

Running a better rooming house:

Your legal obligations

This brochure is a summary of your legal obligations as a rooming house operator. It should be read in conjunction with RAAV's publication '*Running a better rooming house: A best practice handbook*' for operators and Consumer Affairs Victoria's Rooming houses: '*A guide for residents and operators*,' which explains your legal obligations as a rooming house operator.

For more information and to print copies of the handbook and guides, visit raav.org.au and consumer.vic.gov.au

Important note: All forms and notices in this guide can be downloaded at consumer.vic.gov.au/forms



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Rooming house operator licences

From August 24 2017, all rooming house operators must be licensed. If you fail to obtain a licence and continue to operate, you will be committing an offence punishable by a heavy fine and/or a jail sentence. For more information about the new licensing requirements, visit the Consumer Affairs Victoria website at consumer.vic.gov.au/roominghouseoperators

Running a better rooming house:

Who are residents and operators?

A resident is a person who rents a room in a rooming house as their only or main residence. A resident does not need to have a tenancy agreement to live in a rooming house.

Note: If a person has a valid tenancy agreement, they are a tenant under the law, and not a resident. This is important, as it affects things such as notice periods that a resident or operator must give.

In this guide, a rooming house operator can refer to:

- the owner of the building
- a person who has leased a building and is operating it as a rooming house
- an agent or head tenant employed by the owner.

What is a rooming house?

A rooming house is a building in which rooms are available to rent to a total of four or more people. Residents have exclusive possession of their own room and the right to share common facilities such as kitchens, bathrooms and lounge rooms with other residents.

If you are unsure if you are living in, or operating, a rooming house, contact your local council – you can find your council's contact details via knowyourcouncil.vic.gov.au - or consumer.vic.gov.au/contact-us

When can an operator use a building as a rooming house?

For an operator to use a property as a rooming house, the property must be in an area where the local council allows this.

The operator must also:

- register the rooming house with the local council
- get any necessary building or other permits
- meet the minimum health, building and fire safety standards.

Find contact details for your local council at knowyourcouncil.vic.gov.au

Types of rooming houses

There are different types of rooming houses, such as community rooming houses, which are not-for-profit and funded by the government. However, this booklet is for private rooming house operators, who operate rooming houses for profit.

The Building Regulations 2006 distinguish between 'small' rooming houses (Class 1b) and 'large' rooming houses (Class 3). Class 1b rooming houses have up to 12 occupants and a total floor space of not more than 300 square metres. Class 3 rooming houses have more than 12 occupants and a floor space of more than 300 square metres.

Knowing the difference between Class 1b and Class 3 rooming houses is important, as it affects your obligations, for example fire safety standards.

Minimum standards in rooming houses

Operators must ensure their properties meet minimum standards set out in the Residential Tenancies Act 1997, Building Regulations 2006 and Part 5 of the Public Health and Wellbeing Regulations 2009 (Prescribed Accommodation).

The minimum standards cover:

- Building safety standards
- Fire safety
- Signs and lighting
- Health and hygiene
- Space requirements
- Keeping a register
- Advertising
- Inspections
- Residents' rooms
- Bathrooms and kitchens.

For more information, visit consumer.vic.gov.au/minimumstandards

Records

Rooming house owners must keep the following records and make them available to the Director of Consumer Affairs Victoria on request:

- gas safety check – for two years after the check was made, including the details of the licensed gas fitter who performed the check. All gas installations and fittings must be checked at least once every two years by a licensed gas fitter
- electrical safety check – for five years after the check was made, including the details of the licensed electrician who performed the check. All electrical installations and fittings must be checked at least once every five years by a licensed electrician.

Forms

Operators must give new residents certain forms and publications when they start living at the rooming house.

Rooming houses guide

An operator must give a copy of Consumer Affairs Victoria's publication '*Rooming houses: A guide for residents and operators*' to every new resident, either before or on the day they move in.

However, if a person has entered into a valid tenancy agreement, they are then a tenant, and must be given a copy of '*Renting a home: A guide for tenants*' instead.

Download a copy of these guides at consumer.vic.gov.au



Your legal obligations

Operator's contact details

The operator or agent's full name, address and an emergency telephone number must be provided to all residents. You must inform residents of any changes to your contact details within seven days.

Written statement of resident's main rights and duties

A poster with this statement must be displayed in every resident's room and given to an occupant no later than the day they agree to start living at the rooming house. This poster is included in Consumer Affairs Victoria's *'Rooming houses: A guide for residents and operators.'*

House rules

You may choose to have a set of house rules, which describe the rules your residents must follow. Residents must be given a copy of the house rules on or before the day they agree to move in, and they must be prominently displayed in each resident's room.

You must give residents written notification of any rule changes at least seven days before the changes come into effect.

'Notice to Proposed Rooming House Resident' form

This form explains to a resident if they have an exclusive right to their room, or if they may be sharing it with others.

A notice outlining the costs of any extra services the operator provides

If a resident uses extra services such as room cleaning, linen or meals, you must provide them with an itemised account detailing their use.

Charging a bond

You may ask a resident to pay a bond before the resident starts living at the rooming house, but it cannot be more than the equivalent of 14 days' rent.

The bond and rent are separate payments. A resident must not use any part of the bond as rent.

If you take a bond, you must give the resident a completed and signed 'Bond Lodgement' form for them to sign. Once this is done, the resident must be given a copy.

You must then send the form to the Residential Tenancies Bond Authority (RTBA) with the bond money within 10 business days.

