



*residential
tenancies
authority*

1300 366 311
rta.qld.gov.au



Managing general tenancies in Queensland

Managing general tenancies

in Queensland

The Residential Tenancies Authority (RTA) is the Queensland Government statutory body that administers the *Residential Tenancies and Rooming Accommodation Act 2008* (the Act). The RTA provides tenancy information, bond management, dispute resolution, investigation, policy and education services.

You must

- » ensure the property is vacant, clean and in good repair at the start of the tenancy
- » respect the rights of the tenant to quiet enjoyment of the property
- » comply with all health and safety laws
- » keep the property in a good state of repair
- » provide reasonable security with locks in good working order and supply keys for each lock
- » pay all charges, levies, premiums, rates and taxes for the property and cover the costs of preparing the tenancy agreement
- » reimburse the tenant for money spent on emergency repairs (conditions apply)
- » lodge all bond money with the RTA

The tenant must

- » pay the rent on time
- » keep the property clean and undamaged and leave it in the same condition it was in when they moved in (fair wear and tear excepted)
- » keep to the terms of the tenancy agreement
- » respect their neighbours' right to peace and quiet

This information is for general guidance only. It is not legal advice. The RTA cannot guarantee the accuracy or completeness of the information provided. For more information refer to *Residential Tenancies and Rooming Accommodation Act 2008*.

Contents

Before a tenancy2

When an agent acts on your behalf	2
Clear communication	2
Advertising the property for rent	2
Fees and charges	2
Key deposits	2
Holding deposits	3
Before you rent out a property	3
Smoke alarms	3
Electrical safety switches	4
Discrimination	4
Water charging	4

Starting a tenancy5

Documents you will need to give the tenant ..	5
Tenancy agreement	5
Types of share households	6
Unapproved occupants	6
Entry condition report	6
Rental bond	6
Rent	8

During a tenancy11

Entry	11
Maintenance and routine repairs	13

Emergency repairs	13
Fixtures and inclusions	13
Breaches	14
Notice periods	15
Selling a tenanted property	16
Re-letting a tenanted property	16
Continuing a tenancy	16

Ending a tenancy17

Notice to leave	18
Notice of intention to leave	19
Breaking the tenancy agreement	19
Abandoned property	19
Exit condition report	20
Refunding the bond	20
Goods and documents left behind	21
Disputes	21
Urgent applications to QCAT	22
Retaliatory eviction	22
Warrant of possession	22

After a tenancy23

Keeping records	23
Tenancy databases	23



Before a tenancy

When an agent acts on your behalf

You are responsible for meeting the requirements of the Act. If you employ a real estate agent to manage the property you should ensure they are licensed and understand their legal obligations. You and the agent should also have a formal agreement in place (e.g. a *Property Occupations Act 2014* form).

Clear communication

Clear communication is vital between you and the prospective tenant. Being clear about expectations and what is included in the tenancy agreement gives everyone a chance to resolve concerns before the start of a tenancy and helps prevent disputes at the end of the tenancy.

Although the Act generally does not cover the application process, elements relating to money are covered.

Advertising the property for rent

Section 57

Rent must be advertised at a fixed price (e.g. \$250 per week). You, or your agent, may not advertise a rent range, put the property up

for a rent auction or ask for offers. You can negotiate the amount of rent to be paid with a tenant. You do not have to display the price on a 'for rent' sign at the property.

Fees and charges

Section 59

The only money you can ask a prospective tenant for:

- » a key deposit
- » a holding deposit
- » a rental bond
- » rent.

You cannot charge an application fee to a prospective tenant.

Key deposits

Sections 156–158

You may ask a prospective tenant for a refundable key deposit to inspect the property.

It is not compulsory to take a key deposit but if you take one you must give them a receipt stating:

- » your name (or the name of the person taking the deposit)

- » the name of the prospective tenant
- » the address of the rental property
- » the date the deposit is received
- » the amount paid
- » that it is a key deposit, and
- » when the key is to be returned.

The key deposit must be fully refunded when the prospective tenant returns the key regardless of whether they enter into an agreement or not.

Holding deposits

Sections 159–162

A prospective tenant may be asked for a deposit to reserve or hold the property they intend to rent. They must be given a copy of the proposed agreement, including any special terms, before money is taken.

You and the tenant should agree on the holding period that applies to the deposit. If none is agreed, the period is 48 hours.

You can only take one holding deposit at a time for the property. Once you have taken the deposit you must give a signed receipt and ensure the property is available if the prospective tenant decides to proceed with the tenancy.

If the tenant does not want to rent the property and tells you within the holding period, you must refund the deposit within 3 days.

You can keep the holding deposit if the prospective tenant fails to notify you of their decision not to go ahead with the tenancy within the agreed holding period.

You can also keep the deposit if the prospective tenant indicates that they will proceed with the tenancy but then fails to enter into the tenancy agreement.

When a tenant commits to a tenancy agreement the holding deposit becomes part of the rental bond.

Before you rent out a property

Make sure:

- » the property is clean and in good repair
- » locks and security devices are in good working order
- » there is a full set of keys for one tenant and entry keys for all other tenants
- » there are contact details for emergency repairs
- » you decide if you will take a key or holding deposit
- » you decide if you will take a bond
- » you decide if you will charge for water consumption (your property must be water efficient).

You must also ensure there is nothing preventing the tenant from moving into the property (e.g. you may not rent out a granny flat if it has not been approved by the local council).

You must provide a copy of the proposed tenancy agreement that includes any special terms before accepting any money from the tenant or committing them to the tenancy (this includes tenancy application forms that commit a tenant to the rental of a property if you choose their application).

If you are planning on putting the property up for sale within the first 2 months of a fixed term tenancy, check the rules around selling a tenanted property before signing up the tenant (see page 16).

