fire, we insist that hard-wired alarms be installed.

You might comply with legislation but we are not safe with tenant tampering with batteries.

Please let us know if you would like us to arrange for hard-wired smoke alarms to be fitted into your rental property.
Attached in Appendix “A” is a detailed synopsis relating to Smoke Fire Alarms. You will also note that we have a contracted arrangement with Smoke Alarms Australia for installing and maintaining smoke alarms at the property.

**Pest Control Services**

**Should I get my property regularly checked for termites?**

Yes! We strongly recommend all of our clients choose a pest control service and request that they regularly check your property for termite activity at the frequency they recommend.

Unfortunately we do not contract them to do this on your behalf, unless you specifically instruct us in writing to do so each time it is required.

Please note, it is a general exclusion of all building insurance policies that damage to your property caused by termites is not covered (not insurable). Therefore regular checking is the best way to prevent termite damage, or at least attempt to identify warning signs that termites are creating damage.

Without this the damage could be substantial and very costly to rectify.

**Costs Incurred At My Rental Property**

**Who pays for electricity and gas charges?**

These are a tenant expense. However if there are charges relating to the supply of these services to a property, then the supply charges are at a landlord cost.

A good example of this is if a property has bottled gas supplied. The tenant pays for the gas in the bottles; however the landlord would be responsible for the charges related to the gas bottle rental. This is a charge associated with the supply of the gas.

Also if you are moving out of your property and you have your own gas bottles remaining, please remove them. There is a high chance that these bottles will be accidentally removed by a gas bottle supply company, giving room for an avoidable dispute with your tenant and missing gas bottles. Let the tenant arrange their own rental bottles.
Who pays for water charges?

Water consumptions charges are the responsibility of the tenant where the property has water that is separately metered for usage.

A separate house is most always separately metered but in blocks of units, flats and townhouses it is possible that the water may no be separately metered. If the water is not separately metered then the total cost will be the responsibility of the landlord.

The landlord will always be responsible for the rates portion of the water invoice. The water company should be notified when a tenant moves in and if the property is separately metered, the water company will send the appropriate portion of the invoices to the owner and tenant.

Receiving My Financial Statements

Why do I receive statements?

We will issue you both monthly and yearly financial statements, accounting for all monies we have handled and disbursed to you on your behalf in accordance with legislative requirements.

You will receive your monthly statements together with any tax invoices from tradespersons or other disbursements paid during that month on your behalf. Your end of year statement accounts for all monthly statements accumulated, for accountancy ease.

When do I receive these statements?

Your statement will be sent to you approximately a day or two after your rent has been paid into your account, or Cheque has been sent, and the end of year statement will come to you in July of each year being the month immediately following the end of the financial year.

How do I understand these statements?

Our statements show the tenant name and property for which you are being paid in the income section at the top of the statement.

Following that and reading across the page, they show:
- Detail: the type of charge being paid
- Paid From/Paid To: the dates that the charge relates to
- On account: Any extra amount paid that will go towards the next charge
- Amount: Total amount paid

If the tenant does not pay the full charge, i.e. Weekly, fortnightly, monthly rental amount, the paid from and paid to dates will be the same and the amount that they have put towards that week/fortnight/month will be shown in the "on account" section.
Example:
Tenant’s monthly rent is $1084 but they only pay $1000. They intend on paying the remaining $84 in a few days.
Your statement will read:

<table>
<thead>
<tr>
<th>Detail</th>
<th>Charge</th>
<th>Paid from</th>
<th>Paid to</th>
<th>On account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rent</td>
<td>$1084</td>
<td>1/1/14</td>
<td>1/1/14</td>
<td>$1000</td>
<td>$1000</td>
</tr>
</tbody>
</table>

If the tenant pays more than the full charge, the extra amount will be shown in the On account section.

Example:
Tenant’s monthly rent is $1084 but they pay $1200 to put them ahead for the following month.
Your statement will read:

<table>
<thead>
<tr>
<th>Detail</th>
<th>Charge</th>
<th>Paid from</th>
<th>Paid to</th>
<th>On account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rent</td>
<td>$1084</td>
<td>1/1/14</td>
<td>31/1/14</td>
<td>$116</td>
<td>$1200</td>
</tr>
</tbody>
</table>

Following the income section will be details of our fees incurred, followed then by any deductions that have been made from your account. These deductions will be for any expenses relating to your property that you have authorized us to pay. Please note – we encourage expenses to be paid through your rental account as they will be included in your end of financial year report, thus making it easier for you to track expenses for taxation purposes.

