

THE LEGISLATION

March 2020

As of 23rd march our legislation is changing.

As an investor it is important to be aware of these changes and how they may affect you.



first
national
REAL ESTATE

| Manly Prestige



Agents recommendation/interpretation: We will require good quality photos to be taken whilst the property is vacant. It is recommended to obtain professional photographs at a reasonable cost which can then be used for all future advertising and also for sale purposes.

TAKING PHOTOS AND VIDEOS

Agents can continue to take photographs at routine inspections and to highlight any maintenance and repair issues. These photos can only be shared between the agent and the landlord.

There are new rules to clarify what landlord and agents can do when taking photos or videos to advertise a property for sale or for rent.

Photos or videos can only be taken in the last 28 days before marketing for sale or if the tenant is vacating. "Reasonable" an undefined time frame notice is to be given to the tenant to move their belongings out of the frame of the photo or the video. In saying this however any photo or video taken which shows any of the tenants belongings must have the tenant's written consent to publish such photos. Tenants must not withhold consent to publish photos or videos "unreasonably". It is however reasonable for the tenant to withhold consent where they are in circumstances of domestic violence. Photos from previous tenancies or previous sale photos if furnished will also not be able to be used.

CHANGES TO BREAKING A FIXED TERM LEASE AGREEMENT EARLY

This change has now been confirmed and starting from 23rd March all new fixed term agreements of 3 years or less, when a tenant ends the agreement early, set fees are payable depending on how much of the agreement is left. The break fees are:

- 4 weeks rent if less than 25% of the agreement has expired
- 3 weeks rent if 25% or more, but less than 50% of the agreement has expired
- 2 weeks rent if 50% or more, but less than 75% of the agreement has expired
- 1 weeks rent if 75% or more of the agreement has expired.

For example:

- If 7 months of a 12 month tenancy agreement (or 58%) has expired, a tenant would need to pay a fee equal to 2 weeks rent to the landlord to end the agreement early
- If 2 months of a 6 month tenancy agreement (or 33%) has expired, the tenant would need to pay a fee equal to 3 weeks rent to the landlord to end their agreement early.

Agents recommendation/interpretation: This raises the question as to the purpose to lock a tenant into a fixed term agreement of more than 6 months. We are aware certain insurance companies insist that a tenant is secured on a fixed term agreement so as not to void the insurance. We would recommend those with independent landlord insurance check this.

STRATA BY-LAWS UPDATE

We are nearly there with copies of all new by-laws that need to be affixed to the new tenancies agreements. There are a few strata agents seeing this as a grab for cash and wishing to charge for a pdf document to be emailed. We will be speaking directly with those landlords effected by this greed to obtain a copy on our behalf.

Agents update: Just come to light this week. Not only do we have to supply a copy of the by-laws, we also need to inform the tenant if a strata renewal committee is currently established for the scheme. We are looking into this further.

LANDLORD TO SUPPLY THEIR CONTACT DETAILS TO TENANT



Landlords are required to give their name and a way for their tenant to contact them directly, even if they use an agent. This is to be in writing and will appear on the front page of the tenancy agreement. The landlords contact details can be a telephone number or "other" contact details such as email address. A landlord cannot nominate their agents contact details instead of their own. If a landlord does not use an agent, they also need to provide their residential or business address to receive mail.

Agents recommendation/interpretation: *Yes you read it correctly. Came to light yesterday. I am sure all will appreciate a 2am phone call if the tap is running...*

If you prefer not to supply your telephone number to your tenant we would suggest Landlords create an email address for themselves which can be provided to our office. If this email is not going to be checked regularly it is recommended to have this noted as a auto reply and perhaps also set the email to include us in all correspondence so the information is captured. Contact your property manager for more clarification.

NEW MATERIAL FACTS

In addition to the current material facts form you have previously signed eg: flooding, shared driveway etc. a landlord will also need to disclose if the property:

- Has been used for the manufacture or cultivation of a prohibited drug or prohibited plant in the last 2 years
- Is part of a building to which a:
 - Notice has or is going to be issued regarding a fire safety order
 - Notice has or is going to be issued for a building product rectification for external combustible cladding
 - Development application or complying certificate application has been lodged for rectification of the building for external combustible cladding
- Is in a strata scheme where scheduled rectification work or major repairs will be carried out to common property during the fixed term of the agreement

Tenants will be able to end their agreement and claim compensation if the landlord fails to comply with any of the information disclosure obligations.

