

## Power to remove a resident

The *Residential Services (Accommodation) Act 2002* has rules which allow the service provider to remove a resident from a boarding house, hostel, aged rental complex or rooming style student accommodation in Queensland.

### When can a service provider remove a resident?

A service provider has the power to remove a resident only when:

- the service provider has given a resident a *Notice to Leave* (Form R12) (see also Fact Sheet – *Ending a Residential Service Agreement*) and the date the resident has to leave by has passed

and

- the resident refuses to leave the premises.

It is only under these circumstances that the service provider has the power to remove a resident.

There is no need for the service provider to obtain a Warrant of Possession from the Small Claims Tribunal prior to the eviction.

### Can the service provider use force to remove the resident?

It is always best if the service provider and the resident can negotiate. In most cases the parties will be able to arrange for the resident to leave peacefully.

However, where the service provider has issued the *Notice to Leave* (Form R 12) correctly and the resident refuses to leave the premises, the service provider and any person helping the service provider may use “necessary and reasonable force” to remove the resident.

Necessary and reasonable force according to the Act, does not include force that is likely to cause bodily harm to the resident or that is likely to damage their property. “Bodily harm” means any bodily injury that interferes with the health or comfort of the person.

A service provider and any person helping the service provider may only use such force to remove a resident in the presence of a police officer.

The use of any force that is likely to cause bodily harm or damage the

resident's property is not authorised under the Act and may be subject to the broader provisions of law, such as the Criminal Code.

## **How should the service provider arrange for the police to be present?**

If the service provider thinks they will have to use force to remove a resident, they should plan what they will need to do in advance.

Service providers should contact their local police station to negotiate a mutually suitable time to attend the premises. The police will consider the request to attend the premises in light of their operational priorities.

## **The role of the police**

The role of the police is to attend the premises and ensure that neither the resident, nor the service provider commit an offence. The police will not assist in the removal of the resident or their property. The police will not decide who is right and who is wrong but can provide direction to the service provider about what could be considered "necessary and reasonable" force. If there is any dispute about the right of the service provider to remove the resident, the resident will have to apply to the RTA's Dispute Resolution Service before applying to the Small Claims Tribunal for a decision.

## **Further information**

For more information contact the Residential Tenancies Authority on 1300 366 311.

## **Accessing RTA forms**

The RTA's approved forms can be obtained by:

- Visiting the RTA's website at [www.rta.qld.gov.au](http://www.rta.qld.gov.au).
- Calling the RTA's call centre on 1300 366 311
- Calling the RTA's forms distribution service on 1300 136 939 or emailing a request to RTAForms.qld@auspost.com.au

This Fact Sheet is prepared for information only. The *Residential Services (Accommodation) Act 2002* and the *Residential Services (Accreditation) Act 2002* are the primary sources on the law and take precedence over this Fact Sheet should there be any inconsistency between the Acts and this Fact Sheet.

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