



**Raav**

Registered Accommodation  
Association of Victoria  
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# New Licensing Scheme For Rooming House Operators

A new rooming house operators licensing scheme, established under the *Rooming House Operators Act 2016*, came into effect on 26 April 2017. All existing rooming house operators (except those that are registered housing associations or housing providers) must apply for a licence by 24 August 2017 in order to continue to legally operate their rooming house(s).

*For more information on the rooming house licensing scheme, view Consumer Affairs Victoria website*  
[www.consumer.vic.gov.au/roominghouseoperators](http://www.consumer.vic.gov.au/roominghouseoperators)

*Downloads of key information on the new licensing scheme are available in the Rooming House Operators section in following languages: English, Arabic, Simplified Chinese and Vietnamese.*

The Consumer Affairs Victoria website provides detailed information on:

- The Rooming House Operators licensing scheme
- Applying for a licence
- Refusal of a licence
- Updating licence details
- Renewing a licence
- Running a rooming house business
- Penalties
- Public register
- Fees and forms
- Definitions

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***The following information about the rooming house licensing scheme is condensed from the Consumer Affairs Victoria website which was current at 1 May 2017.***

## **New licensing scheme starts**

The new rooming house operators licensing scheme, established under the Rooming House Operators Act 2016, came into effect on 26 April 2017.

All existing rooming house operators (except those that are registered housing associations or housing providers under the Housing Act 1983) must apply for a licence in order to continue to legally operate their rooming house(s).

Apply for a licence online at

[consumer.vic.gov.au/roominghouseoperators](http://consumer.vic.gov.au/roominghouseoperators)

If you do not apply for a licence by 24 August 2017 and you continue to operate your rooming house, you will be committing a serious offence, and risk significant penalties.

The Business Licensing Authority (BLA) within the Department of Justice and Regulation will be responsible for granting licences to applicants who are 'fit and proper persons'.

The obligation to be licensed will be in addition to operators' other legal obligations, including the requirement to register their rooming houses with the relevant local council. For more information, view Local council registration requirements.

## **Who needs to be licensed?**

Only the individual person or the body corporate (company, incorporated association or co-operative) operating the rooming house needs to be licensed.

### *Existing rooming house operators*

Existing rooming house operators will not automatically receive a licence.

If you are an existing rooming house operator and you wish to continue to operate your rooming house in the future, you will have to apply for a licence by 24 August 2017.

You will not be committing the offence of operating a rooming house without a licence while your licence application is being processed and considered by the BLA.

### *New rooming house operators*

New rooming house operators will need to apply for, and be granted, a licence before they can start operating a rooming house.

### *Fit and Proper Persons test*

All applicants for a rooming house operator's licence must undergo a "Fit and Proper Persons" test as part of the licensing process.

This also applies to all "relevant persons" involved with your licence application.

Generally, you will not be a 'fit and proper person', and the Business Licensing Authority (BLA) will refuse your licence application if you, or any relevant persons:

- have, within the last 10 years, been convicted or found guilty by a court of certain serious criminal offences that could have attracted three or more months' jail, including sexual offences and offences involving violence or dishonesty
- are bankrupt, insolvent or lack legal capacity, or
- have, within the last five years, been convicted or found guilty by a court of certain other offences, or have been declared by a court to have contravened certain other legal obligations, particularly in relation to rooming houses.

Consumer Affairs Victoria states that you will not be disqualified from obtaining or keeping a licence just because you have been issued with a breach or infringement notice, or a rectification order, by a local council or other regulator such as Consumer Affairs Victoria or the Victorian Building Authority.

If you are uncertain about your eligibility, CAV recommends that you seek independent legal advice to determine whether or not you meet the 'licence disqualification criteria' in section 17 of the *Rooming House Operators Act 2016*.

### Rooming house managers

A rooming house manager (who is engaged by the operator to perform day-to-day management of a rooming house) does not require a licence. However, a rooming house manager is a 'relevant person' in relation to the operator's licence who will be assessed as part of their licence application, and must meet the same 'fit and proper person' requirements.

There is a fee for each 'relevant person' who is assessed as part of a licence application. For more information, view our Fees page.

If you are unsure whether you are a rooming house manager or operator, view our Definitions page.

**Note:** Others who may do work at a rooming house, such as a cleaner, gardener or maintenance person will not need a licence, unless they also operate the rooming house business. They are also not a 'relevant person' in relation to the operator's licence application.

### Officer of a body corporate

An officer of a corporate entity which operates a rooming house, such as a director of a company, does not require a licence. However, they will be a 'relevant person' in relation to the body corporate's licence who will be assessed as part of their licence application, and must meet the same 'fit and proper person' requirements.

There is a fee for each 'relevant person' who is assessed as part of a licence application.

### Estate agent managing leasing

If you own the rooming house business but engage an estate agency to manage the leasing arrangements, the estate agency will be regarded as a 'managing agent' and will not need to apply for a licence. You, as the operator, will need to be licensed.

