

Rooming house proprietors' guide to the Residential Tenancies Act 1995



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DEFINITIONS

Rooming house

Residential premises in which rooms are available, on a commercial basis, for (3) three or more people to live. The person letting out the rooms may also live in the property and can enter the common areas of the property without giving any notice.

Rooming house agreement

An agreement under which accommodation is provided (with or without meals, or other facilities or services) in a rooming house.

Rooming house proprietor

A person who carries on a business providing accommodation under rooming house agreements.

Rooming house resident

A person who rents a room (boards or lodges) in a rooming house.

THE RESIDENTIAL TENANCIES ACT 1995 DOES NOT APPLY TO:

- an agreement genuinely entered into for the purpose of conferring on a person a right to occupy premises for a **holiday**
- an agreement giving a right of occupancy in-
 - ♦ a hotel or motel
 - ♦ an educational institution
 - ♦ a college
 - ♦ a hospital or nursing home
 - ♦ club premises
 - ♦ a home for aged or disabled persons administered by an eligible organisation under the *Aged or Disabled Person Care Act 1954* of the Commonwealth
 - ♦ a retirement village within the meaning of the *Retirement Villages Act 1987*
 - ♦ a supported residential facility within the meaning of the *Supported Residential Facilities Act 1992*
 - ♦ prescribed premises, or premises of a prescribed class (*exemptions*)
- an agreement conferring a right to occupy premises for the purpose of residence but under which no rent is payable
- an agreement arising under a scheme in which a complex of adjacent premises is owned by a company and the premises are let by the company to persons who jointly have a controlling interest in the company.
- a prescribed agreement or an agreement of a prescribed class (*exemptions*).

ENTERING INTO A ROOMING HOUSE AGREEMENT

Written agreements

If you ask the residents to sign written rooming house agreements (*leases*) or documents recording the terms of your agreements with them, **you must give them copies of those documents** after you and the residents have signed them.

You **must not** include a term in the agreement which states that if the resident is in breach of the agreement, they must pay all rent remaining under the agreement, increased rent, a penalty or liquidated damages.

House rules

You may make rules about the conduct or behaviour of the residents. The house rules are taken to be included in the terms of every agreement relating to the rooming house.

All house rules **must** be in **writing** and **must be displayed** in a place in the rooming house where all the residents can see them.

You must only make house rules that are reasonable and that help maintain the health and safety of persons in the premises and protect property. House rules must not be inconsistent with the *Residential Tenancies Act 1995*, or any other law.

If you change the house rules, or create new house rules, you **must** notify the residents of your rooming house **in writing** of the new rules/changes. These new, or changed, house rules do not come into effect until at least **seven** days **after** you have given the written notice to the residents.

If the residents ask you for a copy of the house rules, **you must give them their own copy**, unless you have already provided a copy to them some time in the last two months, in which case you would only be required to make a copy available for them to read.

Charges

If you intend to charge your residents for rates and charges for water supply, the provision of electricity, gas or telephone services or for meals or other facilities or services you are going to provide to them, **you must inform the residents in writing** how the charges will be worked out **before** you make those facilities or services available. In other words, you **can not charge** your residents for things that you did not tell them they would be charged for **before** they used them.

You **can not** pass on to your residents the charges you are required to pay for council rates, sewerage rates, or any other statutory charges or levies.

Rent in advance and bond

You must **not** ask for or accept any payment other than rent or bond as a condition of entering into a rooming house agreement, or renewing an agreement.

You can only ask your residents to pay **one** week's rent at the start of the agreement.

You must **not** ask your resident to pay more rent until the end of the last rental period for which they have paid.

You must **not** ask your residents for more than one bond for the same rooming house agreement.

The amount of bond that you can require your residents to pay must **not** be more than the amount they are required to pay for **two** weeks' rent.

You **are required** to lodge any bond paid to you with Consumer and Business Services within two weeks, or four weeks if a registered agent is managing the property for you.

The bond belongs to the resident. At the end of the tenancy, unless you have a claim to make against the bond, you must return it to the resident or to Housing SA if they paid the bond on the resident's behalf.

If the resident has caused damage to the room that they were renting or damage to other property you can also deduct the cost of repairing the room or property from the bond money, **but you must take into consideration the condition of the room or property when the resident moved in.**

In other words, it would be unreasonable for you to charge the resident the full cost of repainting a room if the room had not been painted for several years and was in poor condition when the resident moved in. It would also be unreasonable for you to charge the resident the full cost of replacing a well worn mattress with a new mattress.

