

# HUGO ALEXANDER

PROPERTY GROUP



## LANDLORD RESPONSIBILITIES GUIDE

## WHY IS THE LANDLORD RESPONSIBILITIES GUIDE IMPORTANT?

If you are a landlord or owner of an investment property, then there are many significant compliance requirements and legal obligations that you need to follow. Many investors are unsure of what action needs to be taken before a tenancy commences and throughout a tenancy. This quick guide aims to explain all of the important responsibilities that you need to be aware of before beginning any tenancy. We hope you find it useful. If at any time you are wanting more information please feel free to call any of our staff.

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## LESSOR OBLIGATIONS

The Residential Tenancies and Rooming Accommodation Act QLD (RTRA) states that at the start of the tenancy, the lessor must ensure:

- The premises and inclusions are clean
- The premises are fit for the tenant to live in
- The premises and inclusions are in good repair
- The lessor is not in breach of a law dealing with issues about the health or safety of persons using or entering the premises
- The premises and inclusions otherwise comply with any prescribed minimum housing standards applying to the premises or inclusions.

While the tenancy continues, the lessor:

- Must maintain the premises in a way that it remains fit for the tenant to live in
- Must maintain the premises and inclusions in good repair
- Must ensure any law dealing with issues about the health or safety of persons using or entering the premises is complied with
- If the premises includes a common area, this area must be kept clean.
- Must ensure the premises and inclusions otherwise comply with any prescribed minimum housing standards applying to the premises or inclusions

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## WHAT SMOKE ALARM OBLIGATIONS DO YOU NEED TO MEET?

Fire is a leading cause of accidental death in residential occupancies. Therefore, smoke alarm obligations for residential property are quite thorough, including initial compliance and ongoing maintenance.

Failure to ensure that a property is smoke alarm compliant with a regular maintenance program in place is a breach of your lawful obligations under the RTRA

Act (The Act). The consequences of a breach can be catastrophic, including financial loss, indemnity for personal injury, and in some cases even criminal charges or death to occupants.

As a landlord you are required by law to test and clean each smoke alarm in the dwelling at least once every 12 months.

For a number of years there has been a legal requirement in Queensland for owners of rental properties to have the smoke alarms tested prior to a tenant's lease commencing. This doesn't just mean the first time they sign a lease and move in, but also when they sign a lease for a further term (commonly referred to as a lease renewal).

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## WHAT ARE THE SWIMMING POOL COMPLIANCE & SAFETY LAWS?

If your property includes a pool, whether unique to your particular property or shared with other properties, you must ensure that there is a current pool safety certificate (Form 23) available to give to the tenant when they sign the lease.

### Does your pool comply?

The pool safety standard covers such things as the height and strength of barriers, mandatory non-climbable zones, gates and their latching requirements and preventing direct access from a building into a pool area.

To assist in finding out if your pool meets the current pool safety standard, use the checklist below as it covers some of the main issues:

#### Fences

- The minimum height from finished ground level to the top of the barrier is 1200mm.
- The maximum allowable gap from finished ground level to the bottom of any barrier is 100mm.
- There must be one gap of at least 900mm between

any horizontal rails on the outside, and the gaps in the vertical members must not exceed 100mm.

- If there is no gap between horizontal rails of at least 900mm, then the horizontal rails must be on the inside and the gaps in the vertical rails must not exceed 10mm.
- For fences less than 1800mm high, climbable objects must be at least 900mm away from the pool barrier on the outside and, where the verticals are more than 10mm apart, 300mm on the inside.
- For fences at least 1800mm high, the 900mm non-climbable zone may be on the inside of the fence and must be measured from the top of the inside. This could be useful for a boundary fence, for example, where it is difficult to make the non-climbable zone outside the fence. Make sure that there is nothing underneath this zone that a child could jump on to, which would reduce the effective height of the fence from the minimum 1800mm

#### Gates

- Pool gates must not open inwards to the pool area and must be self-closing and self-latching from all positions.
- Latches on the gate must be at least 1500mm high from the ground level and 1400mm from the top part of the lower horizontal railings. If not, the latch must be located inside so that it is necessary to reach over or through the fencing at a height of not less than 1200mm above ground level or at least 1000mm above the top part of the lower horizontal railings. It must also be 150mm below the top of the gate or the edge of any hand hole opening and, if necessary, covered with a 450mm radius shield with no openings greater than 10mm
- Pool gate hinges thicker than 10mm must be at least 900mm apart or the lower hinge must have a non-climbable (sixty degree) safety cap fixed to prevent climbing.