The RTBA will hold onto the bond during the time a resident lives in the rooming house.

You can download RTBA forms at rentalbonds.vic.gov.au or order printed forms by emailing rtba@justice.vic.gov.au or call 1300 137 164.

Condition report

If an operator charges a bond from a resident, they must complete a 'Condition Report' with the resident.

An operator must give the resident two completed and signed copies of the 'Condition Report'. The resident then has the right to:

- check and add comments to the 'Condition Report'
- state whether they agree with what the operator has written.

The resident must return a signed copy of the 'Condition Report' within three days.

Download a 'Condition Report' form from consumer.vic.gov.au.

Note: Even if there is no bond, Consumer Affairs Victoria recommends the use of a 'Condition Report'.

Rent

In most cases, a resident will have to pay their rent in advance. An operator cannot ask for more than 14 days' rent in advance and they face penalties if they do.

A resident must pay their rent and continue to pay it when it is due.

If a resident does not pay rent by the due date, the operator may give them a 'Breach of Duty' notice for not paying their rent on time. If the rent is seven or more days behind, the operator can then give the resident a minimum two-day 'Notice to Vacate'. This notice period will be different for a tenant under law.

Note: Operators must not keep a resident's goods or documents to cover any rent owed.

Rent receipts

You must give the resident a rent receipt:

- immediately, if the resident pays in person
- within five business days, if the resident does not pay in person but asks for a receipt.

You must keep records of all rents you receive for at least 12 months.

Rent increases

You can only increase the rent once in any six-month period, and must give the resident at least 60 days' written notice of any increase. You must use a valid 'Notice of Rent Increase to Resident/s of Rooming House' form.

Adding more residents to a room

If a resident has an exclusive right to their room, an operator may only add more residents to the room with their permission.

To change a resident's status from exclusive to a shared room right, the operator must give the resident a 'Consent to Increase in Room Capacity' form and get their permission to bring other people into the room.

The operator must let current residents know how many people will be sharing, and inform them of the new reduced rent price. Rent must be reduced 7 days after the resident's consent is given.

The number of people sharing a room cannot be increased if:

- the operator does not use a valid notice
- consent is not given by all residents in the room
- it results in overcrowding.

Repairs and maintenance

Residents have the right to an acceptable standard of accommodation and should inform the operator as soon as possible if they require repairs.

A resident must keep paying rent, even while waiting for repairs to be done.

If the resident reasonably believes the repair is urgent (see list below) and they are not getting a prompt response from the operator, they can authorise repairs up to \$1800. They can then give the operator a notice asking that they refund the repair cost. The operator has 14 days to pay from the date they receive the notice.

Who is responsible for repairs?

Operators are responsible for urgent and non-urgent repairs.

However, if a resident has caused the damage, the operator may ask them to pay for the repairs. An operator must still pay for the repairs until they are compensated, as otherwise they may not be meeting their obligations to other residents.

Urgent repairs

Urgent repairs are:

- a burst water service
- a blocked or broken toilet system
- a serious roof leak
- a gas leak
- a dangerous electrical fault
- flooding or serious flood damage
- serious storm or fire damage
- a failure or breakdown of any essential service or appliance relating to water, cooking, heating or washing clothes
- a failure or breakdown of the gas, electricity or water supply
- any fault or damage that makes the rooming house unsafe or insecure
- an appliance, fitting or fixture that is not working properly and causes a lot of water to be wasted
- a serious fault in a lift or staircase.

Non-urgent repairs

Any type of repair not mentioned in the 'Urgent repairs' section is generally considered to be a non-urgent repair. Once a resident submits a Notice to Owner of Rooming House form to ask the operator to fix a non-urgent repair, you have 14 days to carry out the repair.

For more information, visit consumervic.gov.au/renting

Who pays utility bills?

Generally, the operator is responsible for paying water, gas and electricity bills.

You may only charge a resident for a utility if the room has separate meters and if the resident has an exclusive right to the room. But you must not charge the resident more than what the utility provider charges.

Entry rights

In most cases, you must give the resident 24 hours' written notice before entering their room.

Operators must deliver the written notice either by mail, or given personally to resident between 8am and 6pm. You must not leave the notice under the resident's door.

Entry to a resident's room is only between 8am and 6pm, excluding public holidays where entry is not allowed.

If someone breaks the rules

Both residents and operators can give a 'Breach of Duty' notice to the other person if that person has not met certain obligations under the Residential Tenancies Act. Once a 'Breach of Duty' has been given, the person who received it must fix the situation.

Contact Consumer Affairs Victoria for information on how to issue a Notice of Breach of Duty to Owner of Rooming House.

Respecting privacy

Residents have a right to privacy, peace and quiet. This means that they must not unnecessarily disturb other residents.

You must also respect a resident's right to privacy, peace and quiet.

Security of goods

You must take all reasonable steps to make sure that a resident's property is secure, especially in a shared room.

Disclaimer

All care has been taken in presenting material included in this brochure. However, RAAV will not accept any responsibility for any action you may take as a result of the information provided. This brochure contains general information and is not a substitute for professional legal or business advice relating to your particular circumstances. RAAV recommends you consult a solicitor, accountant and/or business adviser before acting on the information contained in this brochure.



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Registered Accommodation Association of Victoria (RAAV)

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RAAV represents owners and operators of private rooming houses and other registered accommodation in Victoria. RAAV can assist its members with a wide range of services, including information, support, access to financial advice, insurance and more. Contact RAAV for more information.

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