Rent receipts

If a resident of your rooming house pays the rent, or any other payment, to you directly (not into a bank account), you must give them a receipt **within 48 hours**.

If a resident pays the rent, or any other payment, into your account at a financial institution (*bank or building society*), you are not required to give them a receipt. You must keep a **proper record** of the payments.

All rent receipts should have the following information on them:

- ♦ the date on which the payment was received
- ♦ the name of the person making the payment
- ♦ the amount paid
- ♦ the address of the premises to which the payment relates
- ♦ the period of accommodation to which the payment relates

EXAMPLE:

	Date of receipt 30.1.2014
Received from	Dennis White
the sum of	One Hundred and Twenty Dollars
rented premises	Room 1/21 High Street, Semaphore
for rental for the period	31.1.2014 - 6.2.2014
signed Bill Smith	

If a payment is for **bond**, the receipt must include the information above **and** the fact that it is for bond.

If a payment is for **facilities or services**, the receipt must include the information above **and** a description of the facility or service **and** the period to which it relates.

You must keep proper records of all payments. If your resident makes a reasonable request, you must give your resident a statement of the relevant information for each payment during the period the resident specifies, within seven days of the request.

Security of rooms

You must **provide** and **maintain** the locks and other devices necessary to ensure each resident of the rooming house can make his or her room reasonably secure.

You or the resident must not alter or remove a lock or security device without the consent of the other. You must not unreasonably refuse to give consent.

You must take reasonable steps to **ensure** the security of personal property of each resident of the rooming house. You must also provide a lockable cupboard or similar facility to each resident to allow them to keep their personal property secure within their room.

If one of your residents informs you that there is a problem with the lock on the door to their room, you must arrange for the lock to be repaired within a reasonable amount of time.

YOUR GENERAL OBLIGATIONS AS A ROOMING HOUSE PROPRIETOR

As a rooming house proprietor, you **MUST**:

- **Not** unreasonably restrict or interfere with the quiet enjoyment of a room or facilities at the rooming house by the rooming house resident or the reasonable peace, comfort or privacy of the rooming house resident in their use of a room or facilities at the rooming house.
- **Ensure** that the rooming house resident has reasonable access (at all times) to their room, and to the toilet and bathroom facilities.
- **Ensure** that the rooming house resident's room and any facilities shared by the resident are maintained in a reasonable state of repair (**unless the rooming house is subject to a housing improvement notice**).
- **Ensure** that any shared facilities in the rooming house are kept in a reasonable state of cleanliness.
- **Comply** with statutory requirements affecting the rooming house.
- Give the residents at least **14 days notice** of renovations to the rooming house.
- Minimise inconvenience or disruption to your residents if you are carrying out repairs to shared bathroom, toilet or laundry facilities. This includes providing temporary substitute facilities if necessary.

Access to rooms

- You must exercise your right to access the resident's room in a reasonable manner.
- You must not stay in the room longer than is necessary to achieve the purpose of entry, unless the resident agrees.

Sale of the rooming house

You must notify the residents in writing if you intend to **sell the rooming house**, no later than 14 days after entering into a sales agency agreement to sell the premises.

You must not advertise or show prospective purchasers through the premises until 14 days after you notify the residents of your intention to sell.

If you sell the rooming house, you must give written notice to the residents of the name of the purchaser and the date from which rent is to be paid to him or her.

GENERAL OBLIGATIONS OF ROOMING HOUSE RESIDENTS

Residents of your rooming house **MUST**:

- Pay the rent when it is due.
- Obey the house rules.
- Not use the rooming house, or cause or permit the rooming house to be used, for an illegal activity.
- Not keep an animal on the rooming house premises without your consent.
- Keep their room in a condition that does not cause a fire or health hazard.
- Notify you of damage to the rooming house or to property provided by you for use by residents.
- Allow you to have reasonable access to their room.

RENT INCREASES

If you have entered into a fixed term agreement, you **can not** increase the rent, unless you and the resident agreed at the beginning of the tenancy that a rent increase would happen during the term of the agreement.

Rent can only be increased every six months (unless it is written into your agreement that the rent will change at intervals other than six monthly).

Notice that you intend to increase the rent must be given to the resident **in writing** and it must be given to the resident at least **four weeks** before the increase in rent comes into effect.