Smoke alarms

Sections 104RA-104RJ of the *Fire and Emergency Services Act 1990*

By law, property owners must install smoke alarms in all domestic dwellings. Queensland Fire and Emergency Services (QFES) recommends all residential accommodation be fitted with photoelectric smoke alarms. Find out more on the QFES website (fire.qld.gov.au).

You must:

- » install smoke alarms in compliance with the *Fire and Emergency Services Act 1990*
- » replace smoke alarms before the end of their service life (smoke alarms are required to have a recommended service life of at least 10 years under normal conditions of use)
- » test and clean smoke alarms and replace any flat or nearly flat batteries within 30 days before the start or renewal of a tenancy
- » not remove a smoke alarm, remove the battery (other than to replace it) or do anything to reduce the effectiveness of the alarm (e.g. paint it).

The tenant must:

- » test and clean (by vacuuming or dusting) smoke alarms at least once every 12 months
- » replace any flat or nearly flat batteries
- » advise the property manager/owner if there is any issue with the alarm (apart from batteries)
- » allow the property owner/manager right of entry to install/test smoke alarms
- » not remove a smoke alarm, remove the battery (other than to replace it) or do anything to reduce the effectiveness of the alarm (e.g. paint it).

Penalties apply if you do not comply with these requirements.

Electrical safety switches

Section 80A of the *Electrical Safety Regulation 2002*

All residential properties in Queensland must be fitted with a working safety switch.

Contact the Department of Justice and Attorney-General (justice.qld.gov.au) for more information.

Discrimination

Section 7 of the *Anti-Discrimination Act 1991*

You must not discriminate when selecting a tenant. The *Anti-Discrimination Act 1991* and

federal anti-discrimination laws protect tenants and prospective tenants. You cannot make it harder for people in particular groups to gain access to your rental property.

Contact the Anti-Discrimination Commission Queensland (adcq.qld.gov.au) for more information.

Water charging

Section 166

You cannot charge for water unless the property is individually metered.

You are allowed to pass on the full cost of water consumption (including bulk water charges) provided:

- » the rental property is individually metered (or water is delivered by vehicle), and
- » the rental property is water efficient, and
- » the tenancy agreement states the tenant must pay for water consumption.

Your property can be made water efficient by installing 3 star WELS rated products (including toilets) or through the use of add-on devices such as aerators or flow restrictors.

If the property is not water efficient, but the other two conditions are met, you are responsible for paying for a reasonable amount of water consumption but the tenant may be required to pay excess water charges.

You should be able to demonstrate the presence of water efficient fittings by providing copies of:

- » plumbing reports
- » receipts
- » packaging
- » warranties or instruction manuals for taps and showerheads.

Water billing periods are unlikely to align with tenancy agreements. It's important that both you and the tenant note water meter readings on the entry and exit condition reports to calculate water consumption.



Starting a tenancy



Documents you will need to give the tenant:

Sections 58, 61, 65 and 67

- » the proposed *General tenancy agreement* (Form 18a) which includes any special terms
- » a copy of *Pocket guide for tenants* (Form 17a)
- » a copy of any body corporate rules and applicable by-laws
- » a *Bond lodgement* (Form 2) if you decide to ask for a bond
- » an *Entry condition report* (Form 1a).

Tenancy agreement

Sections 61–64

A tenancy agreement, also known as a lease, is a legally binding written contract between you and the tenant. You must give the tenant a copy of the *General tenancy agreement* (Form 18a) before they pay any money or enter into the tenancy. It is an offence not to provide the tenant with a written agreement. However, the tenant still has protection under the law even if they are not given one.

The agreement outlines your rights and responsibilities and those of your tenant. It must include standard terms and may include special terms (e.g. keeping pets, pest control).

You are also responsible for the cost of preparing the agreement which must be written in a clear and precise way.

The tenant must sign and return the agreement to you within 5 days. You should send them a copy within 14 days.

The agreement may only be ended by following the correct procedure.

Period of tenancy agreement:

- » Fixed term agreement – has a start date and an end date and the tenant agrees to rent the property for a fixed amount of time (e.g. 12 months)

- » Periodic agreement – when the tenant agrees to rent the property for an unspecified amount of time (there will be a start date but no end date)

Special terms

Sections 53, 54 and 56

All special terms are negotiable and should be discussed prior to the tenant signing the tenancy agreement.

Special terms may include details about pets, garden maintenance, rent increases, water charging, smoke alarms, carpet cleaning, pest control and swimming pools.

You can specify that the carpets must be cleaned or pest control carried out to a certain standard, if that standard was met at the start of the tenancy. However, you cannot require the tenant to use a specific contractor or company.

Special terms that are in conflict with the Act are not binding, even if you and the tenant have agreed to them. These terms are void and penalties apply.

Types of share households

Co-tenancies – where all occupants are named on the agreement as tenants. Tenants are jointly and individually responsible for the rent and other obligations under the agreement.

Multiple individual tenancies – where you offer each tenant a separate agreement. Check with the RTA as this arrangement may not be covered by the rules in this booklet.

Sub-letting – where the tenant named on the agreement establishes themselves as head tenant through a sub-agreement tenancy with other occupants. Sub-tenants have no direct relationship with you and deal directly with the tenant named on the original agreement. However, a tenant cannot sub-let a property without your permission. If a head tenant collects a bond from the sub-tenant, they must lodge it with the RTA within 10 days.

Unapproved occupants

You have the right to know and approve of the people living in the property. Your approval must be given in writing. If you haven't granted approval you can seek removal of the tenants by issuing a *Notice to remedy breach* (Form 11) to the tenant. You may also seek help through the RTA's dispute resolution service or the Queensland Civil and Administrative Tribunal (QCAT).

Entry condition report

Sections 65 and 506

The *Entry condition report* (Form 1a) records the condition of the property at the start of the tenancy. It is important to fill it out properly to avoid future problems. You and the tenant must each complete and sign the report. The tenant can disagree with what you have written by including their own comments.

Photographs or video are the best way to support what you have written on the form.