Finally, the statement will show the distribution of funds which is the total amount that we pay to you.

If a tenant has paid by cheque and the funds have not been cleared by the bank at the time of payment, you will see an amount withheld – awaiting bank clearance. This will be brought forward on your next statement.

We may also withhold funds at your request for upcoming expenses which will be shown at the bottom of the statement enabling you to see what is still in your account.

What do I do if I misplace a statement?

Call us on 03 5367 2333 and we will reissue another one to you.
Selling or Moving Back Into My Property

What happens to the tenancy if I wish to sell my property?

You may sell your property at any time. However any fixed term lease in place is guaranteed to your tenant. This means if a person buys your property and they wish to occupy it, they must wait until the tenancy is finished unless the tenant agrees otherwise.

What if I want to move in or someone from my family wants to move in?

Again any fixed term lease is guaranteed unless the tenant agrees to move out.

As is the case with the property being sold, this usually involves an amount of compensation being paid to the tenant as agreed by both the landlord and the tenant.

What if they are on a non-fixed term agreement?

If they are on a non-fixed term agreement, you may give them notice.

You may give them a minimum **60 days notice** (allowing also for postage delivery time) under the following conditions:

a) The property is to be sold or has been sold (contract signed) and the occupier requires vacant possession

b) The landlord, landlord’s father or mother, spouse, son or daughter requires possession (immediate family of the landlord only)

c) The property is going to be demolished

d) The property requires repair to an extent that the property must be vacant to do so

e) Landlords Principal Place of Residence (This however must be written into the lease agreement and the tenant must be aware that the house is the landlords principal place of residence.)

Otherwise **120 days notice** (allowing also for postage delivery time) can be given. If you give **120 days notice** no legal reason has to be given.

A regulated vacating notice must be used when giving **60 or 120 days notice**.

Please call us if you would like a copy.
Can you sell my property on my behalf?

Of course! Selling your property is part of the service we provide.

It is always preferred that we sell your property. It is much easier to coordinate access with the tenant between the sales and rental departments if you are using the same agency for both services.

Your tenant will also be more comfortable to deal with a company they are already familiar with.

Just let us know if you want to sell, even if you are just thinking about it.

Either you can nominate someone within our sales department, or we can get someone from our sales department to call you.

Where can I get more tenancy information?

Consumer Affairs Victoria has produced a compulsory guide to be handed to tenants called “Renting a home. A guide for landlords and tenants”. Should you want a copy please call our office or contact Consumer Affairs on 1300 55 81 81 (local call charges) or email on consumer@justice.vic.gov.au
Section Two
Victorian Tenancy Legislation- How It Affects You and Your Tenant

How It Affects You and Your Tenant

For your information we have added some portions of the Residential Tenancies Act for your reference. These are areas that are commonly misunderstood, or people are not aware of.

Some Landlord Rights and Obligations

Discrimination Against Tenants With Children

Sec 30

(1) A person must not-

a) Refuse to let rented premises: or
b) Instruct or permit that person’s agent to refuse to let rented premises-

to another person under a tenancy agreement on the ground that the other person intends to live on the premises with a child.

Penalty: 5 penalty points
(2) This section does not apply to –

a) Premises proposed to be let by a public statutory authority or body corporate for which the authority or body receives financial assistance for the provision of housing for lone persons or childless couples under an Act or an Act of the Commonwealth; or

b) Premises that are the principal place of residence of the person refusing or instructing or permitting that person’s agent to refuse to let the premises to a person intending to live with a child; or

c) Premises that by reason of their design or location are unsuitable or inappropriate for occupation by a child.

(3) A person who claims that premises are not, by reason of their design or location, unsuitable or inappropriate for occupation by a child may apply to the Tribunal for an order declaring whether or not the premises are unsuitable or inappropriate for occupation by a child.

(4) In this section “child” means a child under 16 years of age.

**Limit of Rent In Advance**

**Sec 40**

(1) A landlord must not require a tenant to pay rent under a tenancy agreement more than 1 month in advance

Penalty: 10 penalty units

(2) Sub-section (1) does not apply if the amount of rent payable for each week under the tenancy agreement exceeds –

a) $350: or

b) if a greater amount is prescribed for the purposes of section 31, that greater amount

**Rent in advance under weekly tenancy agreement**

**Sec 41**

Despite section 40, a landlord must not require a tenant to pay rent under a tenancy agreement more than 2 weeks in advance if the period in respect of which rent is payable under that agreement is not more than 1 week.