Any person from the estate agency who takes part in managing your rooming house is a 'relevant person' along with the licensee. This may be the branch manager / property manager or, in some situations, the Officer in Effective Control. It may be more than one person.

**Note:** This person or people must be named in the licence application and must meet the same 'fit and proper person' requirements as the operator. There is a prescribed fee for each 'relevant person' who is assessed as part of an operator's licence application.

You should ensure that the estate agency allocates responsibility for the day-to-day management of a rooming house to a single person. If the manager changes, you must immediately inform the BLA.

You may need to seek independent legal advice if it is not clear who the 'relevant person' is in your particular circumstances.

### Building owner

If you own the building and lease it to someone who decides to operate the premises as a rooming house business, you do not need a licence.

**Note:** if you are unsure about the application of the new licensing scheme to your particular circumstances you should seek independent legal advice.

## Will you need more than one licence?

The holder of a rooming house operator licence can operate multiple premises under a single licence. They do not need a separate licence for each registered rooming house premises they operate.

However, where a rooming house operator operates multiple premises under different business or ownership structures, each entity is required to hold a licence to operate a rooming house.

## If you do not apply for a licence

If you do not intend to apply for a licence, and before 26 April 2017, you issued your residents with notices to vacate, you will not be committing an offence by continuing to operate your rooming house in the application period, provided you do not withdraw those notices.

If you do not intend to apply for a licence and have not issued notices to vacate, we recommend you seek legal advice.

If you sell the business to a licensee, the new operator can keep the residents on, and the notices to vacate effectively lapse.

## Success or failure of a licence application

If your application is successful, you will receive a licence for three years.

If your application is unsuccessful, you must issue the appropriate notices to vacate (either to tenants or residents) within seven days of the BLA's determination.

You will not be committing an offence of operating without a licence for the 120 day period from the date you issue the notice to vacate.

## Application for review of decision

If your application is refused by the BLA, in very limited circumstances you may be able to apply to the Victorian Civil and Administrative Tribunal (VCAT) for review of the BLA's decision.

## Fees

The application fee and initial licence fee must be paid at the time of application. The application fee is non-refundable.

## Online public register of licensees

A public register of licensed rooming house operators will be available at

[consumer.vic.gov.au/roominghouseoperators](http://consumer.vic.gov.au/roominghouseoperators).

A licensee can make a request to the BLA for their address details to be suppressed by emailing [bla@justice.vic.gov.au](mailto:bla@justice.vic.gov.au). The request must detail the exceptional circumstances under which the request for suppression is made. There is no fee payable for this request.

## Local council registration requirements

The licensing scheme will not change rooming house operators' existing obligations to register all their premises with the relevant local council, in accordance with the *Public Health and Wellbeing Act 2008*.

After the licensing scheme starts, in order to operate legally, rooming house operators must have:

- registered their premises with the local council in whose municipality the premises is located, and
- obtained a licence to operate rooming houses from the BLA.

A rooming house operator will not need to have been granted a licence to operate rooming houses in order to successfully register their premises, or have registered their premises in order to be granted a licence.

An operator may want to register premises before they apply for a licence, or start the registration and licence application processes at the same time.

## Registered housing associations and registered housing providers

These will not need to be licensed, as they are already registered by government (by the Housing Registrar under the Housing Act 1983).

## Unlicensed operators

Consumer Affairs Victoria will enforce the requirement for rooming house operators to be licensed.

Operating a rooming house without a license will be a serious criminal offence, attracting significant penalties.

## Penalties for unlicensed operating

The maximum penalty for an individual operating a rooming house without a licence is two years' jail, or a fine of 240 penalty units (over \$37,000).

A body corporate which operates while unlicensed faces a maximum fine of 1200 penalty units (over \$186,000).

The value of a penalty unit is \$155.46 for financial year 2016-17. This amount will change at the start of each financial year.

For more information, visit the Indexation of fees and penalties page on the Department of Treasury and Finance website.

## Ongoing obligations of rooming house operator's license holders

You must inform the Business Licensing Authority (BLA) if:

- you become aware that you (or any of your officers or managers) meet any of the 'renewal disqualification criteria' in section 18 of the *Rooming House Operators Act 2016* while you are licensed, or
- there are any changes to your officers or managers, so that the BLA can determine whether the new officer or manager meets any of the 'license disqualification criteria' in section 17 of the *Rooming House Operators Act 2016*.

The BLA will advise Consumer Affairs Victoria of any notifications it receives from a licensee, as well as its findings in relation to new officers or managers. It is an offence not to comply with these obligations.

## Displaying a copy of your licence

A copy of your licence must be displayed in a conspicuous place inside the front entrance to each rooming house you operate.

For more information about the new licensing scheme, visit [consumer.vic.gov.au/roominghouseoperators](http://consumer.vic.gov.au/roominghouseoperators)

## Disclaimer

All care has been taken in presenting material included in this summary. However, RAAV will not accept any responsibility for any action you may take as a result of the information provided. This summary 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 summary.