The report may become important if you need to make a claim on the bond at the end of the tenancy, or if there is a dispute over the condition of the property.

Rental bond

Sections 110–122, 146–148

A rental bond is a security deposit a tenant pays at the start of a tenancy. It is held by the RTA and is paid back to the tenant at the end of the tenancy provided no money is owed to you for rent, damages or other costs. You do not have to ask for a bond.

You need to give the tenant a copy of the tenancy agreement before a bond is taken. The tenancy agreement must include any special terms as well as copies of other paperwork such as body corporate by-laws.

You must:

- » give the tenant a receipt straight away
- » fill in a *Bond lodgement* (Form 2) that you and the tenant sign
- » lodge the bond with the RTA within 10 days.



The RTA will send you and the tenant an acknowledgement of rental bond letter that includes a rental bond number. This number should be used when contacting the RTA about the bond.

Maximum bond amounts

In a general tenancy, the maximum bond you can charge is equivalent to 4 weeks rent if the rent is \$700 a week or less. If the rent is more than \$700 a week there is no limit on the bond.

The maximum amount applies to the total of all bonds, no matter what they are called (e.g. pet bond, security deposit, key deposit) or how many bonds are taken.

Rental bond loans

The Department of Housing and Public Works provides bond loans to help tenants secure private rental accommodation. Contact the department (hpw.qld.gov.au) for more information.

Part payment of bond

You can accept bond payments in instalments. You and the tenant should agree about the number and amount of instalments to be made and record it in the agreement.

The first payment and all instalments should be lodged using a *Bond lodgement* (Form 2). Each instalment must be lodged with the RTA within 10 days of receiving it.

Transfer of bond

A tenant can transfer a bond from one property to another as long as the lessor/agent remains the same. The RTA holds the bond money instead of paying it back at the end of the original tenancy.

To arrange for a transfer of bond, you and the tenant should fill out a *Transfer of bond* (Form 3).

A Department of Housing and Public Works rental bond loan may have conditions for transfer.

Increasing the bond

If rent is increased, you may wish to increase the bond as well. Additional bond money must be lodged with the RTA within 10 days of receiving it. It is important to include the new rent amount on the bond lodgement form when lodging extra bond money.

You cannot increase the bond more than once in 12 months and you must give at least 1 month's notice of the increase.

If you are managing a number of bonds, contact the RTA about managing them online.

Rent

Sections 83-97

Rent can be paid in the following approved ways:

- » cash
- » cheque
- » deposit to a financial institution account nominated by you
- » credit card
- » via EFTPOS
- » deduction from pay, a pension or other benefit payable to the tenant
- » another way agreed by you and the tenant

The way rent will be paid must be stated in the tenancy agreement. If any other rent payment method is offered (e.g. money order, BPAY or rent card), the tenant must also be given a choice of at least 2 of the approved ways.

The tenant must be told about any extra costs involved with a particular method of payment (e.g. joining fee, processing fee or service charge that is not part of the rent).

Receipts and records

Section 88

If a tenant pays rent in cash, or requests one when paying by cheque, you must give a receipt at the time of payment. The receipt must state:

- » the tenant's name
- » the address of the rental property
- » the date payment was made
- » the period for which the payment is made
- » the amount of the payment, and
- » the purpose of the payment (i.e. rent).

If the tenant pays rent some other way (e.g. direct transfer from their bank account or over the phone with a credit card) you do not need to give them a receipt each time. Details of the payment will appear on their bank/credit card statements.

You must keep a full and accurate record (ledger) of rent the tenant pays and retain it for 1 year after the tenancy has ended. The tenant can ask for a copy of the rent record at any time and it must be provided within 7 days.

Example of a rent ledger

Name of tenant:
Address of rental property:
Weekly rental amount: \$200

Receipt no.	Date rent paid	Amount paid	Period rent covered
034	1/5/13	\$400	1/5/13 to 14/5/13
035	15/5/13	\$400	15/5/13 to 28/5/13
036	31/5/13 *	\$400	29/5/13 to 11/6/13
037	12/6/13	\$400	12/6/13 to 25/6/13
038	26/6/13	\$200	26/6/13 to 2/7/13
039	3/7/13	\$400	3/7/13 to 16/7/13
040	17/7/13	\$200	17/7/13 to 23/7/13

* even though rent was due on 29/5, rent was not paid until 31/5, therefore the ledger reflects the date the rent was paid.

Rent in advance

Section 87

You can ask a tenant for rent to be paid in advance:

- » fixed term agreement: a maximum of 4 weeks rent in advance
- » periodic agreement: a maximum of 2 weeks rent in advance

The tenant cannot be asked to pay more rent until the rent paid in advance has been used up.

Rent in advance is not the same as bond money and is not lodged with the RTA.

Increasing the rent

Sections 91–93

For rent to be increased, it must be at least 6 months since the last increase.

Rent cannot be increased during a fixed term agreement unless it is stated in the tenancy agreement along with the amount or how it will be worked out. Even if rent increases are allowed, 2 months notice in writing must be given.

Rent may be increased at the end of a fixed term agreement if you and the tenant enter into a new tenancy agreement.

Rent can be increased in a periodic agreement by giving 2 months notice in writing.

You cannot increase the rent because the tenant breaches the agreement.

Excessive rent increases

Section 92

If a tenant believes a rent increase is excessive, they can apply to the RTA's dispute resolution service for help. If the issue is not resolved they may take the matter to QCAT.

During a tenancy

Under a periodic or a fixed term agreement the tenant has 30 days from the day they receive notice of the increase to apply to the RTA's dispute resolution service. If the matter is not

resolved they can take the matter to QCAT. If the tenant is on a fixed term agreement, they must apply to QCAT before the term of the agreement ends.

New fixed term agreement

The tenant can also dispute a significant rent increase when the tenancy is renewed with another fixed term agreement. They must sign the new agreement before lodging a *Dispute resolution request* (Form 16) with the RTA. After the tenant signs the new agreement they have 30 days to lodge the request form.