Penalty: 10 penalty units
Security at the Property

Sec 70

Locks

(1) A landlord must provide locks to secure all external doors and windows of the rented premises.

(2) A party to a tenancy agreement who changes any external door or window lock must as soon as practicable give a key to the lock to the other party.

(3) A tenant who wishes to change a lock in a master key system must obtain the landlord’s consent before changing that lock.

(4) A landlord must not withhold unreasonable consent to the changing of the lock.

Providing the Property Clean

Sec 65.

Landlord’s duty in relation to provision of premises

(1) A landlord must ensure that on the day that it is agreed that the tenant is to enter into occupation, the rented premises are vacant and in reasonable clean condition.

(2) A tenant is not required to enter into occupation of premises which do not comply with sub section (1)

(3) If premises do not comply with sub-section(1), the tenant is not required to pay rent for the rented premises in respect of the period beginning on the agreed day on which the tenant is to enter into occupation of the premises and ending on the day on which the tenant actually enters into occupation.

Repairing The Property

Sec 68.

Landlords duty to maintain premises

(1) A landlord must ensure that the rented premises are maintained in good repair.

(2) A landlord is not in breach of the duty to maintain the rented premises in good repair if -

(a) damage to the rented premises is caused by the tenant’s failure to ensure that care was taken to avoid damaging the premises; and
(b) the landlord has given the tenant a notice under section 78 requiring the tenant to
repair the damage.

(3) If a landlord owns or controls rented premises and the common areas relating to those rented premises, the landlord must take reasonable steps to ensure that the common areas are maintained in good repair.

**Landlord Right Of Entry Into The Property**

**Sec 85**

**Entry of rented premises**

A landlord or the landlord's agent has a right to enter rented premises together with any persons who are necessary to achieve the purpose of the entry-

a) At any time agreed with the tenant if the tenant has consented not more than 7 days before the entry; or

b) For a purpose set out in section 86, at any time between 8am and 6pm on any day (except a public holiday) if at least 24 hours notice has been given to the tenant in accordance with section 88.

**Sec 86.**

**Grounds for entry of rented premises**

(1) A right of entry in respect of rented premises may be exercised if -

a) before giving notice of entry, a notice to vacate or a notice of intention to vacate the rented premises has been given and entry is required to show the premises to prospective tenant; or

b) 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

c) entry is required to enable the landlord to carry out a duty under this Act, the tenancy agreement or any other Act; or

d) entry is required for valuation purposes; or

e) the landlord or the landlord’s agent has reasonable grounds to believe that the tenant has failed to comply with his or her duties under this Act or the tenancy agreement; or

f) entry is required to enable inspection of the premises and entry for that purpose has not been made within the last 6 months.

(1) A right of entry for a purpose set out in sub-section (1)(a) may only be exercised in the period of 14 days before the termination date specified in the notice to vacate or notice of intention to vacate.
Despite sub-section (1), in the case of the first tenancy agreement entered into between a landlord and a tenant in respect of rented premises, a right of entry referred to in sub-section (12)(f) may only be excised after the end of the first 3 months of the tenancy.

**Sec 88.**

**What must be in a notice of entry?**

A notice requiring entry must –

1. Be in writing; and
2. State why the landlord or landlord's agent wishes to enter; and
3. Be given-
   a) By post; or
   b) By delivering it personally to the tenant between the hours of 8am and 6pm

**Breaking Lease Conditions - If a Tenant Breaks Their Fixed Term Tenancy**

Under certain circumstances tenants may need to break their fixed term tenancy agreement. If this happens it is important for us to mitigate tenant losses in renting your property as soon as possible.

You also must release your property at the same rent the current tenant is paying until the end of their lease term.

The outgoing tenant is responsible for paying a pro rata amount of the letting fee, advertising for the new tenant and rent until the property is relet. In slower times of leasing you must also lower the rent if the property is not let within a reasonable time frame.

**Termination of a Tenancy - Grounds Allowable**

**See part 6**

**Subdivision 1 – When can a tenancy agreement be terminated?**

1. Termination of tenancy agreement
2. Termination by agreement
3. Terminate by consent
4. Termination after notice to vacate
5. Termination by abandonment
6. Termination where premises are sub-let
7. Termination where landlord not owner of premises
8. Termination by mortgagee
9. Termination by merger
Termination by disclaimer
Termination by tenant before possession
Termination by landlord before possession
Termination after death of sole tenant

Some Tenant Rights and Obligations

The Tenants Right To Quiet Enjoyment Of The Property

Sec 67

Quiet Enjoyment

A landlord must take all reasonable steps to ensure that the tenant has quiet enjoyment of the rented premises during the tenancy agreement.

