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## What you need to know about the upcoming Victorian Legislation Amendments!

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Property Managers have been eagerly awaiting the Victorian Government release of the Residential Tenancies Regulations, which clarify the Amendment Legislation that was passed back in 2018.

We can finally confirm that the amended legislation is due to come into effect on 29th March 2021 - the day after the Covid19 Emergency Legislation and rental moratorium is due to end.

One of the main changes to the legislation is the terminology that is used whereby 'Tenants' will be known as 'Renters' and 'Landlords' will be known as 'Residential Rental Providers'.

In this update we will provide an update in regards to some of the most important aspects of the upcoming changes to:

- Property conditions and repairs
- Mandatory Disclosure
- Modifications that a renter can make, with and without permission.
- Transitional Arrangements
- Minimum standards
- Safety Related Activities

Having appropriate rental provider/landlord insurance will be more important than it has been in the past. Rental providers and their Property Managers will only be able to accept the equivalent one month's rent as a bond, unless the property is more than \$900 per week. This is a significant change, as previously we were able to request and accept a higher bond as long as the property was over \$350 per week.

Rental providers found by VCAT to have committed an offence or breached the Residential Tenancies Act will have their name, rental property address, and nature of their offence listed on a register publicly available on the Consumer Affairs Victoria website. Additionally, the Director of Consumer Affairs will

be able to make an application to the Magistrates Court for an order to pay a financial penalty into the Residential Tenancies Fund. The maximum fine depends on the breach, but can be up to \$60,000.

### **PROPERTY CONDITIONS & REPAIRS**

Rental providers must ensure the property is provided and maintained in good repair, and is in a reasonably fit and suitable condition for occupation. This requirement applies regardless of:

- any disrepair in the rental property that the renter was aware of before they moved in
- the amount of rent being paid
- the property's age and character.

When repairs are required, the rental provider must ensure that any person who completes repairs that require a licence or registration to complete, is licenced or registered as required. (i.e. repairs must be completed by a suitably qualified person).

The urgent repairs list has been expanded to include repairs or replacements relating to air-conditioning, mould, safety devices, pest infestations and any fault or damage that makes the property unsafe or insecure. Additionally, minimum water rating and energy efficiency standards relate to plumbing, heating and electrical appliances replaced under urgent repairs.

Rental providers must respond immediately to urgent repairs and a renter can authorise an urgent repair to be made up to the value of \$2500. These costs must be reimbursed within seven days of receiving written notice from the renter.

Should an electrical, gas or item that uses or supplies water at the premises require replacement, the replacement item must have a rating that is of, or above, a rating in an efficiency rating system. Such items may include non-ducted air conditioners or

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heat pumps, a gas space heater, a dishwasher or hot water units. In most cases this minimum rating is 3 stars for a water appliance and a minimum 2 stars for electrical and gas items.

Exceptions are provided in the legislation if the age, nature or structure of the plumbing/electrical systems in the rented premises will not operate effectively, upon which the rental provider may replace the unit with highest rating in the efficiency rating system that will operate effectively.

E.g. If a 3 star rated tap or shower rose does not produce sufficient water pressure because of the age of the plumbing, a one or 2 star rated tap or shower rose may be installed.

## **MANDATORY DISCLOSURE**

From 29th March, prior to the commencement of all new rental agreements there are a series of disclosures that need to be provided to the renter. These items include:

- If the rented premises or common property is known by the residential rental provider to have been the location of a homicide in the last 5 years.
- If the rented premises comply with the rental minimum standards.
- From 31 December 2021, if the rental provider has received a repair notice, in the last 3 years, relating to mould or damp in the premises caused by or related to the building structure.
- Date of the most recent gas safety check, electrical safety check, and pool barrier compliance check.
- Any outstanding recommendations for work to be completed from a gas safety check and electrical safety check.
- If the rented premises is a registered place (Heritage listed).
- If the rented premises is known by the residential rental provider to be:
  - o contaminated because of prior use of the rented premises for the trafficking or cultivation of a drug of dependence in the last 5 years
  - o to have friable or non-friable asbestos based on an inspection by a suitably qualified

person

- o to be affected by a building or planning application that has been lodged with the relevant authority
- Any notice, order, declaration, report or recommendation issued by a relevant building surveyor, public authority or government department relating to any building defects or safety concerns associated with the rented premises such as the presence of combustible cladding, water leaks or structural issues affecting the rented premises or common property.
- If there is a current domestic building work dispute.
- If there is a current dispute of the Owners Corporations Act.
- A copy of any owners' corporation rules applicable to the rented premises.