If dispute resolution is unsuccessful, they can apply to QCAT for a review of the increase. However, if QCAT decides the rent increase is reasonable, the tenant must pay the new amount for the duration of the agreement. Similarly, if QCAT decides the rent increase is excessive, QCAT will set a new rent amount. You and the tenant will be bound to these new terms.

Decreasing the rent

Section 94

Rent may be decreased because:

- » there is a drop in the standard of the property, or
- » there is a decrease in services provided (e.g. a stove is not working).

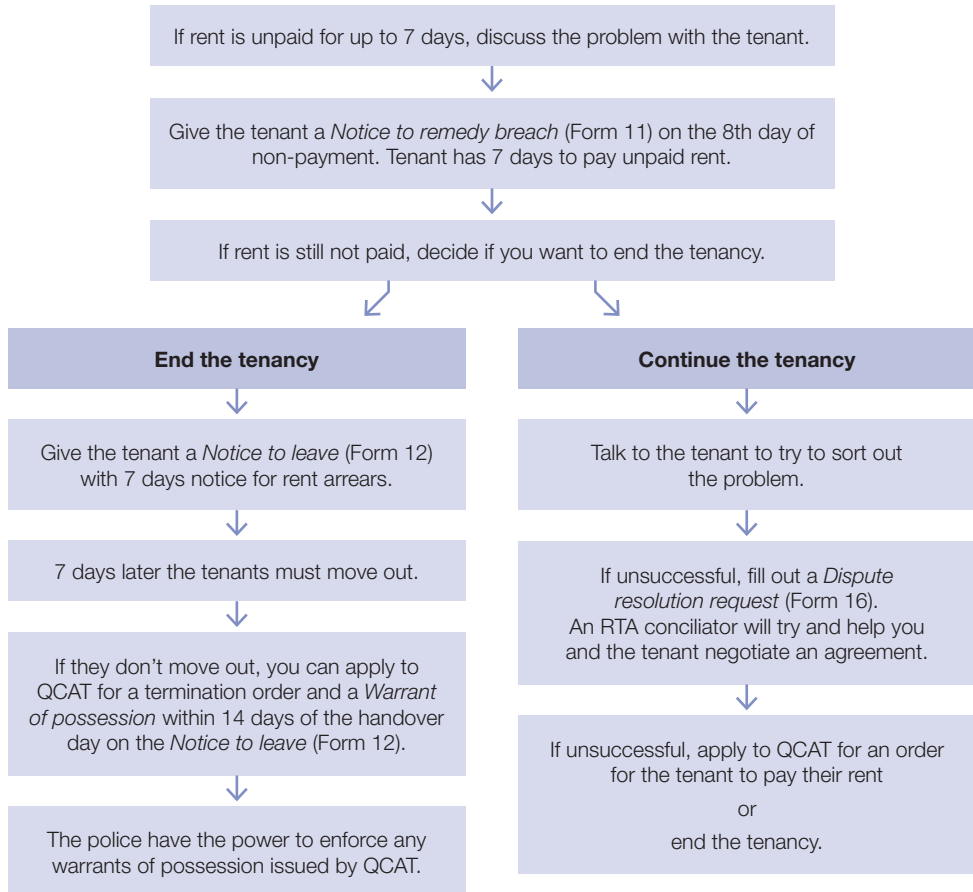
If you and the tenant are unable to reach an agreement about a reduction in rent, the RTA's dispute resolution service may be able to help.

Unpaid rent

Sections 280, 325 and 328

If a tenant falls more than 7 days behind in rent they have breached the agreement. On the eighth day after the rent is due you may give the tenant a *Notice to remedy breach* (Form 11). You must give the tenant 7 days to pay the overdue rent.

Unpaid rent procedure





During a tenancy

Entry

Sections 192–199 and 202

You have the right to enter the property to inspect it and carry out maintenance. However, you must not interfere with the tenant's reasonable peace, comfort and privacy.

In most cases you must give the tenant appropriate notice with an *Entry notice* (Form 9).

Entry must occur at a reasonable time. You cannot enter on Sundays, public holidays, or any other day before 8am and/or after 6pm, unless the tenant agrees.

You or your agent must specify on the *Entry notice* (Form 9), the 2 hour period you intend to enter the property. You must enter within that period and can stay for as long as it reasonably takes to complete the job. The 2 hour entry period does not apply to tradespeople.

The tenant does not have to let in an agent or tradesperson unknown to them, unless they have written evidence from you confirming their appointment.

There are penalties for unlawful entry.

Disputes about entry

If a dispute about entry cannot be resolved through negotiation, you or the tenant can apply directly to QCAT.

Lawful purpose of entry	Minimum notice required
To inspect the property	7 days Inspections cannot happen more than once every 3 months, unless the tenant agrees.
A follow up inspection to check a significant breach* has been fixed	24 hours Entry must occur within 14 days of the expiry date on the <i>Notice to remedy breach</i> (Form 11).
To carry out repairs or maintenance to the property including safety switch and smoke alarm installation	24 hours Entry can occur without notice if the property is located in a remote area and there is a shortage of tradespeople.
A follow up inspection to check on the quality of repairs by a tradesperson	24 hours Entry must occur within 14 days of the maintenance or repairs being completed.
To show the property to a prospective purchaser	24 hours The tenant must have received a <i>Notice of lessor's intention to sell the premises</i> (Form 10). A reasonable amount of time must have passed since the last entry for this reason. There are different rules for open houses.
To show the property to a prospective tenant	24 hours notice The tenant must have given a <i>Notice of intention to leave</i> (Form 13) or received a <i>Notice to leave</i> (Form 12). A reasonable amount of time must have passed since the last entry for this reason. There are different rules for open houses.
To allow a valuation of the property	24 hours
If you reasonably believe the property has been abandoned	24 hours
If the tenant agrees that you or your agent can enter	At the agreed time
In an emergency	No notice required
If you or your agent reasonably believe that entry is necessary to protect the property from damage that is about to happen	No notice required
By order of QCAT	As specified in the order

* A significant breach relates to:

- » the use of the property for an illegal purpose
- » exceeding the number of occupants allowed to live in the property
- » keeping a pet on the property without permission, and
- » another matter, if the reasonable cost of fixing it exceeds 1 week's rent

Maintenance and routine repairs

Sections 185 and 215

You are responsible for ensuring the property is fit to live in and in a good state of repair. The tenant should notify you of any maintenance or repairs needed, preferably in writing.