#### Door and windows

- There can be no direct access through a door from the house or another building, to the pool area.
- Generally, any windows opening onto the pool area must not open more than 100mm or must have a security screen fitted.

#### Signage

- A compliant CPR sign must be displayed, either attached to the pool fence, or displayed near the

pool, so that the sign is easily visible to anyone near the pool.

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## PENALTIES FOR NON-COMPLIANCE

Local governments have the power to investigate compliance with pool safety standards and can issue fines.

If you don't comply with pool safety standards, local governments can issue on-the-spot fines of \$883.05 for individuals and \$2523 for companies. The maximum penalty a court can impose is \$20,814.75.

If you fail to register your pool, QBCC can issue penalties which includes an on-the-spot fine of \$252.30 for individuals or \$756.90 for companies. The court can impose a maximum penalty of up to \$2523.

A current Pool Safety Certificate (Form 23) must be in place for a pool before you can rent a property to a tenant. These laws impose penalties of up to \$16,500 for non-compliance and would expose you to enormous liability risk should an incident occur in a non-conforming pool.

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## WHAT ELECTRICAL SAFETY OBLIGATIONS DO YOU NEED TO MEET?

Most investors are not aware that the Electrical Safety Act 2002 (Qld) places an obligation on you to ensure that electrical equipment, including safety switches, are electrically safe. You are also required to implement a regular maintenance program. Failure to fulfil these compliance requirements could result in a maximum penalty of up to \$200,000 or 3 years imprisonment. Unless you're a qualified electrician, this will need to be completed by a professional.

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## WHAT ARE THE STANDARDS & REGULATIONS FOR CORDED WINDOW FURNISHINGS?

Most properties feature blinds, curtains and other window coverings that have cords for operation. Cords can present a strangulation hazard to children, as they may become entangled in them while trying to use, play with or play around window coverings.

In recent years, the Australian Competition & Consumer Commission ("ACCC"), recognised the major risk hazard of strangulation of young children with loop cord systems. As a result, Mandatory Standards known as The Trade Practices (Consumer

Product Safety Standard – Corded Internal Window Coverings) Regulations 2010 (“The Trade Practices Mandatory Safety Standards”) now regulate the design, construction, installation and labelling of corded window furnishings.

From 1st July 2011, all premises which are rented must comply with The Trade Practices Mandatory Safety Standards in relation to corded window coverings, including but not limited to, Vertical, Venetian, Holland and Roman Blinds, and Curtains (including pencil pleat “readymades” and pencil pleat tape) and any fitting containing cords, such as Curtain Rods and Tracks.

Although the Regulations only apply to corded window furnishing installed after 1st July 2011, the intent of the regulations applies to all existing corded curtains and blinds, by virtue of Section 185 of the Residential Tenancies & Rooming Accommodation Act 2008, which clearly places the onus on you to ensure your investment property is safe and fit for living.

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## IS IT POSSIBLE TO PASS ON WATER CHARGES TO THE TENANT?

It is possible to pass on all water consumption charges to the tenant providing:

- The property MUST be individually metered
- Where the property doesn't meet the 3 star WELS rating the owner must supply a 'reasonable' amount of water before asking the tenant to pay for any consumption.
- Where the property is 3 star WELS rated, the property owner can charge the tenant for all water consumption.

If you are unsure whether you're properly meets the 3 star WELS requirements it is recommended a plumber inspect your property and provide a certificate confirming the property's compliance or deficiencies for a minimal fee. The cost of water, like all utilities, continues to rise. Therefore, we recommend that you investigate your options to permit full recovery. This will need to be decided before marketing your property for rent.

The Brisbane City Council issues water rate notices on a quarterly basis and there are two components to this account - the water access levy and the water consumption charge. It is only the consumption that is recoverable and the rates notice may not always align with the tenancy dates, as the Council issues these notices in arrears.

The Residential Tenancies Authority (RTA) has indicated that water consumption charges should be recovered within 12 months of the billable period. Water is costly; hence charges run up very quickly. In instances of tenancy dispute, it is deemed by the RTA that tenants cannot be expected to pay for water consumption charges which have continued to accrue during a lengthy tenancy, where more than 12 months have elapsed without provision of a water consumption account being issued to the tenant.