## **MODIFICATIONS TO RENTED PREMISES**

Renters will be required to cover the costs associated with these modifications, and will be required to reverse the modifications they make unless the rental provider and renter agree to keep the modifications.

Renters must leave the property reasonably clean and in the same condition as at the start of the rental agreement, taking into account fair wear and tear.

Without the rental providers consent from March 29th, renters will be able to complete the following installations in **all premises**:

- Non-permanent window film for insulation, reduced heat transfer or privacy.
  - Replacement curtains if the original curtains are retained.
  - A wireless doorbell.
  - A lock on a letterbox.
  - Pressure mounted child safety gates.
  - Adhesive child safety locks on drawers and doors.
  - Security lights, alarm systems or security cameras that do not impact the privacy of neighbours, can be easily removed and are not hardwired to the property.
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- Renters can make certain modifications to a property without the rental provider's consent, while rental providers cannot unreasonably refuse consent for other modifications.

In addition, renters will be able to complete the following installations in all premises **that are not 'registered places'** – e.g. Heritage listed premises:

- Picture hooks or screws for wall mounts, shelves or brackets, along with child safety gates, other than exposed brick or concrete walls.
- LED light globes that do not require new light fittings.
- A water-efficient shower head if the original shower head is retained.
- Blind or cord anchors.
- Security lights, alarm systems or security cameras that do not impact the privacy of neighbours, can be easily removed and are not hard wired.

From March 29th, rental providers must not **unreasonably refuse** consent for:

- The installation of picture hooks or screws for wall mounts, shelves or brackets on exposed brick or concrete walls.
- The installation of hardware-mounted child safety gates on exposed brick or concrete walls.
- The installation of wall anchoring devices on exposed brick or concrete walls to secure items of furniture.
- Draught proofing in homes without open-flued gas heating, including installing weather seals, caulking or gap filling around windows, doors, skirting and floorboards.
- A suitably qualified person to install a security system that does not impact on the privacy of neighbours, if the landlord is provided with an invoice with the name of the installer at the time consent is requested.
- The installation of fly-screens on doors and windows.
- The planting of a vegetable or herb garden.
- Painting of the premises.
- Modifications to secure external gates

Consent will need to be requested for each of these items, and additional information should be

requested from all renters.

There are certain reasons whereby a rental provider can refuse modifications, including where the modification would result in additional maintenance costs if not restored, if the change would significantly change the premises, or a notice to vacate has been given.

A residential rental provider may require that any modification, where consent is required, is to be completed by a suitably qualified person, and in some circumstances, an additional Bond can be taken to cover the costs of rectification.

## **TRANSITIONAL ARRANGEMENTS**

Whilst the full set of new rental laws will come into effect on 29 March 2021, some laws will not apply to residential rental providers and renters who have existing rental agreements until these agreements end.

We have been advised that Consumer Affairs Victoria are awaiting further advice in relation to Transitional Provisions, and that this information is being sought through the Office of Parliamentary Council. Should there be any change in the understanding of Transitional Provisions, we will be advised accordingly, however the understanding at present is as follows:

If a rental agreement is:

- *a fixed-term rental agreement starting on or after 29 March 2021, or*
- *a periodic (month-to-month) rental agreement which the renter moved to on or after 29 March 2021,*

*then all new rental laws will apply.*

However, if a rental agreement is:

- *a fixed-term rental agreement that started before the 29 March 2021, or*
- *a periodic (month-to-month) rental agreement which the tenant moved to before 29 March 2021*

then some amendments such as Minimum Standards and Safety Related activities will not apply until that agreement ends, or where a fixed compliance date has been provided in the regulations.