You should organise the repairs within a reasonable time. If you do not, the tenant can issue you with a *Notice to remedy breach* (Form 11) giving you 7 days to fix the problem.

If the repairs are still not done, the tenant can lodge a *Dispute resolution request* (Form 16) with the RTA. If conciliation doesn't help resolve the issue, the tenant can apply to QCAT. The tenant may also be able to give a *Notice of intention to leave* (Form 13) advising you of their intention to vacate the property for an unremedied breach.

If the tenant ends the agreement early (also known as a break lease) they may have to pay compensation (which includes loss of rent).

If you disagree with the *Notice to remedy breach* (Form 11), you can also apply for dispute resolution assistance (before applying to QCAT for an order about the repairs).

- » a fault or damage likely to injure a person, damage the property or unduly inconvenience a tenant
- » a serious fault in a staircase, lift or other common area that unduly inconveniences a tenant in gaining access to, or using, the property.

All other repairs are considered to be routine repairs.

Remember to list your nominated emergency repairer in the tenancy agreement.

If the tenant is unable to notify you or the nominated repairer of the need for repairs, or they have given notice but the repairs have not been made in a reasonable time, the tenant may arrange for a suitably qualified person to make the emergency repairs (up to the value of 2 weeks rent).

You must reimburse the tenant for the cost of repairs within 7 days of receiving a copy of all receipts.

If you and the tenant do not agree about the emergency repairs, or if you have not reimbursed the tenant within 7 days, you or the tenant can apply to QCAT for a ruling.

Emergency repairs

Section 214

Emergency repairs are for:

- » a burst water service or a serious water service leak
- » a blocked or broken toilet
- » 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 hot water, cooking or heating appliance
- » a fault or damage that makes the property unsafe or insecure

Fixtures and inclusions

Sections 207-209

Fixtures are things that are attached to, or installed in, the property (e.g. picture hooks).

Inclusions are everything supplied with the property for the tenant's use (e.g. dishwasher).

The tenant may only attach a fixture or make a structural change to the property if you agree. Your approval must be in writing and should describe the changes and whether the items can be removed.

Any added fixtures or structures must meet all the relevant local and state laws.

Unapproved fixtures or structural changes

If a tenant installs a fixture or makes a structural change without written permission, you can ask them to pay to reinstate the property to the original condition, keep it as an improvement to the property, or treat it as a breach and try to resolve the dispute.

Breaches

A breach of a tenancy agreement is when you or the tenant break any part of the agreement.

Breaches by the tenant

Sections 280–281, 325, 328–329

If a tenant breaches the tenancy agreement you can issue a *Notice to remedy breach* (Form 11). This gives them 7 days to fix the problem. The tenant may apply to the RTA's dispute resolution service for help.

If the tenant does not fix the problem (i.e. the breach) within the allowed time, you can issue a *Notice to leave* (Form 12) giving them 14 days to leave the property for a general breach or 7 days for failing to pay rent.

Breaches by the lessor

Sections 301–302

If you breach the tenancy agreement, the tenant can issue you with a *Notice to remedy breach* (Form 11). If you do not fix the problem, the tenant may contact the RTA's dispute resolution service for assistance. If the matter is still not resolved the tenant may be able to take the matter to QCAT.

If you do not fix the problem within 7 days the tenant can give you a *Notice of intention to leave* (Form 13) giving you at least 7 days notice to end the agreement. You can dispute this notice by lodging a dispute resolution request with the RTA.

If the tenant ends the agreement early (also known as a break lease) they may have to pay compensation (which includes loss of rent).

Repeated breaches

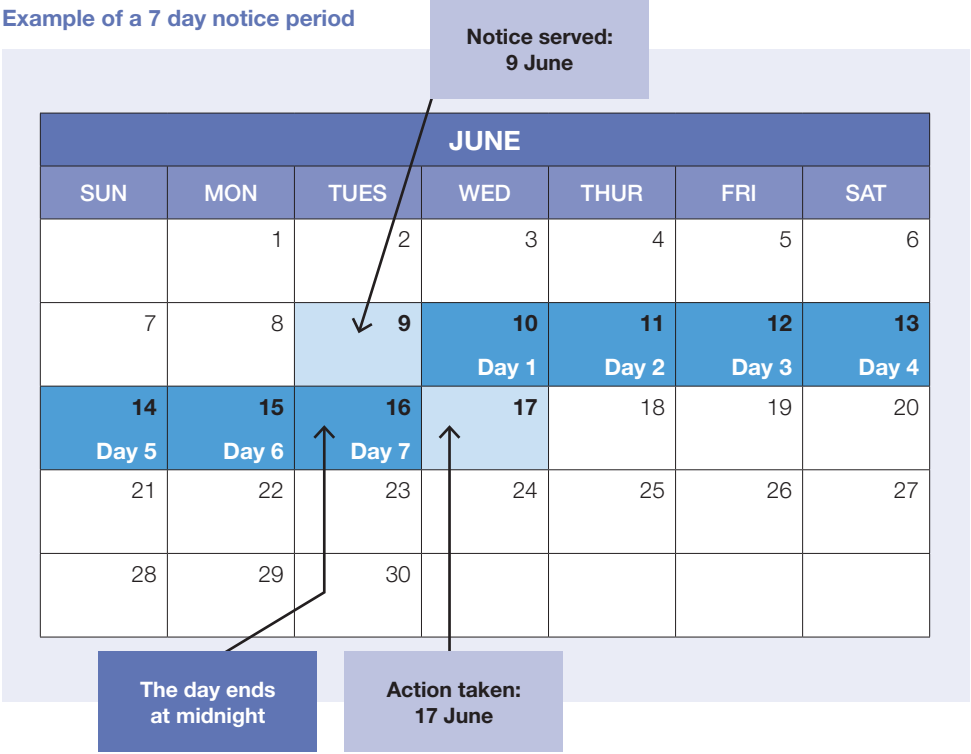
Sections 299, 315, 376, 382 and 389

A repeat breach is when 2 or more notices have been given for the same breach within 12 months. When a third breach occurs, you or the tenant can apply to QCAT to have the tenancy agreement ended, provided:

- » a *Notice to remedy breach* (Form 11) was given each time
- » each breach was for the same problem and was rectified, and
- » the problem is of a serious nature.

Notice periods

Example of a 7 day notice period



When you calculate dates for notices, where the notice period is in days, weeks or months, you must not count the day the notice is served and you must not take action until the day after the last day listed on the notice.

Example:

If a hand delivered 7 day notice is served on 9 June:

Notice served: 9 June

Day 1 – 10 June

Day 2 – 11 June

Day 3 – 12 June

Day 4 – 13 June

Day 5 – 14 June

Day 6 – 15 June

Day 7 – 16 June (the day ends at midnight)

Action taken – 17 June.

If the last day of the notice period falls on a non-business day, the last day will defer to the next business day.

A notice expires at midnight, so you must allow the person the entire 24 hours of the last day of the notice before you can take action.

Example:

The last day of the *Notice to leave* (Form 12) is 16 June. By law, the tenant must be allowed until midnight to leave. Generally the parties should negotiate a practical handover time.

When the notice period is in hours, time is counted from when the notice is delivered to the property.

Serving notices by post

When serving notices by post, the sender must allow time for the mail to arrive when working out when a notice period ends. Contact Australia Post for more information on delivery times.

Selling a tenanted property

Sections 203–204, 286, 307

If the tenant is on a fixed term agreement, you cannot make them leave because you decide to sell the property. The tenant can stay until the end of the fixed term, and if the property is sold, the new owner will become their lessor.

If the tenant is on a periodic agreement, and the purchaser does not want to continue renting the property (known as vacant possession), then you must give the tenant a *Notice to leave* (Form 12) allowing at least 4 weeks notice after the signing of the contract for sale.

If the property is advertised for sale during the first 2 months of a fixed term agreement (including a renewal of a fixed term agreement) and the tenant was not given written notice of the proposed sale before entering into the agreement, the tenant can end the agreement by giving a *Notice of intention to leave* (Form 13) with 2 weeks notice.

You must give the tenant a *Notice of lessor's intention to sell premises* (Form 10) if you want to show the property to a prospective buyer. You will also need to give the tenant at least 24 hours notice for each entry.

If you want to hold an open house or on-site auction, you must have the written consent of the tenant.

Photographs that show any of a tenant's possessions may not be used in advertising unless the tenant gives prior written consent.

Re-letting a tenanted property

Before you show a prospective tenant the property, the tenant must give you notice, or you must give the tenant notice to leave.

If the tenant wants to leave they must give you a *Notice of intention to leave* (Form 13). If you want the tenant to leave you must give them a *Notice to leave* (Form 12).

If you want to show the property to a prospective tenant you must give the current

tenant an *Entry notice* (Form 9) giving them 24 hours notice. A reasonable amount of time must have passed since the last entry for this reason.

If you wish to hold an open house, you must have the written consent of the tenant.

Continuing a tenancy

There are 3 ways a fixed term tenancy can continue:

- » extend the existing fixed term agreement by agreeing on a new end date (this could be in the form of a signed letter), or
- » enter into a new fixed term agreement (which may include changes to the terms of the agreement), or
- » do nothing and allow the agreement to revert to a periodic agreement.

If a tenant signs a new fixed term agreement that contains significant changes to the terms and conditions of the original agreement they can dispute it with the RTA.

A significant change may include:

- » an excessive rent increase
- » the way rent must be paid
- » the number of occupants allowed to live in the property
- » a change to the special terms, or
- » a change to the special terms about keeping pets.

The tenant must sign the new agreement first and then has 30 days from the start of the new agreement to apply to the RTA's dispute resolution service.

If conciliation is unsuccessful, the RTA will issue a *Notice of unresolved dispute* and the tenant can apply to have the matter heard by QCAT.

The tenant must abide by the new terms of the agreement (e.g. by paying the new increased amount of rent) while they wait for a hearing. You and the tenant will be bound by any QCAT orders.



Ending a tenancy

A tenancy agreement may be ended by either you or the tenant when:

Section 277

- » a fixed term agreement has ended
- » you or the tenant want to end a periodic agreement
- » there is a serious unremedied breach which relates to:
 - unpaid rent
 - damage to the property
 - illegal use of the property
- » you or the tenant have broken the agreement in a serious way and in the same way more than twice in a 1 year period
- » the tenant has not complied with a QCAT order
- » the tenant has abandoned the property
- » the property is to be sold with vacant possession and the tenant is on a periodic agreement
- » you and the tenant mutually agree in writing

- » a mortgagee is to take possession of the property
- » the sole tenant has died, or
- » QCAT issues an order ending the agreement.

When you end an agreement you must use the correct form and comply with the appropriate notice period.

Ending a fixed term agreement

A tenancy agreement is a legally binding contract that can only end in certain ways:

- » by mutual agreement
- » by applying to QCAT for an order terminating the agreement with approved grounds, such as excessive hardship or repeated breaches by you or the tenant
- » by you giving the tenant a *Notice to leave* (Form 12)
- » by the tenant giving you a *Notice of intention to leave* (Form 13)

Notice to leave

Section 329

The *Notice to leave* (Form 12) is used when asking a tenant to vacate the property.