Agents recommendation/interpretation: *It is imperative that landlords read their strata minutes provided by the strata agent and notify us immediately of any works that may include the above.*

CHANGES TO EXISTING SMOKE ALARM LAWS



Those landlords already under the \$77.00 per year service agreement with Clarence Valley Smoke Alarms will continue to have the full protection of compliance. We will obtain on your behalf all the relevant documentation required to be displayed on the new tenancy agreement.

Under the changes Landlords attending to the services themselves:

- Landlords must check smoke alarms every year to ensure they are working
- Landlords must ensure
 - Smoke alarm units are replaced within 10 years of manufacture, or earlier if specified by the manufacturer
 - Batteries are installed or replaced every year (or for lithium batteries, in the period specified by the manufacturer)
 - Landlords must supply to the agent details of each type of alarm, locations and what size battery and if it is 240v or battery. These details must be displayed on the new tenancy agreement.
 - Hard wired alarms must be replaced by a licensed electrician
 - Where a smoke alarm is reported to not be working it must be repaired within 2 business days. Should this not occur the tenant can arrange their own technician to attend the repair and claim the cost from the landlord.

Landlords within specific strata schemes may benefit from these changes so long as the particular strata plan conducts annual fire safety inspections service of alarms as service on lease renewals will not be required.

Agents recommendation/interpretation: *We will be seeking written clarification from strata schemes and will notify landlords once we have our findings.*

OTHER CHANGES STILL TO BE CLARIFIED

WATER EFFICIENCY MEASURES

Compliance certificates for water efficiency are still required. There are also additional water efficiency measures being introduced for a landlord to be able to pass on water usage charges to the tenant. All taps and toilets must be checked at the start of a tenancy and any leaks are to be rectified immediately or water usage cannot be claimed. During the course of the tenancy any repairs to leaking taps etc. must also include a report that all other water efficiency items were checked at the time of the repair. From 23rd March 2025 all toilets in rented properties must be dual flush with a minimum 3 star rating. It is recommended if a toilet needs to be replaced prior to this it is replaced with the compliant type in readiness. Sub-meters a determination has not been confirmed if water usage can continue to be charged if the property is not separately metered

Agents recommendation:

We will be holding talks with our tradespeople ensuring that they include such inspections and report same in writing when submitting their invoices Owners arranging their own tradespeople will need to supply us in writing that all items have been checked.

Once we know more on the sub-meter outcome we will advise the relevant landlords.

MINIMUM STANDARDS FOR HABITATION

A form is being designed by NSW Fair Trading which a landlord will need to complete, sign and return to the agent at the commencement of each tenancy. We are yet to see the form in its entirety however will include a landlord (not agent) ensuring: Premises are structurally sound ie: the floors, ceilings, walls, supporting structures (including foundations), doors, windows, roof, stairs, balconies, balustrades and railings –

- Are in reasonable state of repair and
- With respect to the floors, ceilings, walls and supporting structures are not subject to significant dampness and
- With respect to the roof, ceilings and windows do not allow water penetration into the premises, and
- Are not liable to collapse because they are rotted or otherwise defective.

Agents interpretation:

There was talk within the industry several years back that building inspection reports would become mandatory prior to leasing a property also detailing its energy efficiency. This would appear to be the way things are heading.

CHANGES OF A MINOR NATURE BY TENANT

Tenants are currently allowed to install fixtures and make alterations with the landlord's written consent. The new regulation lists the kinds of fixtures and alterations for which it deems unreasonable for a landlord to refuse. It is noted that the tenant must return the alteration to its original state upon vacation.

- Securing furniture to a non tiled wall for safety reasons
- Fitting a childproof latch to an outdoor gate
- Inserting fly screens on windows
- Installing or replacing window coverings
- Installing child safety gates inside the property
- Installing hand held shower heads to assist elderly or disabled occupants – this one would require a qualified tradesperson
- Installing or replacing hooks, nails or screws for hanging paintings etc.
- planting vegetables, herbs or shrubs (that grow less than 2 metres)
- Installing wireless removable security cameras
- Apply shatter resistant film to windows or glass doors

Agents interpretation:

Ingoing photos which we currently undertake will reflect the condition of the items at the commencement and will continue to remain as proof as to the condition upon vacation.

WE ARE HERE TO HELP AND GUIDE YOU THROUGH THE CHANGES.

Whilst the majority of changes (that we know so far) are straight forward there are a few which border on ridiculous. We will however work with the legislation and make this as painless as possible for you. We will continue to monitor the changes and once in place will have a clearer understanding of which direction the industry is going.

There have been several changes to the legislation but with your support we will be on top of it in no time. Please feel free to contact us if you have any concerns.



first
national
REAL ESTATE

Manly Prestige