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## MINIMUM STANDARDS

The rental provider must ensure the rental property meets minimum standards before a renter moves in. If it does not, the renter can terminate the rental agreement or request for the standards to be met as an urgent repair.

Additionally, there is a duty of disclosure that applies whereby prior to the commencement of any tenancy, there is a duty to advise that the property complies with all minimum standards.

We recommend regular building inspections be carried out by registered and licenced builders to ensure compliance of these standards.

### Here is a detailed list of minimum standards:

Locks - A deadlock must be fitted to all external doors to the premises. All external entry doors to the rented premises which are not able to be secured with a functioning deadlock, must at least be fitted with a locking device that is operated by a key from the outside; and may be unlocked from the inside with or without a key.

*(This regulation does not apply if the door is to a public lobby door that opens to common property, or if the rented premises is a Heritage listed premises.)*

Vermin proof bins - A rubbish bin and a recycling bin are to be supplied for use by the renter of the rented premises which is provided by the local council or is vermin proof and compatible with local council collection.

Toilets - The rented premises are to contain a toilet in a room that is intended to be used as a toilet area that is in good working order and connected to a reticulated sewerage system approved by the local council.

Bathroom facilities - The premises must contain a bathroom connected to a reasonable supply of *hot and cold* water that contains a washbasin and a shower or bath with a shower head with a 3 star rating - unless one cannot be installed as it will not operate effectively due to the age, nature or structure of the plumbing of the premises.

Kitchen facilities - Must contain a dedicated area which is intended to be used for cooking and food preparation, with a sink in good working order that is connected to a reasonable supply of *hot and cold* water.

A cooktop that is in good working order and must

have at least 2 or more burners. Any oven provided at the rented premises must be in good working order.

Laundry facilities - Any laundry facilities present in the rented premises must be connected to a reasonable supply of hot and cold water.

Structural soundness - The rented premises are to be structurally sound and weatherproof. (Roofing, balcony, decking etc).

Mould and dampness - Each room in the rented premises must be free from mould and damp caused by or related to the building structure.

Windows - All external windows that are capable of opening must be able to be set in a closed or open position and must have a functioning latch to secure the windows against external entry. (e.g. window lock or bolt, but does not require a key deadlock.)

Lighting - The interior rooms, corridors and hallways are to have access to light, whether natural or artificial and artificial light during non-daylight hours which provides a level of illuminance appropriate to the function or use of the room. (Does not apply if the rented premises is a Heritage registered place accordance the Heritage Act.)

Ventilation - If the rented premises is a house, unit or apartment (Class 1& 2 buildings), each habitable room, bathroom, shower room, toilet and laundry must have ventilation satisfying specific building requirements.

Heating - From March 29, 2021 until March 28, 2023, a rental property must have a fixed heater in good working order in the main living area. If a fixed heater has not been installed, an energy-efficient fixed heater in good working order must be installed.

### Additional upgrades that have been identified:

Energy efficiency rating systems - Additional energy efficiency requirements in relation to replacement fixtures and appliances at the rental premises such as water appliances, dishwashers, non-ducted air conditioners, gas space heater systems will also apply, with a minimum 3 star ratings being required.

Window coverings - From 29 March 2022, each window in a room at the rented premises that is likely to be used as a bedroom or as a living area is to be fitted with a curtain or blind that can be opened or closed by the renter to reasonably block light and provide reasonable privacy to the renter.

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**Heating** – From March 29, 2023, an energy-efficient fixed heater in good working order must be installed in the main living area

**Electrical safety** - From 29 March 2023, all power outlets and lighting circuits in the rented premises are to be connected to a switchboard-type Circuit Breaker and a Residual Current Device that complies with Australian/NZ standards

This standard is in addition to the electrical safety testing and recording that is required every 2 years detailed in the 'Safety Related Activities' below.

Rental providers will need to be aware that adhering to the minimum standards and completing the safety related activities will come at a cost.

## **SAFETY RELATED ACTIVITIES**

Rental providers must comply with requirements for keeping and producing records of gas and electrical safety checks, and smoke detector checks at the property, along with disclosing the dates of the last testing date. Renters can also request copies of these reports.