Reason for ending a tenancy	Length of notice required
Without grounds	2 months notice (periodic and fixed term agreements). However, a fixed term agreement cannot be ended without grounds (reason) before the end date of the agreement.
Unremedied rent arrears	At least 7 days after the expiry of <i>Notice to remedy breach</i> (Form 11)
Unremedied general breach (breaches apart from rent arrears)	At least 14 days after expiry of <i>Notice to remedy breach</i> (Form 11)
Sale of the property	At least 4 weeks after the contract of sale is signed (periodic agreements only)
Abandonment	If the tenant does not respond to an <i>Abandonment termination notice</i> (Form 15) within 7 days, the tenant is deemed to have abandoned the property.
Non-compliance with a QCAT order	At least 7 days
Compulsory acquisition (the notice must be given within 1 month after compulsory acquisition)	At least 2 months
Non-liveability	The day the notice is given
Mortgagee in possession (special considerations apply – visit our website for more details)	At least 2 months, if the mortgagee did not consent to the tenancy. If the mortgagee did consent to the tenancy, the normal rules and time frames apply.
Death of a sole tenant	2 weeks after the tenant's representative gives you written notice or 2 weeks after you give the tenant's representative written notice or a day agreed between you and the tenant's representative or a day decided by QCAT.

Notice of intention to leave

Section 331

The *Notice of intention to leave* (Form 13) is used by the tenant to notify you they are ending the agreement.

Reason for ending the tenancy	Length of notice required
Without grounds	2 weeks after the notice is given for a periodic agreement 14 days or the day the agreement ends (whichever is later) for a fixed term agreement. However, a fixed term agreement cannot be ended without grounds before the end date of the agreement.
Unremedied breaches (by the lessor)	7 days after the notice is given
Lessor's intention to sell premises within the first 2 months of a tenancy	2 weeks after the notice is given, if the tenant was not advised in writing of the sale at the signing of the agreement
Non-compliance by the lessor to a QCAT order	7 days after the notice is given
Non-liveability	Same day the notice is given
Compulsory acquisition	2 weeks after the notice is given

Breaking the tenancy agreement

If the tenant leaves before the end date of the fixed term agreement without sufficient reason they may be responsible for costs involved with breaking the agreement (such as the cost of re-letting the property and advertising). They may also be responsible for paying rent until another tenant can be found or until the tenancy ends. However, you have an obligation to reduce or minimise costs that result from breaking the agreement.

Abandoned property

Sections 355–357

If you believe the property has been abandoned, you can issue an *Entry notice* (Form 9), giving at least 24 hours notice, and then inspect the property to confirm it has been abandoned.

You must have reasonable grounds for believing the property has been abandoned (e.g. rent arrears, uncollected mail).

To end the agreement you can either:

- » issue an *Abandonment termination notice* (Form 15) (e.g. by leaving it at the property). The tenancy agreement ends 7 days from the date the notice was served, if the tenant does not apply to QCAT to have the notice set aside, or
- » you can apply to QCAT for an order declaring the property abandoned. This can avoid future disputes if there is doubt about whether the property was abandoned.

If the tenant wishes to dispute the notice, they must apply to QCAT within 7 days of the notice being served. If the 7 days have expired the tenant may apply to QCAT for a compensation order if they can show they have not abandoned the property. This must be done within 28 days of the notice being served.

You may wish to take photographs or video to support your decision to issue an abandonment termination notice.



Exit condition report

Section 66

The *Exit condition report* (Form 14a) is completed on, or around, handover day when the tenant is ready to move out. It shows the condition of the property when the tenant leaves.

The report should be filled out by the tenant and 2 copies given to you. It will be compared to the *Entry condition report* (Form 1a) to determine if the property is in the same condition as when the tenant moved in, apart from fair wear and tear.

You then inspect the property and make your own notes on the exit condition report and send a completed copy to the tenant at their new address within 3 business days.

It is a good idea to conduct the inspection with the tenant and complete the report together. If there is disagreement over the report, you should talk to each other and try to resolve the dispute together.

Refunding the bond

Sections 123–144

The quickest and easiest way to get a bond refund is to talk to the tenant and reach an agreement about how the tenant's bond is to be paid out.

If you and the tenant agree at the end of the tenancy

You and the tenant must sign the *Refund of rental bond* (Form 4) and submit it to the RTA by post or online. The RTA will refund the money within a few days. The fastest way to get the bond back is to provide the RTA with bank details so it can be deposited directly into the correct account.

If you and the tenant disagree

You or the tenant can submit a bond refund form. The RTA will then send the other person a *Notice of claim* and a *Dispute resolution request* (Form 16). If the RTA does not receive a response within 14 days, the bond is paid out as directed by whoever first lodged the bond refund form.

If they do respond, the RTA's dispute resolution service will try to help resolve the disagreement. If agreement is reached, you and the tenant should sign the bond refund form and the bond is paid out as agreed.

If agreement is not reached, the person who lodged the dispute request form can apply to QCAT for a decision. They must do so within 7 days of receiving the *Notice of unresolved dispute* from the RTA and notifying the RTA in writing of the QCAT application.

If no QCAT application is lodged within the correct timeframe, the RTA will pay the bond as directed by the person who first lodged the bond refund form.

Goods and documents left behind

Sections 363-365

Goods and documents left behind after a tenant has moved out must be returned or disposed of according to a specific set of rules.

Personal documents (such as cash, passports, birth certificates, photographs) must be given to the tenant or, if you can't contact them, to the Public Trustee within 7 days of the end of the tenancy. You must make an effort to contact the tenant about these items.

» **Goods valued at less than \$1500:**

Goods left behind that could be unhealthy or unsafe to store, that would reduce their value by storing them, and/or the cost of removing, storing and selling them would be more than their value, can be sold or disposed of straight away. *Example:* food.