Tenant’s Responsibility for Cleanliness and Damage

Sec 61

A tenant must avoid damage to premises or common areas

(1) A tenant must ensure that care is taken to avoid damaging the rented premises.

(2) A tenant must take reasonable care to avoid damaging the common areas.

Sec 63 Tenant must keep rented premises clean

A tenant must keep the rented premises in a reasonably clean condition except to the extent that the landlord is responsible under the tenancy agreement for keeping the premises in that condition.

Alterations to the Property

Sec 64.

A tenant must not install fixtures etc. without consent

(1) A tenant must not, without the landlord's consent-

   a) Install any fixtures on the rented premises; or
   b) Make any alteration, renovation or addition to the rented premises.

(2) Before a tenancy agreement terminates, a tenant who has installed fixtures on or renovated, altered or added to the rented premises (whether or not with the landlord’s written consent) must -
a) restore the premises to the condition they were in immediately before the installation, renovation or addition, fair wear and tear excepted: or
b) pay the landlord an amount equal to the reasonable cost of restoring the premises to that condition

(3) Sub-section (2) does not apply if –

   a) the tenancy agreement otherwise provides; or
   b) the landlord and the tenant otherwise agree.

Not Use the Property For Illegal Purposes, Or Be A Nuisance

Sec 59

Tenant must not use the premises for illegal purpose

A tenant must not use the rented premises or permit their use for any purpose that is illegal at common law or under an Act.

Sec 60

Tenant must not cause nuisance or interference

(1) A tenant must not use the rented premises or permit their use in any manner that causes a nuisance.

(2) A tenant must not-

   a) Use the rented premises or common areas; or
   b) Permit his or her visitors to use the rented premises or common areas: or
   c) Otherwise permit the use of the rented premises-

   in any manner that causes an interference with the reasonable peace, comfort or privacy of any occupier of neighbouring premises.

Urgent Repairs

Sec 72

Urgent repairs

(1) A tenant may arrange for urgent repairs to be carried out to the rented premises if –

   a) The tenant has taken reasonable steps to arrange for the landlord or the landlord’s agent to immediately carry out the repairs; and
   b) The tenant is unable to get the landlord or agent to carry out the repairs.
(2) If the tenant carries out repairs under sub-section (1)-

   a) The tenant must give the landlord 14 days written notice of the repairs carried out and the cost:
      and
   b) The landlord is liable to reimburse the tenant for the reasonable cost of the repairs or $1000,
      whichever is less

(3) If urgent repairs are required to an item that uses or supplies water and that does not have at least
   an A rating, and that item cannot be repaired, the tenant may replace it with an item that does have
   an A rating.

(4) This section does not apply to fixtures, furniture or equipment supplied by the tenant.

**Obligation to give 28 Days Notice on a Non-Fixed Term Tenancy**

**Sec 235**

**Notice of intention to vacate**

(1) A tenant may give a landlord a notice of intention to vacate rented premises

(2) The notice must specify a termination date that is not less than 28 days after the date on which the
    notice is given.
Section Three
A Guide to Getting Your Property Ready for Tenancy

For your convenience we wish to provide you with a guide to getting your property ready for your new tenant. It covers common areas overlooked by owners when moving out.

We have also structured the guide into a convenient checklist format.

Some Things To Do

- **Have your mail redirected.** Please ensure that all mail is re-directed to your new address.

- **Utilities -** Electricity, Gas, Phone, etc. Please ensure all accounts are advised and cancelled accordingly. The only services to remain in your name (with your new postal address) is water and council rates.

- **Appliance Manuals -** Please leave them on the kitchen counter.

- **Keys -** Please ensure all locks have keys. Please supply 2 full sets of keys (one for our office, one for the tenant)
Cleaning Guide
Inside the Property

☐ Walls - please clean off any dirty marks, removable scuff marks, finger or food marks etc.

☐ Ceilings - Please remove any cobwebs

☐ Ceiling Mould - please clean off (particularly in wet areas and sometimes in bedrooms).

☐ Light Fittings – Clean off dust and remove any dead insects inside

☐ Ceiling Fans – Wipe fan blades and tops of fittings to remove dust build up

☐ Skirtings – Wipe down with a damp cloth

☐ Doorways, Doors - Wipe off finger marks and any other removable marks

☐ Windows – Clean inside and out - (please note - nearly all modern sliding aluminium windows can be lifted and pulled out for easy cleaning). Also sills and runners (wipe out dust build up and any dead insects. A vacuum cleaner and paint brush can really help here).