### **Electrical safety activities**

The rental provider must ensure that an electrical safety check of all electrical installations, appliances and fittings provided by a residential rental provider in the rented premises is conducted every 2 years by a licensed or registered electrician and must provide the renter with the date of the most recent safety check prior to commencement of the tenancy.

If an electrical safety check of the rented premises has not been conducted within the last 2 years at the time the renter occupies the premises, the residential rental provider must arrange an electrical safety check as soon as practicable.

### **Gas safety activities** *(if applicable)*

The rental provider must ensure that a gas safety check of all gas installations and fittings in the rented premises is conducted every 2 years by a licensed or registered gasfitter and must provide the renter with the date of the most recent safety check prior to commencement of the tenancy.

If a gas safety check has not been conducted within the last 2 years at the time the renter occupies the premises, the residential rental provider must arrange a gas safety check as soon as practicable.

### **Smoke alarm safety activities**

The rental provider must ensure that each smoke alarm is correctly installed and in working condition and each smoke alarm is tested according to the manufacturer's instructions at least once every 12 months and the batteries in each smoke alarm are replaced as required.

The rental provider must immediately arrange for a smoke alarm to be repaired or replaced as an urgent repair if they are notified by the renter that it is not in working order.

Repair or replacement of a hard-wired smoke alarm must be undertaken by a suitably qualified person.

The rental provider, on or before the commencement of the residential rental agreement, must provide the renter with the following information about how each smoke alarm in the rented premises operates, how to test each smoke alarm in the rented premises, and details of renter's obligations to not tamper with smoke alarms and the requirement to report if a smoke alarm in the rented premises is not in working order.

The renter must give written notice to the residential rental provider as soon as practicable after becoming aware that a smoke alarm in the rented premises is not in working order.

(Regulations made under the Building Act 1993 require smoke alarms to be installed in all residential buildings)

### **Swimming pool barrier safety activities** *(if applicable)*

The residential rental provider must ensure that the swimming pool barrier is maintained in good repair.

The renter must give written notice to the residential rental provider as soon as practicable after becoming aware that the swimming pool barrier is not in working order.

The rental provider must arrange for the swimming pool barrier to be immediately repaired or replaced as an urgent repair if they are notified by the renter that it is not in working order.

### **Relocatable swimming pool safety activities**

The renter must not erect a relocatable swimming pool without prior written notice to the residential rental provider.

The renter must obtain any necessary approvals before erecting a relocatable swimming pool.

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Note - Regulations made under the Building Act 1993 apply to any person erecting a relocatable swimming pool.

These safety-related activities do not apply to a swimming pool or spa that is not capable of containing water to a depth greater than 300 mm.

**Bushfire prone area activities** *(if applicable)*

If the rented premises is in a designated bushfire prone area under section 192A of the Building Act 1993, and a water tank is required for firefighting purposes, the residential rental provider must ensure that the water tank and any connected infrastructure is maintained in good repair, as required.

The water tank must be full and clean at the commencement of the residential rental agreement.

**HOW CAN BARRY PLANT ASSIST WITH PREPARING FOR THESE CHANGES?**

Rental providers need to be aware that preparing for, and adhering to the minimum standards, and completing the safety related activities will come with additional costs, so it is vital that you discuss

the specifics of your property with your Barry Plant Property Manager who can assist you to work through the compliance items and to avoid lengthy delays when re-letting your property.

At Barry Plant, our Property Managers have been able to access over 14 hours of detailed training on the new Legislation to prepare for the upcoming changes. By completing this training our Property Managers are better equipped to assist all clients in navigating through the complex and arduous tasks of preparing their properties to meet the requirements in these amendments.

During the coming weeks, we will be in further contact with you in relation to highly reputable third party services who we have partnered with to assist with the compliance aspects that will be required, such as smoke alarm testing, gas and electrical testing services, and builders reports to reassure you that you own a structurally sound and safe property.

If you have any questions please don't hesitate to reach out to your Property Manager who will be happy to assist you and answer your questions.

