

REIQ Factsheet - Ending Tenancy Agreements

The *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) (the **RTRA Act**), which governs residential tenancies in Queensland, has been amended by the Queensland Government and there are some new changes that came into effect on 1 October 2022.

Notices to leave property given by lessor

Some of the most critical changes were to the grounds for issuing a Form 12 Notice to Leave in order to end tenancy agreements. There are some new grounds for a lessor to issue a Form 12 Notice to Leave as well as changes to the prescribed notice periods.

The grounds for ending tenancies, notice periods and possible offences have been changed as follows:

| Notice to Leave Form 12 - grounds | Notice Period | Fixed Tenancy | Periodic Tenancy | New Offences |
|--|---------------|--------------------------------|------------------|--|
| for an unremedied breach that is a failure to pay rent | 7 days | ✓ | ✓ | |
| for an unremedied breach that is any failure other than a failure to pay rent | 14 days | ✓ | ✓ | |
| for noncompliance of a tribunal order | 7 days | ✓ | ✓ | |
| for non-livability | Immediate | ✓ | ✓ | |
| for compulsory acquisition | 2 months | ✓ | ✓ | |
| for a sale of the property including both circumstances: (a) to prepare the property for sale; and (b) when a Contract for sale has been entered. | 2 months | <i>Only at the end of term</i> | ✓ | If Notice to Leave given – you cannot relet property for a period of 6 months after ending tenancy – possible fine \$6,892.50 The property manager and lessor must not give false or misleading information in notice to leave – possible fine \$6,892.50 |
| for ending of entitlement under employment | 4 weeks | ✓ | ✓ | |
| for ending of accommodation assistance | 4 weeks | ✓ | ✓ | |
| for ending of housing assistance | 4 weeks | ✓ | ✓ | |
| for mortgagee taking possession of the property | 2 months | ✓ | ✓ | |
| for serious breach at public or community housing | 7 days | ✓ | ✓ | |
| NEW for State government program You may give a notice to leave to the tenant if the property is required for use under a program administered by the State under an Act | 2 months | <i>Only at the end of term</i> | ✓ | |
| NEW for demolition or redevelopment You may give a notice to leave to the tenant if you require the property to be vacant for a planned demolition or redevelopment | 2 months | <i>Only at the end of term</i> | ✓ | The property manager and lessor must not give false or misleading information in notice to leave – possible fine \$6,892.50 |
| NEW for significant repair or renovations You may give a notice to leave to the tenant if which cannot be carried out safely while the tenant occupies the property | 2 months | <i>Only at the end of term</i> | ✓ | The property manager and lessor must not give false or misleading information in notice to leave – possible fine \$6,892.50 |
| NEW for change of use You may give a notice to leave to the tenant if you require the property's use to be changed to a use other than residential and which will continue for a period of at least 6 months | 2 months | <i>Only at the end of term</i> | ✓ | If Notice to Leave given – you cannot relet property for a period of 6 months after ending tenancy – possible fine \$6,892.50 The property manager and lessor must not give false or misleading information in notice to leave – possible fine \$6,892.50 |
| NEW for ending of entitlement to student accommodation if the tenant is no longer a student | 1 month | ✓ | ✓ | |

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|--|----------|--------------------------------|---|--|
| NEW for owner occupation by the lessor or a relative of the lessor You may give a notice to leave to the tenant if yourself or your relative, needs to occupy the property. | 2 months | <i>Only at the end of term</i> | ✓ | If Notice to Leave given – you cannot relet property for a period of 6 months after ending tenancy – possible fine \$6,892.50 The property manager and lessor must not give false or misleading information in notice to leave – possible fine \$6,892.50 |
| NEW for end of fixed term tenancy agreement | 2 months | ✓ | X | |

In addition to the above table, there are also several new offences connected to certain grounds for issuing a Notice to Leave.

Fixed Term Agreements

If your tenant is currently on a fixed term agreement, your property manager will seek your instructions in relation to offering the tenant a new fixed term agreement at the end of the current fixed term.

If a new Form 18a General Tenancy Agreement is being offered to the tenant, it is recommended that a Form 12 Notice to Leave is issued at the same time. The offer of a new fixed term agreement should have a reasonable due date for the tenant to accept so that if they do not, they will be required to vacate on the expiry date of the current fixed term. If a valid notice is not provided within the required notice period, the fixed term agreement may automatically convert to a periodic agreement.

It is the *Residential Tenancies Authority (RTA)* interpretation that a Form 12 Notice to Leave can be issued for the end of a fixed term tenancy up to one day prior to the end of a fixed term tenancy without the tenancy reverting to a periodic tenancy, providing the correct notice period has been applied. Notwithstanding, to prevent potential disputes about the validity of a Form 12 Notice to Leave, it is the REIQ's best practice position to err on the side of caution and ensure a Form 12 Notice to Leave is issued at least 2 months before the end date of the fixed term agreement so that the Agreement can end on the agreed end date.

Form 13 Notice of Intention to Leave given by tenant

There are some new grounds for a tenant to issue a Form 13 Notice of Intention to Leave as well as changes to the prescribed notice periods. Within the first 7 days on which the tenant occupies the property, the tenant can issue a Form 13 Notice of Intention to Leave to the lessor because:

- the property is not fit for the tenant to live in; or
- the property or inclusions are not in good repair; or
- the lessor is in breach of a law dealing with issues about the health or safety of persons using or entering the property; or
- the property or inclusions do not comply with the prescribed Minimum Housing Standards (which come into effect 1 September 2023).

The tenant can also issue a Form 13 Notice of Intention to Leave under the following grounds:

- if a co-tenant dies and continuing with the tenancy agreement would be impractical for the tenant or cause the tenant excessive hardship
- if the property is used for student accommodation and the tenant's entitlement to occupy the property depends upon the tenant being a student and if the tenant stops being a student
- for the lessor's failure to comply with a repair order by its due date

New grounds to apply to QCAT seeking a termination order

Within the first 3 months of which the tenant occupies the property, the tenant can now apply to QCAT for a termination order because the lessor or property manager gave the tenant false or misleading information about:

- the condition of the property or its inclusions; or
- the services provided for the property; or
- a matter relating to the property that is likely to affect the tenant's quiet enjoyment of the property; or
- the tenancy agreement or any other document the lessor must give the tenant under the RTRA Act – such as body corporate by-laws; or
- the rights and obligations of the tenant or lessor under the RTRA Act.

A lessor can also now apply to QCAT for a termination order if the lessor reasonably believes the tenant, an occupant, a guest of the tenant or a person allowed on the property by a tenant has-

- used the property, or any property adjoining or adjacent to the property (including any property that is available for use by the tenant in common with others), for an illegal activity; or
- Intentionally or recklessly-
 - destroyed or seriously damaged a part of the property; or
 - endangered another person in the property or a person occupying, or allowed on, property nearby; or
 - interfered significantly with the reasonable peace, comfort or privacy of another tenant or another tenant's appropriate use of the other tenant's property.

A lessor's right to apply to QCAT for a termination order for repeated breaches by the tenant has also been expanded to include repeated breaches of a provision of a body corporate by-law or park rule.

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