If you choose to recover the water consumption charges from your tenant, you need to send both pages of your water rate notice to your property management team immediately after you've paid the account in full and claimed the discount.

We then calculate the actual water usage by the current tenant and issue an account to be paid within 30 days. The tenant is eligible to receive the same 10% discount if paid by the due date billed.

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## KEYS FOR THE PROPERTY

Residential tenancy law states that an owner of a rental property in Queensland must provide a full set of keys (this includes swipe cards, passcodes, remotes etc) for the property as well as an 'entrance' set of keys for each tenant.

Our company policy is that property owners provide our office with a full set of keys to hold within the office in addition to a full set of keys per approved tenant. If a new set of keys needs to be cut for additional tenants, our policy is that this is done without needing to wait for our lessors permission as this is a requirement by law.

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## ACCESS

Our property managers inspect rental premises every 3 months, as per the professional duty to the lessor and to ensure the premises and maintained in a reasonable condition. Property managers have to give no less than 7 days written notice to the tenant prior to conducting a routine inspection.

It is important for lessors to understand that if a property manager has conducted a routine inspection within the last 3 months, that they cannot inspect the premises for another 3 months, unless the tenant agrees to the inspection. However a lessor need to be aware that the tenant does not have to allow access and cannot be forced to allow access within this time.

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## WHEN SHOULD I SET UP SOLAR POWER ARRANGEMENTS?

If your property has solar power, the arrangements for the service and billing must be determined before marketing your property for rent. There are various options available to meet your specific circumstances. We recommend that you consider your options by reviewing the information supplied.

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## DISCRIMINATION IN ACCOMMODATION

The Queensland Anti-Discrimination Act 1991 promotes fair treatment and equality of opportunity by protecting everyone from unfair discrimination, sexual harassment and vilification in accommodation. Discrimination occurs when someone is treated unfairly or badly in certain respects. Not all discrimination is against the law, even if it is unfair. In Queensland, the Anti-Discrimination Act determines what kind of discrimination is unlawful by identifying particular attributes and areas.

Discrimination happens because people have stereotypical or prejudiced ideas or beliefs about other people because they happen to belong to a particular group or because they have certain personal characteristics or attributes. This kind of direct discrimination is often the result of failing to treat a person as an individual regardless of their sex, age, race, etc. Discrimination can also happen more indirectly.

In some cases, treating everybody the same can be unfair because it disadvantages a whole group of people. For example, requiring all new Tenants to have been in the workforce for at least five years would disadvantage young people who may have little chance of complying.

The Anti-Discrimination ACT 1991 says that it is against the law to discriminate against people because of their:

- Family responsibilities
- Sexuality
- Gender identity
- Sex (whether they are female or male)
- Relationship or parental status (whether they are married, single, widowed, divorced, separated or living with someone as if they were married (de facto, including same sex de facto), and whether they have children or not.
- Race
- Age (whether they are young or old)
- Impairment (whether they have or have had a physical, intellectual, psychiatric or mental disability, injury or illness, including whether they are HIV+, or use a guide dog, wheelchair or some other remedial device)
- Religious belief or activity
- Political belief or activity
- Trade union activity
- Lawful sexual activity (a lawfully employed sex worker)
- Pregnancy or breastfeeding
- Association with or relation to someone who has any of these listed attributes or personal characteristics

Indirect discrimination is not usually intentional but is often the result of failing to think about the impact of rules and requirements on different people. As previously stated, not all discrimination is against the law.

You are allowed to discriminate against such things as;

- allowing pets at your property and
- smoking at the property.

We have implemented appropriate policies to ensure we do not step outside of our compliance in these regards and will inform you if we feel your instruction may expose you to risk.

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## BODY CORPORATE INFORMATION

It is vital that you provide our office with all the contact details of your body corporate manager and a copy of the body corporate by-laws before we start advertising the property.

It is important for the prospective tenants to understand what is expected of them under the by-laws before they apply for the property.

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## STORING GOODS AT THE PROPERTY

We are sometimes asked by property owners if they can store personal belongings at the property while it is tenanted.

Our recommendation is that you do not store any personal belongings at the property as this will mean

that we cannot charge a tenant the highest weekly rent for your property as they do not have the 'entire property' to use.