If the rent at your property has been fixed by a housing improvement notice, you can not increase it until the housing improvement notice has been cancelled. Once the housing improvement notice has been cancelled, you can give the resident(s) **14 days** written notice that the rent will be increased. However, you must give the rent increase notice to the resident(s) within **four weeks** of the housing improvement notice being cancelled. If you wait for longer than four weeks after the cancellation of the housing improvement notice to give notice of a rent increase, you will need to give the resident four weeks' written notice of any rent increase.

RENT REDUCTION

The rent payable can be reduced at any time by agreement. If the rent is reduced temporarily by agreement, be sure that the date when the rent will go back to its original amount is clearly identified.

TERMINATION OF A ROOMING HOUSE AGREEMENT

If a resident abandons (vacates) their room, their rooming house agreement with you is terminated.

If you are unsure, you may apply to the South Australian Civil & Administrative Tribunal (SACAT) for a declaration that the resident has abandoned the room.

If the rent has been unpaid for at least seven days, **and** you have **either** made reasonable attempts to contact the resident without success, **or** the resident has advised you that they have abandoned the room, the resident will be taken to have abandoned the room.

If a resident has an agreement of six months or more, and abandons the room before the end of the term, you may claim compensation for loss caused by the abandonment, such as loss of rent. You must take reasonable steps to minimise the loss, for example by advertising to re-let the room.

If you have a periodic rooming house agreement ('periodic' means that there was no date set at the **beginning** of the tenancy for when the rooming house agreement would end) and the resident **hasn't** breached the agreement, but you would like them to move out anyway, you can give them four weeks' **written** notice that you wish to terminate the agreement.

If a resident who has a **periodic** rooming house agreement with you wants to give you notice that they intend to leave, they must give you **one** day's notice.

If a resident falls behind in their rent by a period of at least two weeks, you can give them notice that if they do not pay the amount of rent that is owing to you within two clear days of receiving the notice, their rental agreement with you will be terminated and they will have to move out.

For example, if the resident is two weeks behind in their rent and you give them a notice on a Thursday, they would have until midnight on Saturday to pay you the arrears or move out.

If a resident, or someone that they have invited into the rooming house, causes serious damage to the rooming house, creates a danger to a person or property in the rooming house, or seriously interrupts the privacy, peace, comfort or quiet enjoyment of another resident, you can give the resident a notice that their rooming house agreement with you is terminated immediately, or on a specified day and that they must vacate the premises immediately, or by the specified day.

If a resident breaches the rooming house agreement in a manner other than rent arrears, causing serious damage, or any of the other breaches mentioned in the previous paragraph, you can give them notice that their rooming house agreement with you will be terminated **seven days** after they receive the notice from you and that they will have to move out either before or at the end of the seven days.

All termination notices must be on the forms provided by Consumer and Business Services. Forms are available at www.sa.gov.au/tenancy/forms.

If a resident refuses to move out after they have been given a written termination notice and the termination date has passed, or if a resident refuses to move out at the end of their fixed term agreement and you don't intend to renew the rooming house

agreement with them, you must apply to SACAT for an order for possession of the room.

To apply to SACAT for an order for possession, you will need to complete an online application at www.sacat.sa.gov.au. There is a cost to apply to SACAT.

WHAT TO DO WITH ABANDONED PROPERTY

If a resident moves out of the rooming house and leaves property behind (other than perishable foodstuffs) you **must** look after the property for **14 days** before you can dispose of it. You must keep personal documents safe, as well as other property.

You must make reasonable attempts to notify the resident that the property has been found on the premises.

The resident, or any other person entitled to possession of the property, may reclaim it by paying you for reasonable costs you have incurred in looking after the property.

You may destroy or dispose of documents or other property after 14 days if they have not been claimed. If the resident leaves personal documents, such as a passport or driver's licence, you should check with the relevant authority whether you are allowed to destroy or dispose of them.

If a resident moves out of the rooming house and leaves perishable foodstuffs behind, you are not obliged to keep them for any particular period of time before disposing of them.

You must not take or dispose of a resident's property because they owe you rent or other payments.

This guide is intended to help you understand your rights and obligations under the Residential Tenancies Act 1995. You must ensure that you comply with the requirements under the Act as penalties apply if you do not.

For further information contact Consumer and Business Services at Customer Service Centre, 91 Grenfell Street, Adelaide. Ph: 131 882 Website: www.sa.gov.au/tenancy/renters