

Fact sheet



Residential Tenancies Act 1994

Entry and Privacy

The *Residential Tenancies Act 1994* (the Act) is the main law that governs renting a place to live in Queensland. This fact sheet contains information and an accurate summary of how the Act applies but should not be relied upon as legal advice for specific cases.

Terms you will find in this fact sheet

- *Premises* are the houses, units or caravans being rented.
- *Tenants* are the people who have been given the right to live in the premises.
- *Lessors* are the people who give the tenants the right to live in the premises (e.g. the owners), or their representatives (e.g. real estate agents).
- *Small Claims Tribunal* is a court that makes final, legally binding decisions on disagreements or tenancy matters.

Lessors must take reasonable steps to ensure tenants have quiet enjoyment of their rented home. This means the lessor must not interfere with the tenant's reasonable peace, comfort and privacy in using the premises.

However, lessors have the right to enter premises to inspect them and to carry out maintenance and management tasks if they follow the Act's processes.

For what reasons can the lessor enter?

- The lessor can enter the premises for reasons set out in the Act (refer to table). Notice must be given in writing on a form called an *Entry Notice* (Form 9).
- The lessor can enter at any time without notice, if the tenant agrees, but only at the time agreed to by the tenant.
- The lessor can also enter at any time, without notice, in an emergency, or if there are reasonable grounds to believe entry is necessary to protect the premises from damage.

How much notice is needed?

The amount of notice depends on the lessor's reason for entering the premises.

Reason	Notice Required
To inspect	7 days
To do repairs or carry out maintenance	24 hours
To do repairs where the premises is remote and there is a shortage of qualified repairers	None
To show a prospective tenant or purchaser or for a valuation	24 hours
To carry out a valuation	24 hours
To check to see if the premises are abandoned *	24 hours

* For more information, see the fact sheet called *Abandoned Premises*.

Can the lessor enter if the tenant is not present?

Tenants do not have to be present for an entry unless it is a condition of an agreed entry. However, the RTA recommends the lessor enters at a time the tenant can be present.

Can the tenant prevent the lessor entering?

The law says that the tenant cannot stop the lessor from entering the premises if the correct notice has been given and the entry is at a reasonable time. The tenant can stop the lessor from entering the premises if he/she withdraws their agreement or if the lessor does not attend at the agreed time.

What if the lessor is looking for another tenant or wants to sell the premises?

A lessor can only enter to show the premises to a prospective tenant:

- if a *Notice to Leave* (Form 12) was given to the current tenant; or
- the current tenant gave a *Notice of Intention to Leave* (Form 13) to the lessor.

An *Entry Notice* (Form 9) must also be given allowing 24 hours' notice of the entry.

A lessor may only enter the premises to show a prospective purchaser if a *Notice of Lessor's Intention to Sell the Premises* (Form 10) was issued before, or with, the *Entry Notice* (Form 9).

What if the tenant does not know the agent who is selling the property?

If the tenant does not know the selling agent, they can ask for written evidence of their appointment from the lessor before they agree to entry. Where an agent is not the renting agent, they must give an *Entry Notice* (Form 9) to the tenant and a copy to the renting agent.

Are there any limits to entry?

- Entry must be at a reasonable time.
- General inspections cannot take place more than once every 3 months, unless the tenant agrees. The lessor and tenant may also agree to less frequent inspections, such as every 6 months.
- For entry to show the premises to prospective purchasers or tenants, reasonable time must have elapsed since the last entry for the same reason.

Are the rules different for moveable dwellings?

Except for the following situations, the entry rules are the same for moveable dwelling tenancies.

A lessor for a moveable dwelling tenancy in a moveable dwelling park may include a term in a tenancy agreement stating when and how they may enter the site only to carry out maintenance (e.g. to mow the lawn). When this occurs as per the agreement, an *Entry Notice* is not needed.

A lessor for a short tenancy (moveable dwelling) may enter to inspect the premises giving 24 hours notice via an *Entry Notice*.

What can I do to dispute an entry?

If the tenant feels their right to quiet enjoyment of the premises is being breached, they should start by discussing this with the lessor. If this is unsuccessful, the tenant can give a *Notice to Remedy Breach* (Form 11) to the lessor.

The RTA has a free Dispute Resolution Service. To apply for help, send a form called a *Dispute Resolution Request* (Form 16) by mail or fax to the RTA. If agreement cannot be reached or if the situation is urgent (as specified in the Act), you can apply to the Small Claims Tribunal for a decision.

How do I apply to the Small Claims Tribunal?

The RTA has an information booklet called *Handling Tenancy Disputes in the Small Claims Tribunal*. This outlines the steps you need to take when applying to the Small Claims Tribunal. Call the RTA for a copy or download the booklet from the RTA website.

How do I get the forms I need?

The Act says that most dealings between tenants and lessors need to be in writing. Forms are an easy way to collect and keep this information and in some cases the Act requires you to use the approved form such as *Entry Notice* (Form 9). You can get the RTA's approved forms by:

- visiting the RTA's website at www.rta.qld.gov.au and following the links to e-forms;
- calling the RTA's forms distribution service on **1300 136 939**;
- faxing a *Request for Forms* to (07) 3216 2258; or
- posting a *Request for Forms* to RTA Forms Distributor, Post Logistics, 52-54 Qantas Drive, Eagle Farm QLD 4009.

The most commonly used forms are also available at most Australia Post Offices around Queensland.

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Disclaimer

The Residential Tenancies Act 1994 is the primary source material on the law and takes precedence over this Fact Sheet should there be any inconsistency between the Act and this Fact Sheet.