☐ Flyscreens - brushed and dusted down. (Please be aware, most modern sliding aluminium windows allow for the flyscreens to be taken off from the inside only, once the sliding part of the window has been moved first. Attempting to take them off from the outside may result in damaging them).

☐ Screen Doors - Front and Back including frames – wiped clean and screen wire brushed

☐ Stoves – Clean stove top, control display, knobs, panels around knobs, any pull out or in-built drip trays, griller racks, trays and any inserts, oven racks, trays and oven bottom, walls and oven roof. A good oven cleaner will clean most ovens - however it is of importance that you read carefully the instructions on the product. Some cleaners can actually hinder oven surfaces, and also some products have dangerous caustic fumes. Therefore use with extreme caution!

☐ Kitchen Rangehood – Clean pull out filters and framework.

☐ Bathroom - Clean basin, mirror, cabinet, vanity unit and drawers, shower recess, glass screen and screen doors, bath and wall tiles. Please ensure both the basin and the bath have a plug available.

☐ Toilet - Clean cistern, seat, bowl inside and also outside around the base. Don’t forget the skirting tiles around the toilet.

☐ Laundry - Clean both the inside and outside of the trough, and underneath. Please ensure a plug is present.

☐ Tiling - All tiling and grouting to the kitchen, toilet, bathroom and laundry areas are clean.
Exhaust - Vents and Fan Covers are clean of any dust and dirt.

Air-conditioners - Front Vents and filters cleaned of built-up dirt. Modern systems (Wall Type)-filters easily pull out and can be brushed down with a hand brush. If there is a ducted reverse-cycle air-conditioner unit, the air intake filter should be cleaned. This is usually on the ceiling in the passage area.

Air-conditioning Ceiling Duct Vents - please clean down if dusty or dirty.

Cupboards/Drawers- Please clean/wash inside and out. Also doors and door frames, front and back of doors need to be cleaned.

Curtains - wash any washable curtains and netting. If other curtains are visibly dusty or dirty, consider dry cleaning.

Blinds - If you have venetian blinds, clean off the blind slats. Any other type of blinds should be able to be wiped down.

Floors - to be mopped/washed if needed - please ensure corners and hard to get areas are also cleaned.

Carpets - To ensure a greater chance of the carpets being returned by a tenant professionally cleaned, we ask also that the carpets be professionally cleaned. Phone us for details of who we recommend and use.

Outside The Property

Lawns - Freshly mowed and edged (best done a couple of days before the tenant takes possession).

Gardens – remove any weeds, any rubbish and built up leaves etc.

Guttering – please ensure that the gutters are freshly cleaned of any dirt/silt and leaves/twigs.

Rubbish - remove any rubbish that you have placed at the property. Be sure to check behind sheds, under shrubs and trees. This includes lawn clippings piled and compost left.

Sweep paths and paving areas (this is best done before a tenant takes possession).

Oil spillage removal – Check and clean carport and garage floors, paths and driveway. If you have used a barbeque, check for any grease spots and spillages etc.

Cigarette Butts - If there are cigarette buts lying around - please pick up and remove.
If You Have A Pet

☐ **Pet Droppings** - please remove from gardens, lawns and any out of the way areas. Please dispose of in the bin – please do not bury them.

☐ **Dog Urine** - remove/clean where your pet may habitually urinate (Base of walls, verandah posts Etc.)

☐ **Dog stains** - to outside walls- check where your dog regularly lies down, there maybe ‘tell tale signs’ on walls etc.

☐ **Dog/Cat claw damage** - check screen doors, flyscreens and curtains. Please replace the screen wire if required.

☐ **Dog chew damage** - please ensure watering systems are free of dog chew damage and are repaired accordingly.

☐ **Pet Hair** - Please ensure any visible pet hair inside is removed.
We commit to you in writing that we will perform the following duties when managing your property.