» **Goods valued at more than \$1500:**

Goods must be stored for 1 month, after that they can be sold at auction. The auction must be advertised in a local newspaper and must list the goods and state the time, day and place of the auction which must be at least 7 days after the notice is published. *Example:* cars, furniture or caravans.

You can deduct the cost of the removal, storage and sale of the goods from the money raised at the auction. Any remaining money must be paid to the Public Trustee. You must apply to QCAT if you are owed any other money.

The tenant can reclaim their goods before their disposal. They must put this request in writing and pay you for the cost of removal or storage.

You cannot hold onto a tenant's possessions in lieu of rent or other money owed.

Take photos of items being disposed of in case of future dispute.

Disputes

Sections 397–413, 416

Try to resolve disputes with the tenant directly; if this does not work, the RTA's dispute resolution service may be able to help. If it remains unresolved you may be able to take the matter to QCAT.

Step 1 – self resolution

- » Identify the issues – what is important and what is negotiable?
- » Find out your legal rights and responsibilities
- » Seek advice or assistance from independent agencies or support services, such as the Property Owners' Association of Queensland
- » Talk to the other party and try to negotiate an agreed outcome
- » If an agreement is reached, make sure the agreement is in writing and signed by you and the tenant.

Step 2 – RTA's dispute resolution service

If you and the tenant cannot come to an agreement, the RTA's dispute resolution service offers a free conciliation service to help tenants and lessors resolve disputes quickly and without the need for legal action.

Conciliation is an opportunity to present concerns, listen to the other person and to settle a dispute with mutual agreement. The process is voluntary and confidential.

Step 3 – application to QCAT

When a problem has not been resolved through dispute resolution, or if the dispute is defined as 'urgent' under the Act, you or the

tenant can apply to QCAT for a decision on the matter (time limits may apply).

You can get information and application forms from the QCAT website (qcat.qld.gov.au).

An adjudicator will hear the matter and make a ruling based on the evidence provided. The decision is binding.

Urgent applications to QCAT

Section 415

An urgent application can be made directly to QCAT without having to go through dispute resolution first. The term 'urgent' does not mean the application will be fast-tracked, just that you don't need to lodge a dispute resolution request form with the RTA.

Urgent applications can be made for:

- » failure to leave by the date written on the *Notice to leave* (Form 12) or *Notice of intention to leave* (Form 13)
- » excessive hardship
- » an order to restrain a person causing damage or injury
- » repeated breaches by the tenant
- » ending the agreement due to the death of a sole tenant
- » an order declaring a property abandoned, and
- » an order about goods and documents left behind.

Contact the RTA to check if your matter is defined as urgent.

Retaliatory eviction

Sections 291–292

You cannot evict a tenant because they have enforced, or propose to enforce, their rights. If a tenant believes you have given a *Notice to leave* (Form 12) because they have made a complaint or taken some action to enforce their rights, they can apply directly to QCAT to have the notice set aside.

The tenant must apply to QCAT within 4 weeks of receiving the *Notice to leave* (Form 12).

Warrant of possession

Sections 350–354

If, after you have gone through the process of ending the agreement, such as serving a *Notice to leave* (Form 12), and the tenant does not move out, you can make an application to QCAT for a termination order and a *Warrant of possession*. It is important each step in the process is completed before moving on to the next.

1. Make an urgent application to QCAT for an order to terminate the tenancy and for a *Warrant of possession* on the grounds of the tenant's failure to leave by the date listed on the *Notice to leave* (Form 12) or *Notice of intention to leave* (Form 13).
2. QCAT will set a date for the hearing.
3. If the adjudicator at QCAT believes there is a case, they will issue a termination order and a *Warrant of possession* and notify the tenant about the order.
4. An authorised officer, such as a police officer, will execute the warrant and be present to allow you to take possession of the property.



After a tenancy

Keeping records

Sections 63, 65–66

You must keep the tenancy agreement, the *Entry condition report* (Form 1a), the *Exit condition report* (Form 14a) and rent payment records (or copies of receipts if rent was paid by cash or cheque) for 1 year after the tenancy agreement ends.

It is also recommended that you keep copies of any written correspondence, such as letters or notices served, for 1 year after the tenancy ends.

Tenancy databases

Tenancy databases are electronic registers run by privately owned companies that record information about tenants who have had their agreement ended because of a serious breach (e.g. they owe money to the lessor that exceeded the bond or had their agreement ended by QCAT).

These registers may be used by lessors and agents during an application process, to check the prospective tenant's rental history.

There are rules about what information can be listed on the databases. Visit our website for more information.



Making a positive difference
in Queensland

Tenancy matters

we're here to help

Visit our **website**

rta.qld.gov.au

- » download forms
- » order publications
- » lodge single bonds via BPAY
- » submit agreed bond refunds
- » manage your bond information with eServices
- » find median rents
- » subscribe to our newsletter *Open House*
- » join in tenancy information seminars and webinars

Call us
1300 366 311



**Australian Resident
Accommodation Managers'
Association (ARAMA)**

t 07 3257 3927
w aramaqlld.com.au

Office of Fair Trading

t 13 74 68
w fairtrading.qld.gov.au

**Property Owners' Association
of Queensland (POAQ)**

t 07 3848 2787
w poaa.asn.au

**Queensland Civil and
Administrative Tribunal (QCAT)**

t 1300 753 228
w qcat.qld.gov.au

**Real Estate Institute of
Queensland (REIQ)**

t 07 3249 7390
w reiq.com

National Relay Service

For deaf, hearing or speech
impaired clients.

t 133 677

**Translating and Interpreter
Services**

t 131 450

Contact Us

Level 23, 179 Turbot Street
Brisbane Q 4000
GPO Box 390
Brisbane Q 4001
t 1300 366 311
w rta.qld.gov.au
Mon–Fri: 8.30am–5pm



*residential
tenancies
authority*

Managing general tenancies in Queensland

Copyright © Residential Tenancies Authority
ISBN: 978-0-9586156-9-3

First published 2013
v3 May15

