

Privacy

Quiet enjoyment

The *Residential Tenancies Act 1997* states that you have a right to 'quiet enjoyment' of your rental property. Landlords and real estate agents do have some rights of entry, but they must meet with certain requirements. If they don't meet with these requirements, you don't have to let them into your home.

Rights of entry

As long as proper notice is given, the landlord or agent have a right to enter the property if:

- > a Notice to Vacate or a Notice of Intention to Vacate have been given and will expire in less than 14 days, and they want to show the premises to a prospective tenant
- > the premises are to be sold or used as security for a loan and they want to show a prospective buyer or lender through the premises
- > they need to enter to carry out a duty under your tenancy agreement (lease), the *Residential Tenancies Act 1997* or another law
- > they are having the property valued
- > they have reasonable grounds to believe that you have failed to meet your duties under your tenancy agreement or the *Residential Tenancies Act 1997*
- > they want to inspect the premises (provided there has been no inspection within the last 6 months and it is not within the first 3 months of the first tenancy)

If the landlord or agent wants to enter your home, they must:

- > give you at least 24 hours written notice of their intention to visit, stating the reason they want to visit
- > deliver the notice by mail or give it to you in person between the hours of 8am and 6pm (if the notice is delivered by mail, they must allow one business day for delivery)
- > only visit between the hours of 8am and 6pm, and not on public holidays (unless you have agreed otherwise within the last 7 days)
- > not stay longer than necessary

The landlord or agent may also enter the premises with a tradesperson if you have agreed to the entry within the last 7 days.

If they have given proper notice, you have a duty to allow the landlord or agent to enter the premises, even if the time doesn't suit you or you won't be home. However you may be able to negotiate a time that will suit you better (see ***The landlord is selling*** fact sheet for more information.) The person entering your home must behave in a reasonable manner and must leave as soon as they have finished what they came for.

Unless the landlord or agent follow the correct procedures, it is an offence for them to enter your premises without a reasonable excuse (see the ***Complaints about landlords and real estate agents*** fact sheet for more information.)

➔ If your goods are damaged during the landlord or agent's visit, you can apply for compensation. See the ***Claiming compensation*** fact sheet for more information.

Restraining Orders

If your landlord or agent have not met with the proper entry requirements (see left), or have been making frequent or harassing visits, you can apply to the Victorian Civil and Administrative Tribunal for a Restraining Order. This also applies to harassing phone calls or letters, as these are also a breach of your right to quiet enjoyment. A Restraining Order can prohibit or restrict the landlord or agent from entering the premises or contacting you, and it can be enforced by the police. It is an offence for the landlord or agent to breach a Restraining Order and they can be fined.

Moving out

If the landlord or agent keep harassing you, you may wish to end your tenancy and move out. If you don't have a fixed-term tenancy agreement, you can simply give 28 days' written notice and move out. If you are mailing the notice, it is a good idea to use registered mail and allow 2 full business days for delivery.

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If you do have a fixed-term tenancy agreement you will need to serve the landlord with a 14-day Breach of Duty Notice. You can then apply for a Compliance Order from the Tribunal. If they still don't stop the harassment, you can serve a 14-day Notice of Intention to Vacate. (See the **When you want to leave** fact sheet for more information.) You should seek advice from the Tenants Union before taking this course of action.

You may also be eligible for compensation for the landlord or agent's failure to allow you quiet enjoyment of the property. See the **Claiming compensation** fact sheet for more information.

Locks

If you change any lock on the property, you must give the landlord a copy of the key. We don't recommend that you change the locks in order to protect your privacy. If you refuse to give the landlord a key, they can serve you with a Breach of Duty Notice.

You must not change any lock that is part of a master key system (where there is one master key which fits several locks, such as all the doors in one block of flats) without first getting the landlord's consent. If the landlord disagrees to the lock change without good reason, you can apply to the Tribunal for an order that you be allowed to change it without their consent.

Confidentiality

Under privacy law there are restrictions on how real estate agents can use your personal information. If you have any complaints about the way that your personal information is being used, contact the Federal Privacy Commissioner on ☎ 1300 363 992 or make a written complaint to Consumer Affairs Victoria or the Real Estate Institute of Victoria. For more information see the **Tenant databases** and **Complaints about landlords and real estate agents** fact sheets.

For more information phone the Tenants Union Advice Line on ☎ (03) 9416 2577.