**Marketing Your Property For Lease**

- We will place a listing for your property on all the real estate websites that we subscribe to and each listing will include images of the property.
- We will conduct an unlimited number of private viewings of your property each week until the property is leased (subject to access provided to us by any current occupant).
- All property viewings will be carried out by one of our representatives (we do not give out keys to prospective tenants).
- We will update you on the status of your available property until such time as the property is leased.
Leasing Your Property

- All information and references provided by tenancy applicants will be verified by us within 7 working days of receipt.
- All tenancy applicants will be screened on the national tenancy databases that we subscribe to.
- Unless you instruct otherwise, all potentially suitable tenancy applications will be referred to you for a decision.
- We will lease your property for the rental amount nominated in the Management Agency Agreement between us (or higher if the market justifies it) and the property will not be leased for a lower amount without your prior approval.
- Subject to the tenancy commencement date and the tenant’s availability, we will prepare the tenancy documentation within 2 working days of tenancy approval.

Rent Collection

- We have a zero tolerance rent arrears policy.
- We will follow up all rent payments in accordance with:
  - our fully documented arrears process, and
  - the requirements of the relevant legislation
- Should your tenant get to 14 days in arrears, we will contact you to seek your instructions regarding possible termination of the tenancy.
- Should termination of the tenancy be necessary, we will keep you informed throughout the legal process.
- You will be advised once the rent arrears have been paid by the tenant.

Rent Monies

- All monies received by us will be banked into your nominated bank account, or posted by cheque to you as requested weekly, fortnightly or end of monthly.

Repairs and Maintenance

- All non urgent repair requests from tenants will be attended to within 3 working days of receipt.
- We will not arrange any repairs to your property without your knowledge and approval (unless the repair is defined as “urgent” under the Residential Tenancies Act) and we are unable to contact you.
- We will attend to any “urgent” repair requests within 1 business day of receipt.
- All reasonable steps will be taken to obtain the best pricing for your repairs and maintenance.
- We will only use appropriately licensed and insured tradespeople for any repairs or maintenance work to your property.
We will provide you with a copy of invoices for all work arranged on your behalf for the property.

**Tenancy Agreement Renewals**
- We will review the tenancy agreement for your property 60 days prior to its expiry.
- Unless you instruct otherwise, we will offer the tenant a renewal of tenancy agreement for the same period as the initial agreement at the same rent (or a higher rent if the market justifies it).
- You will be advised if the tenant does not want to renew their tenancy agreement.

**Periodic Inspections**
- We will carry out at least 2 periodic inspection of your property each year and provide you with a report each time.

**Tenant Vacating**
- On receipt of vacating notice, we will:
  - advise you by phone, letter, fax or email
  - confirm the details in writing to both you and the tenant
  - list the property on our website & put the agreed advertising plan into effect within 1 working day
  - prepare all necessary vacating documentation
  - arrange access for viewings by prospective tenants
- After the tenant vacates the property:
  - Conduct a Final Inspection and report to you and the tenant
  - process the tenant’s rental bond refund within ten working days
  - if deductions from the rental bond are considered necessary, full details will be provided to both you and the tenant
  - complete all necessary documentation to finalise the rental bond.

**Property Disbursements and Statements**
- All agreed property disbursements will be paid on your behalf prior to the due date (subject to the availability of funds).
- Your Rent Statement will be sent to you within 2 working days of payment being made to you.
- Your Rent Statement will be personally checked by your Property Manager prior to being forwarded to you.
- We will provide you with an accurate Annual Income and Expenditure Statement within 30 days of the end of the Financial Year.
General Communication
✓ Our Property Management office hours are:
   9.00am – 5.00pm Monday to Friday
   9.00am – 12.00pm Saturday
✓ We will promptly advise you of any pertinent matters affecting your property or the tenancy.

Complaints Handling
✓ Tenant’s complaints received in writing (i.e. fax, letter, email) will be acknowledged within one working day
✓ All complaints will be formally recorded and responded to within two working days.

Documentation
✓ We will provide all documentation in clear and concise English.
✓ We will ensure that all documentation is accurate and complete.
✓ All property condition reports will be comprehensively and accurately completed.
✓ Copies of all documents that we sign on your behalf as agent will be forwarded to you (unless you instruct otherwise).

Personal Information
✓ All personal information will be held in the strictest confidence and will not be released to a third party without written authorisation.
✓ All updates and corrections advised to us will be recorded in our system within one working day.

Professional Standards
✓ The highest standards of honesty, integrity and professional practice will be conducted in compliance with the Code of Conduct of the Real Estate Institute of Australia.

Our Guarantee To You
✓ If we fail to meet any of these standards, and we are notified in writing and we do not rectify the matter within 2 business days, we will manage your property for 3 months - management fee free.
✓ This Guarantee does not apply when:
   - We are requested to carry out non-standard duties.
   - Matters are outside our control. For example, a natural disaster or accident.