

# Inspections? Surprise Visits? Open Homes?



# ACCESS & PRIVACY

## Information for Tenants

*Most residential tenancies in Tasmania are covered by the Residential Tenancy Act 1997 (the Act). The Act applies to public, community and private tenancies, and sets out the rights and responsibilities of landlords, agents and tenants.*

### QUIET ENJOYMENT

A tenant is entitled to quiet enjoyment of the property they rent. Quiet enjoyment means that the landlord/agent must not interfere with the tenant's peace, comfort or privacy in using the premises. Examples may include:

- Wrongful eviction or attempted wrongful eviction;
- Unauthorised retention, or reclamation, of part of the property (such as, using the backyard to build a unit, or using a shed or garage as storage);
- Carrying out discretionary renovations without the tenant's consent;
- Cutting off utilities;
- Preventing access to the property or blocking parking spaces;
- Dictating how the tenant can decorate the property;
- Dictating who and how many people can visit the tenant.

The landlord/agent is not responsible for any disturbances by neighbours. The only exception to this may be if the neighbours also rent from the same landlord/agent. The local council may be able to help with complaints regarding noise, barking dogs or a loud building site.

### WHEN CAN A LANDLORD/AGENT ENTER?

The Act sets out a number of reasons for which a landlord/agent can enter a rental property, and states how much notice must be given.

A landlord/agent may enter the residential premises between 8am and 6pm, by giving **24 hours** written notice:

- To meet commitments under the tenancy agreement If it is reasonably suspected that the tenant has failed to comply with any provision of the tenancy agreement;
- To ensure repairs have been properly done;
- To carry out an inspection within 1 month of the commencement of the tenancy agreement;
- To carry out routine inspections; once every 3 months, or monthly in a boarding house.

### AT THE END OF A TENANCY

When a valid Notice to Vacate or Notice to Terminate has been given, a landlord/agent may enter the premises without tenant permission by giving 48 hours notice in writing, to show one prospective tenant (and anybody with the prospective tenant), with the following stipulations:

- not more than once each day,
- not more than 5 days in a week and
- only between 8 am and 6 pm.

When the rental premises are **for sale** a landlord/agent may enter the premises without tenant permission by giving **48 hours** notice in writing, to show one prospective purchaser (and anybody with the prospective purchaser), with the following stipulations:

- not more than once each day,
- not more than 5 days in a week
- and only between 8 am and 6 pm.

### OPEN HOMES

If a landlord/agent wants to hold an open house (where members of the public are invited to view the property that is for lease or sale), they **must get written permission from the tenant**.

If the tenant agrees to an open house, the landlord/agent must be in attendance for the duration.

A landlord/agent cannot force a tenant to give permission for the open house and tenants should only give permission if they are comfortable with the idea. It is a good idea to remove or hide

valuables during an open house to minimise the potential for theft.

## ENTRY WITHOUT NOTICE

The *Act* provides some circumstances when a landlord or agent may enter the rental premises without giving notice. These are where it is reasonably believed that:

- The tenant is ill or injured and unable to give permission;
- A denial of immediate access is likely to result in damage to all or part of the premises;
- There is a risk to the tenant or another person present on the premises;
- Damage has occurred to the premises;
- The premises have been abandoned.

## DOES THE LANDLORD/AGENT NEED PERMISSION?

If a landlord/agent is entering the rental property for one of the reasons outlined above they do not have to receive permission, but they do have to give the required amount of notice.

However, if they wish to hold an open home (see above), or enter the property for another reason that is not mentioned in the *Act* they do need to receive the tenant's permission.

## MUST I BE HOME OR CAN I EVEN BE FORCED TO LEAVE?

If proper notice is provided as outlined, the *Act* does not require a tenant to be home when a landlord or agent enters. However, the landlord/agent should make a reasonable effort to make a suitable time with the tenant(s).

At both, open homes or inspections the tenant cannot be forced to leave the property.

## PHOTOGRAPHS

An owner/agent must not, without the written consent of a tenant, display to the public a photo or video of the premises that displays any object that might identify the tenant or another person, for example, family photos.

## CHANGING THE LOCKS

Generally, neither the landlord nor the tenant can change the locks to a property without the consent of the other party or a court order.

However, if there is a Family Violent Order (FVO or PFVO) in place, a tenant can add, alter or remove any lock or security device for the purpose of protection. It is recommended that the landlord/agent is notified as soon as possible should this occur and new keys be provided to them.

## COMPLAINTS AGAINST AGENT'S OR LANDLORD'S ACTIONS

If a landlord/agent unlawfully enters a property and/or does not provide quiet enjoyment of the property, a tenant can notify them that they are in breach of the *Act*, preferably in writing, keeping copies of this correspondence.

If they continue to breach quiet enjoyment and/or continue to unlawfully enter the property, the matter can be reported to the Residential Tenancy Commissioner. Landlord/agents that are in breach of the privacy provisions can be fined.

Complaints about the professional conduct of Real Estate Agents can be made through the website of the Property Agents Board. Complaints can also be sent to the Real Estate Institute of Tasmania (REIT) if the agency is a member. The REIT will only deal with complaints about their members.

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## CONTACTS

**Tenants' Union of Tasmania (TUT):** Advice, legal support & representation for residential tenants  
☎6223 2641 or 1300 652 641 tenants@netspace.net.au www.tutas.org.au

**Residential Tenancy Commissioner (RTC):** Information for all, Bond matters, Repair orders  
Statewide Service Tasmania offices ☎1300 654 499 www.cbos.tas.gov.au

**Housing Connect:** Centralised point of contact for government housing services, including emergency shelters, public and community housing, bond assistance and more  
Statewide www.communities.tas.gov.au ☎1800 800 588

**Real Estate Institute of Tasmania:** ☎6223 4769

**Property Agents Board:** <http://www.propertyagentsboard.com.au/making-a-complaint.html>