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## WHAT HAPPENS IF AN EMERGENCY REPAIR IS REQUIRED?

Emergency repairs must be attended to immediately. The tenancy agreement has provisions for giving the tenant instructions on who to contact if an emergency occurs out of hours. The RTRA Act also has provisions for the tenant to spend up to 2 weeks rent of the lessors money on an emergency repair if the lessor/property manager does not respond to the emergency repair within a reasonable time frame or the tenant is unable to reach the lessor/property manager.

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## WHAT EXACTLY CONSTITUTES AN EMERGENCY REPAIR?

Hugo Alexander Property Group constitutes a repair to be urgent or an emergency as per the meaning set out by the Residential Tenancies Act, and includes:

- Burst water service or a serious water service leak
- Blocked or broken toilet system
- Serious roof leak
- Gas leak
- Dangerous electrical fault
- Flooding or serious flood damage
- Serious storm, fire or impact damage
- Failure or breakdown of the gas, electricity or water supply
- Failure or breakdown of any essential service or appliance provided by a landlord or agent for hot water, water, cooking, heating, cooling or laundering
- Any fault or damage in the premises that makes the premises unsafe or insecure
- An appliance, fitting or fixture that is not working properly and causes a substantial amount of water to be wasted
- A fault or damage likely to injure a person, damage property or unduly inconvenience a tenant of the premises
- A serious fault in a lift or staircase

Should your tenant have an urgent repair during business hours, they will be instructed to phone our

office in the first instance as soon as they become aware of the issue.

All urgent repairs will be attended to within 24 hours and all non-urgent repairs will be attended to within 14 days, as per the Residential Tenancies Act.

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## OUR TRADESPEOPLE

Our tradespeople are trained to communicate the difference between a routine and an urgent repair. If a repair is not urgent and a tenant demands our tradesperson to attend the property after ours, our tradespeople will explain to the tenant that they will be liable for any extra cost associated with but not limited to any callout or after hours callout fee.

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## ROUTINE REPAIRS

Our property managers request the tenant to advise of any routine maintenance in writing to our agency. This is best practise for both parties. The lessor/property manager must attend to routine maintenance within 14 days as per the Act. We believe it's always best to attend to maintenance issues as quickly as possible. This reduces the risk of the issue becoming bigger and more expensive. It also increases the odds of having long term tenants.

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## WHAT IF SOMETHING GOES WRONG?

Your Property Management Team have extensive experience in dealing with a wide range of tenancy situations that may arise including the process to undertake with the death of a tenant; criminal damage to your property; loss as a result of fire and flood, and of course, tenant default. We practise honest, regular communication and believe that any issue can be overcome when we work together and tackle it straight away.

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## WHY DO YOU NEED LANDLORD PROTECTION INSURANCE?

It's not worth the risk. Human nature being what it is, we don't buy something until we need it. But with insurance, we don't have that luxury. As we've already outlined, despite thorough and extensive screening processes for tenant selection, there is, unfortunately,

no 100% guarantee that a tenant will not default during their tenancy, particularly as a result of a sudden and unexpected change to their situation.

It should be noted that Landlord Protection Insurance is just one of the insurances you'll need to consider and review when renting out your investment property. There are also investor specific services which can increase your protection in respect of tenancy default. It has been our experience that many investors are not adequately insured so we strongly recommend you investigate your insurance requirements and options thoroughly with your insurance adviser.

As property managers we cannot offer you any formal advice when it comes to insurance but we can let you know that you need to have the following insurance covers on your property:

- Building
- Contents (this covers items like blinds, carpets, and internal inclusions)
- Public liability (a minimum of \$10,000,000 cover is required)

A number of building insurers will offer a landlord's insurance policy as part of the overall premium. If you have this cover in place please check what excesses are payable in different instances and make sure you are happy with the level of cover this type of policy offers.

We would strongly recommend a landlord insurance specific policy is taken out as an additional piece of mind.

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## HOW CAN I MAKE SURE MY PROPERTY IS COMPLIANT?

We can help engage the very best companies to take care of all your compliance needs. Whether it is your smoke alarms, electrical safety switches, corded window furnishings, or swimming pool; we are happy to organise this for you upon receiving your instructions.

If you are wanting to pass on water charging to tenants we are also happy to organise this on your behalf.

